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From WIPO to Vale do Ribeira and back Global (Dis)Connections, Indigenous Knowledges and Narratives of Protection

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ABSTRACT

Vale do Ribeira, the largest reserve of Atlantic Rainforest in Brazil, is home to quilombola and caiçara communities. The World Intellectual Property Organization (WIPO), in Geneva, is responsible for regulating intellectual property rights. What can possibly connect these places? In both, narratives around the meaning of indigenous knowledges and their protection are being constructed and negotiated. Aiming to produce an ethnography of global connection, this work looks at (dis)connections between these two spaces. Through in-depth interviews and participant observation, it analyzes the creation of legal categories related to indigenous peoples and local communities in the international arena, as well as at the points of articulation between the international and the local realm. The analysis demonstrates how articulation and dispossession have been key to creating the discussion in both spheres. The conclusion indicates that the narrative of protection of indigenous knowledge through intellectual property rights emerges through friction and is just one narrative among others.

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GABRIELA BALVEDI PIMENTEL

Gabriela Balvedi Pimentel completed her master's degree in Anthropology and Sociology of Development at the Graduate Institute in 2019, with a focus on legal, political and environmental anthropology. Before that, she pursued her qualifying legal studies in Brazil, being registered at the Brazilian Bar Association since 2015.

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- 7 To my family, thank you for your support throughout this master's and, especially, during my fieldwork.

List of Acronyms

- 1 CBD Convention on Biological Diversity
- 2 CGEN *Conselho de Gestão do Patrimônio Genético* (Brazil Council for Management of Genetic Resources)
- 3 CNPCT *Conselho Nacional de Desenvolvimento Sustentável dos Povos e Comunidades Tradicionais* (National Sustainable Development Commission for Traditional Communities and Peoples)
- 4 EAACONE *Equipe de Articulação e Assessoria às Comunidades Negras do Vale do Ribeira* (Articulation and Advisory Group for Black Communities of Vale do Ribeira)
- 5 EMRIP Expert Mechanism on the Rights of Indigenous Peoples
- 6 GR Genetic resources
- 7 GRTKF Genetic resources, traditional knowledge and folklore
- 8 GRULAC Latin American and Caribbean Group
- 9 IGC WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore
- 10 ILO International Labour Organization
- 11 IP Intellectual Property
- 12 IPLC Indigenous Peoples and Local Communities
- 13 ISA *Instituto Socioambiental* (Socio-environmental Institute – Brazilian NGO)
- 14 ITESP *Instituto de Terras Estado São Paulo* (Land Institute of the State of São Paulo)
- 15 LMC Like-Minded Countries
- 16 MOAB *Movimento dos Ameaçados por Barragens* (Movement of People Threatened by Dam Constructions)
- 17 MNU *Movimento Negro Unificado* (Unified Black Movement)
- 18 PLT Patent Law Treaty
- 19 RDS *Reserva de Desenvolvimento Sustentável* (Sustainable Development Reserve)
- 20 TCE Traditional Cultural Expressions
- 21 TK Traditional Knowledge

- 22 TRIPS Agreement on Trade-Related Aspects of Intellectual Property Rights
- 23 UN United Nations
- 24 UNDRIP United Nations Declaration on the Rights of Indigenous Peoples
- 25 WIPO World Intellectual Property Organization
- 26 WPPT WIPO Performance Phonograms Treaty

Introduction

- 1 From the way indigenous people manage their forests to their use of native plants for corporal and spiritual healing, indigenous practices have been attracting increasing attention of both academy and industry. Quinault Indian Nation's ecological knowledge of river patterns in the US is providing vital data for the revitalizing of the Columbia River (Hansen 2018); neuroscientists in Spain are researching the health effects of the use of the Amazonian hallucinogenic brew ayahuasca (Hartman 2017); and, in Brazil, the company Natura Cosmetics is using plants that have long been used by local communities for producing "sustainable and socially responsible" cosmetic products (Miyata 2013, 5).
- 2 Scientific and industrial research based on indigenous knowledges often leads to the granting of patents over elements of that knowledge and related biogenetic resources to industrial and research institutions. Indigenous patterns, designs and songs, are also being commodified and exchanged (Coombe 2017). There are many cases in which these are used for the creation of products commercialized by non-indigenous brands or international companies, frequently without the consent of the indigenous peoples that invented them in the first place (Jooste 2013; Walsh 2018).
- 3 These processes of commodification and patenting have provoked internationally relevant disputes over authorship and ownership of collective intellectual productions manifested in indigenous knowledges. Still to this moment, however, there is no clear international legal framework to deal with such issues.
- 4 Taking into account this gap in international legislation, in 2000 the World Intellectual Property Organization (WIPO) created an Intergovernmental Committee (IGC) to negotiate legal instruments to regulate the implementation of intellectual property rights over traditional knowledge.
- 5 Through these processes, new property categories are being created in international law. At the same time, the category of traditional knowledge is also being built in the international sphere. Such categories are being constructed in discussions at an international organization, at the heart of International Geneva, far from the communities and peoples it refers to.
- 6 Simultaneously, in Vale do Ribeira, one of the largest reserves of the Atlantic Rainforest in Brazil, the commodification and patenting of indigenous knowledges have provoked

similar conversations among quilombola and caiçara communities¹. As their traditional ways of living and transforming their surroundings have attracted the attention of many researchers, the question of what constitutes their traditional knowledge has gained importance.

- 7 Despite being separated by the Atlantic Ocean and thousands of kilometers, these two places are connected by the same discussion. Narratives around the meaning of indigenous knowledges and about intellectual property rights over these knowledges are being constructed and negotiated both at WIPO's IGC and among communities in Vale do Ribeira.
- 8 It is from this context that my research questions emerge: how are the concepts of indigenous knowledge and intellectual property rights over indigenous knowledge being built in these two places and what are the points of articulation between them? In more conceptual terms, how does the process of creating a legal category that concerns indigenous and local peoples in the international realm unfold and what are the points of articulation between this and the correspondent category in the local realm?
- 9 In the following chapters, I will proceed with an analysis that looks for connections and disconnections between the categories in production in both Vale do Ribeira and at WIPO's IGC. In this first moment, however, I want to draw attention to some key underlying issues to approach this research question. The issues analyzed here, i.e., of the emergence of new property categories and the concept of indigenous knowledge in the international legal arena, appear along with a history of developments in global capitalism. The former denoting not an ethereal phenomenon, but a "*grounded* social formation", whose determinations and abstractions are not absolute, but "always exceeded by the messy intractability of the concrete, the contingent" (Comaroff and Comaroff 2009, 23).
- 10 In the following section, I will present some underlying points that are key to fully understanding my research questions. The next paragraphs will thus be dedicated to discussing the production of legal categories and the development of intellectual property.

Situating universals: taking a critical look at the realm of legal production

- 11 The legal apparatus plays an important role in the expansion of power, through categorization and normalization, as well as through the legitimation of domination and dispossession. As Douzinas teaches, "relations of force and answers to the demands of power (...) are both carried out and disguised in legal forms" (2008, 7). An interesting example to illustrate this claim is that of colonial law. Both legislation and law enforcement had an important role in organizing colonial relations and modifying social relations as, along with other institutions of the colonial state, they transformed conceptions of time, space, work and property (Merry 1991, 891).
- 12 Law has thus served as an important tool of control and homogenization, having a key role in spreading certain universal categories over distinct realities. An example of this is the proliferation of private property regimes to the detriment of other types of land use (e.g. collective use of territory). Especially in the realm of legislation around

property, the depiction of law as abstract and universal has helped to cover its “*ad hoc*, violent and exceptional character” (Mitchell 2002, 57).

- 13 At the same time, the legal arena has also been used as a place for contestation, through a counterhegemonic use of the legal apparatus (Lyra Filho 1982; De La Torre Rangel et al. 1990; De La Torre Rangel 2006). The greatest example of this has been articulated in the field of human rights, a universal discourse used as a key tool for the fight of the oppressed to access rights that have been recognized as inherent to all human beings.
- 14 Such opposing uses of law also entail paradoxical effects. “When those excluded from universal rights protest their exclusion, this protest itself has a twofold effect: it extends the reach of the forms of power they protest, even as it gives voice to their anger and hope” (Tsing 2011, 9). In other words, using a rights discourse may allow for the articulation and achievement of some revindications by the oppressed, but articulating these revindications in a legal language also leads to the extension of the reach of the very power they are fighting against.
- 15 The great intensification in the reliance on “legal ways and means” has been linked directly to the rise of neoliberalism (Comaroff and Comaroff 2009, 54). Among the symptoms of this expansion are not only the spread of human rights advocacy but also the entrance of more and more domains of human life in the juridical arena (Comaroff and Comaroff 2009).
- 16 It is here that the scope of this research enters the play. As mentioned above, the subject of intellectual property rights over indigenous knowledges involves disputes regarding authorship and ownership of collective intellectual productions that are manifested in indigenous knowledges and indigenous cultural expressions. Such disputes have a strong political relevance, as places of questioning ways of understanding knowledge production and human relations with nature, as well as notions of property.
- 17 These highly political subjects are represented in the judicial realm in terms of property rights. Such a phenomenon represents not only the reduction of domains of biological and cultural being to alienable rights but also the judicialization of political and social life (Comaroff and Comaroff 2009). When these very political issues enter the legal realm and start to be enounced through a language of rights, their political dimensions become blurred.
- 18 Especially in the highly specialized field of the international intellectual property regime, regarded as extremely technical and specialized even for lawyers, the use of an expertise discourse serves the objective of depicting the debate as technical as opposed to political (Mitchell 2002). When the issue of the commodification of the “intangible goods of the mind” (Boyle 2002) is transferred to a language of universal rights, this naturalized depiction makes social inequality and power asymmetries disappear.
- 19 This is why, in my research question, I have decided not to frame the problem in terms of rights. I want us to start from the idea that intellectual property is not a natural right, but a legal protection for a property category that can be located in time and space. Not framing the question in a rights language helps us reach the deep political issues that are at stake.

Intellectual property and the law

- 20 The expansion of intellectual property regimes across the globe has been identified by Comaroff and Comaroff (2009, 54) as a central site of intensifying reliance on the legal apparatus. International organizations such as WIPO have an important role in propagating these new models, as they work to advance standards to protect intellectual property rights worldwide, trying to build an intellectual property rights system that is similar in different national states.
- 21 Legislation and law enforcement play a “key role in transposing neoliberal agendas to the national and local level” (Randeria 2007, 2). The efforts to bring uniformity to the protection of intellectual property rights worldwide as well as to expand intellectual property rights over biogenetic resources are situated in this context. International intellectual property law has, therefore, a key role in standardizing the tools for protection and enforcement of intellectual property rights across the globe.
- 22 Seshia and Scoones (2003, 24) highlight in their analysis of agricultural policies that in this *biotechnological era*, the state’s role is no longer to direct policy and shape development, but to provide a legal, financial and regulatory environment amenable to research and development led by private actors. The guarantee and enforcement of intellectual property rights are key examples of this, as they are supposed to foster creativity and research, protecting the investments of companies that are at the forefront of technological development.
- 23 The role of law in this new movement to enclose knowledge is central: national and international legislation that inaugurate novel property rights, this time over intangible productions of the mind, enable new enclosures (Boyle 2002). In this way, new possibilities of accumulation are enabled through the enclosure of knowledge production.

Roadmap

- 24 Having looked at this issue from a distance, I will now enter the specificities of this case and proceed with a more detailed gaze. To do so, in the first chapter I will situate the study by considering the fields of this research, as well as the methodological choices made. In the second chapter, the theoretical framework will be laid out, presenting the relevant discussion on the literature as well as the four concepts that are key for this work: indigeneity as a relational context, articulation, dispossession and friction.
- 25 The third chapter will look at how indigeneity is articulated both at WIPO and in Vale do Ribeira. The fourth chapter will discuss the narratives around the concept of indigenous knowledges in these two places, looking for connections and disconnections between them through an analysis of the characteristics evoked in each field. The fifth chapter will look at the narratives around the protection of indigenous knowledge. While at WIPO a narrative of legal protection is deployed, using the concept of intellectual property rights, in Vale do Ribeira a more political and collective narrative of protection is constructed.
- 26 Each one of these three chapters has a closing section in which the chapter’s findings are discussed. The conclusion will unite these chapter discussions and provide a final closing for this work.

NOTES DE BAS DE PAGE

1. Quilombolas and caiçaras are Brazilian traditional communities. A more detailed explanation about these actors can be found in Chapter III, Sections 2.2 and 2.3, respectively.

Chapter I: Situating the research

- 1 Considering the research questions presented in the introduction, as well as the broader context in which this discussion is situated, the objective of this first chapter is to explain the rationale behind the selection of my field and interlocutors, as well as the methodological approach adopted.

1 Why research Vale do Ribeira and WIPO?

- 2 This research has two main goals: (i) to understand how legal categories that concern indigenous peoples are created in both the international and local realms, namely the categories of intellectual property rights over indigenous knowledge and the category of indigenous knowledge itself; and (ii) to understand what the articulations between the conceptualization of these issues are in the international and local realms.
- 3 To achieve these goals, I have analyzed both the discussions taking place at WIPO's IGC and the framing of these categories in Vale do Ribeira. Selecting to analyze the IGC was quite easy: if I wanted to understand how states are negotiating the production of these new categories, a forum at the only international organization responsible for dealing with intellectual property issues was the place to be.
- 4 The selection of the case of quilombola and caiçara communities in Vale do Ribeira, Brazil, however, needs to be better explained. This is a region characterized both by a high level of socio-biodiversity and by numerous socio-environmental conflicts. The region is home not only to the highest concentration of quilombola communities in the state of São Paulo but also to the largest preserved area of Atlantic Rainforest in Brazil (Associações Quilombolas do Vale do Ribeira e Instituto Socioambiental 2018).
- 5 Due to this configuration, Vale do Ribeira has attracted the attention of a wide variety of researchers, from biologists to social scientists. Substantive research has been conducted in the region regarding agriculture and agroecological practices (Giordani et al. 2015; Saori 2018; Sempreviva Organização Feminista 2018), rural conflicts (Observatório dos Conflitos Rurais em São Paulo et al. 2017), development projects (Rougemont and Gómez 2011; Schattan P. Coelho and Favareto 2008) and conflicts related to the superposition of traditional communities' territories and areas incorporated by state parks (Ferreira 2004).

- 6 Although the recent work published by Sempreviva Organização Feminista (SOF) (2018) engages with quilombola knowledge in the field of agroecology, it does not elaborate on the relationship between quilombola communities and their knowledges. My research strives to contribute in that sense, shedding light on how members of quilombola and caiçara communities conceptualize their knowledge. Furthermore, it aims to understand how they perceive the biopiracy of plants they have traditionally used and, in more general terms, the interest of researchers and companies in their knowledges. Biopiracy is understood as “the patenting of indigenous knowledge related to biodiversity” (Shiva 2007, 307).¹
- 7 The historic resistance in Vale do Ribeira, allied to local communities’ high level of politicization, was a key element for my decision to select it as the other place to conduct this research. The long-term debates and struggles around the identity of the region’s quilombola and caiçara communities demonstrate a long process of reflection about the meaning of the occupation of their territory, their traditions and practices, as well as the context that surrounds them.
- 8 Having already strongly mobilized around issues of identity and rights, my interlocutors had insightful positions on what indigenous knowledge means to them, as well as on their relationship with their knowledge and the tools considered appropriate for its protection. Considering these factors and the equally important fact that plants used traditionally by these communities have been the object of biopiracy initiatives, this case offered a promising avenue to answer my research question.
- 9 Unlike other authors, who have focused on one specific biogenetic resource (Finger and Schuler 2004), I have opted to focus on a group of communities in one particular region. I consider this the best approach to answer my research question, because my interest lies specifically in understanding how the concept of indigenous knowledges and protection over these knowledges are constructed in a specific group of communities. Not having a clear set of communities at the center of my analysis would, therefore, render it prohibitively complex to answer my research question.
- 10 As already argued in detail in the introduction, the subject of intellectual property rights over indigenous knowledges involves disputes with high political relevance, and can be placed in a trend towards the reduction of domains of cultural life to alienable rights, as well as towards the transfer of political and social issues to the judicial realm (Comaroff and Comaroff 2009). In this context, having as interlocutors politicized quilombola and caiçara communities was of the utmost interest, as it allowed the discussion to surpass the rights discourse and reach the deep political issues at stake.

2 Methodological considerations: an approach from the ethnography of global connections

- 11 Considering the context of my two fieldwork sites and being guided by the research questions identified above, in this work I intend to tell a story of connections and disconnections. With the intention to produce an ethnography of global connections (Tsing 2011), I will analyze the *process* of creating these categories in the local and international realms. As I am looking for *points of articulation* of these categories in different scales, conducting fieldwork in two sites (WIPO’s IGC and Vale do Ribeira’s quilombola and caiçara communities) was essential to satisfactorily answer my

research questions. A multi-sited ethnography allowed me to access data on how the concept of indigenous knowledge and protection of indigenous knowledge, which can be framed in terms of intellectual property rights, are built in each of these contexts. Furthermore, this approach enabled me to analyze the connections and disconnections between them, to develop an understanding of if and how these sites interact.

- 12 A multi-sited ethnography should not be understood as a type of controlled comparison, nor is it a mere addition of perspectives (Marcus 1995); it is not the simple addition to the analysis of two different sites. In fact, this approach directs the researcher to look at the contingency of encounters (Tsing 2011). It recognizes that capitalism, science and politics are all dependent on global connections, and privileges attention to the messy and surprising features of such encounters (Tsing 2011). As Tsing teaches, “all human cultures are shaped and transformed in long histories of regional-to-global networks of power, trade and meaning” (2011, 3). This, I will argue, is no less true for WIPO than it is for Vale do Ribeira.
- 13 The approach of an ethnography of global connection is key because the development of the discussion around intellectual property and indigenous knowledge in a forum like WIPO is not self-evident, nor is it self-explanatory why this became a theme for discussion at Vale do Ribeira. An ethnography of global connection can give us the elements to understand such an unexpected encounter. This will be further developed throughout the thesis. For now, we have reached the time to discuss my entrance into both research sites, as well as the methodological toolbox used to develop this work.
- 14 My entrance in Vale do Ribeira and WIPO was mediated by people who are active members of these communities: at WIPO, by a representative of an NGO which has a seat at the IGC; at Vale do Ribeira, by a quilombola leader. In the next lines, I will discuss in further detail how these processes occurred.

2.1 Entering Vale do Ribeira

- 15 My entrance into Vale do Ribeira was made possible because a quilombola leader of the community Ribeirão Grande, Neire,² accepted to receive me in her house and to help me contact people from other communities. Later on, she invited me to participate in the regional meeting of the National Coordination for the Articulation of Black Rural Quilombola Communities (CONAQ, in the Brazilian acronym). This was a unique opportunity to be in contact with leaders from many different quilombola communities of Vale do Ribeira and had a great influence on my research, because it allowed me to meet people I would otherwise not have access to.
- 16 My presence in the field was directly linked to Neire's, as I was seen as her guest. This meant that it was easier for me to enter some communities, with the challenges and advantages this might pose. On the one hand, it may have influenced the willingness of people to talk to me, as well as the content of what they have shared. On the other hand, people were more trustful since with me being seen as an ally of a quilombola leader, they were reassured that I would not be a threat to the community.
- 17 The CONAQ meeting happened in a quilombola community called Ivaporunduva. Neire and I arrived there nearly a week before the meeting, in order to help with the organization and the articulation with other communities of the region. As she explained, we would have to visit some communities to make sure they would come,

and in this way, I would be able to meet other quilombola communities and leaders and conduct interviews.

- 18 We left Ribeirão Grande around noon and reached Eldorado, the municipality in which Quilombo Ivaporunduva is located, by the end of the afternoon. Neire had planned that we would be able to sleep at the Parochial House and continue our journey to Ivaporunduva on the next day (a 40 kilometers bumpy dirt road still separated us from the quilombo). As the priest was not there, we decided to resume the journey that same day. We had just started to drive between the endless monoculture banana plantations when a storm began. After a tense drive, we finally reached our destination. Ivaporunduva is arranged as a small village, with its own church, dating from the colonial period, as well as a large space for community meetings. The community has a special lodge to receive tourists, in which the CONAQ event was going to take place.
- 19 Ivaporunduva was the first quilombola community to be recognized by the Brazilian state in Vale do Ribeira. The community is strongly organized politically. As I had done in Ribeirão Grande, when in Ivaporunduva I continued to talk to people, tell them about my research and, when someone agreed to participate in an interview, proceed with that. I had already had a recorded conversation with two older community leaders, the parents of the woman in whose house I was staying, when another quilombola leader and member of CONAQ, Ulisses, asked to talk to me and to the photographer who was hosted in the same house.
- 20 Ulisses told us that for us to conduct interviews (in my case) and take pictures (the photographer's case), we needed to pass through an evaluation proceeding conducted by the community. Since they had had many experiences with misappropriation of their knowledge and image, they had decided to develop a self-protection mechanism: a protocol for research. Any interested researcher should send a research project to the community, which would be evaluated in their assembly to decide whether or not they would like to participate in the project.
- 21 This talk provided at once an exciting finding and an enormous discomfort: while I had just bumped into an extremely relevant element for my research (in that case, misappropriation of knowledge had led to the production of protocols!), I also felt that I had entered that field in a wrongful way. I felt as if I had tried to pass over the community's organization, that I did not take them as seriously as I should (would I not inform myself about the existence of research protocols if I was doing this research in an international organization?).
- 22 This feeling of discomfort passed as in the next days I helped the organization of CONAQ's meeting, which took place on the weekend of January 25 and 26, 2019. From the moment I was giving something back to the organization of quilombolas in the State of São Paulo, I felt my presence was made legitimate not only for them but also for myself. By the end of the week, the Ivaporunduva leader who had talked to me accepted to give me an interview, not in his position as a leader of Ivaporunduva (as it was not feasible for the assembly to meet and deliberate while I was still there), but in his position as CONAQ's lawyer.
- 23 Fortunately, I have also encountered research protocols when talking to many other community leaders, both quilombolas and caçaras. While in some of these cases the protocol was "waived" because the communities considered that having the support of the Ribeirão Grande quilombola leader sufficed, I was also not able to talk to one

quilombola leader because his community decided that participating in my research was not a priority for them at that moment. The subject of these research protocols, which bring important insights to this analysis, will be discussed in detail in Chapter V, Section 1.5.

- 24 In all of these cases, I was faced with demands on how I would return my research to the community. The agreement reached with all is that I will send them both the complete text in English and a summary in Portuguese. Additionally, I will do a presentation about my research once I am able to go back to Vale do Ribeira.

2.2 Entering WIPO

- 25 As mentioned before, my entrance into WIPO's IGC was made possible by a representative of an NGO in Geneva, whom I had met during a side-event of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) in July 2018. Having explained my research interests to him, he promptly invited me to participate in IGC 37, which happened in August that year. I have participated in IGCs 37 to 39 through accreditation with this NGO. In exchange, I shared with them my notes on the sessions and helped with the editing of a memo on the Indigenous Panel of IGC 38.
- 26 My presence at WIPO was often linked to that of the NGO that facilitated my participation in the forum. In this sense, my presence was accepted in one of the Indigenous Caucus' private meetings. A condition for my participation in the forum was that I could take notes, but not request to speak. I had understood the decision about my participation had been taken collectively at a previous meeting in which I did not participate, and therefore that it was clear for all participants why I was there. This proved, nevertheless, not to be the case. Some of the Indigenous Caucus members had not understood that I was a researcher, but actually that I was a part of the NGO, which caused some confusion. I asked the representative of the NGO to issue an email to all participants of the Indigenous Caucus, clarifying that I was not only helping them but also conducting my fieldwork at the forum. The situation was thus clarified, but not before some tension was created. Some of the participants of the Indigenous Caucus, not without reason, were unhappy with the unclear way my presence at their meeting was introduced. After this clarification, I believe I was seen more independently by other participants of the forum. Nevertheless, I decided not to participate in other meetings of the Indigenous Caucus after that and not to use the notes I had taken at the meeting as a direct material for my thesis.
- 27 I have agreed to share the results of my research with the Indigenous Caucus and with Docip, a key NGO that has been helping with the documentation and facilitation of participation of indigenous peoples in international fora. I will share the final written file of this research with them and, in this way, the paper can be stored at their digital library and will be opened for access.

2.3 Participant observation

- 28 Participant observation was a key tool for my research. At WIPO, a political forum which has very well-defined procedural rules, observation was essential to better understand protocols and power dynamics at play. To clarify how the process works, it was essential to carefully study what was both said and not said in the room, the choice

of specific words, as well as who was there and who was not in the meeting. Even though important moments of negotiations are normally held “in the corridors”, a close analysis of the room also provided insightful clues to the alliances that are formed, and the different discourses being produced.

- 29 At Vale do Ribeira, observation also played a key role. I paid special attention to practices and spaces of interaction, as the concept of indigenous knowledges encompasses an infinite diversity of knowledges and activities. Furthermore, I also paid attention to the boundaries being established both within and around the communities. As mentioned above, I actively participated in activities in both fields and have committed to sharing the results of my research with my interlocutors.
- 30 This research has been inspired by the teachings of participatory action research, even if it cannot be argued that it adheres completely to this practice due to the limited period I have spent in the field. Nevertheless, I have actively participated in activities in both fields and have committed to restituting this work both to caiçaras and quilombolas at Vale do Ribeira, as well as to the Indigenous Caucus, as I understand there is an “obligation to return this knowledge systematically to the communities” (Fals-Borda 1987, 344).

2.4 Interviewing interlocutors in Vale do Ribeira and WIPO

- 31 Aiming to understand how concepts are coined in an international political forum, as well as in a politicized traditional community, semi-structured in-depth interviews were a key methodological tool. In-depth interviews were the best way to allow me to access information on interlocutors’ perceptions and narratives, to understand how concepts are being framed. The selection of my interlocutors was made through snowball sampling.

Interlocutors at Vale do Ribeira

- 32 At Vale do Ribeira, I interviewed mainly quilombola and caiçara leaders, as well as some other actors that were connected to the bioprospecting or patenting cases that I investigated. With these interviews, I aimed at unpacking ideas of what constitutes indigenous knowledges, and how they are produced, transmitted and transformed. Furthermore, I have tried to understand how the link to a specific identity is made (if it is), and what makes it distinctive: in other words, how a local community understands its own knowledge.
- 33 In total, I conducted eleven interviews: six with quilombola leaders, one with two caiçara leaders, one with a researcher connected to the Natura case,³ and two with lawyers that offered juridical assistance to the quilombolas in different cases. All interviews were conducted in Portuguese. For anonymity purposes, I have changed the name of all interlocutors interviewed. Nevertheless, the names of interlocutors that made interventions during WIPO’s IGC are mentioned when these interventions are available on webcasting or in written reports, as they constitute public information. Information about each interview is included in Table 1.

Table 1. Interlocutors at Vale do Ribeira

Name	Short biography	Characteristics of the interview
Francisco	Francisco is a leader at Quilombo Pedro Cubas. His livelihood is based on subsistence farming. Francisco is one of the most politically active members of Pedro Cubas. He has a wide knowledge of medicinal plants and has tried to teach the community's children about them.	In-person, during CONAQ State meeting.
Aurelio	Aurelio is a leader of Quilombo São Pedro. He lives off subsistence farming and was active in advocating for the recognition of the Quilombola Agricole System as Brazilian intangible heritage. Aurelio affirmed that he conducts some healing activities with traditional medicine, e.g. <i>benzimento</i> ⁴ and <i>garrafadas</i> . ⁵	In-person, during CONAQ State meeting.
Denis	Denis is a caiçara leader from Barra do Ribeira, in the region of Juréia. He has served as a member of the National Sustainable Development Commission for Traditional Communities and Peoples (CNPCT) and worked as a popular educator ⁶ at the now-defunct Juréia Caiçara School. He practices fishing and has worked as an environmental guide at the community.	In-person, at Denis' house in Barra do Ribeira. Interview conducted simultaneously with Denis and Fernanda.
Fernanda	Fernanda is a caiçara leader from Peruíbe, in the region of Juréia. She is a pedagogue and has also worked as an environmental guide in the community. Fernanda is active in the feminist movement.	In-person, at Denis' house in Barra do Ribeira.
Dr. Michelle	Michelle, referred to by all my interlocutors as "Dr. Michelle" (due to her position as a lawyer), is a nun and legal advisor at a non-governmental institution linked to the Catholic Church, dealing with a wide range of subjects, such as indigenous peoples and local communities rights.	In-person, at her office in São Paulo
Dr. Susana	Susana, referred to by all my interlocutors as "Dr. Susana" (due to her position as a lawyer), is a nun and legal advisor at EAACONE. She has been actively advising quilombola communities since she was transferred to a diocese at Vale do Ribeira, in the 1980s.	In-person, at EAACONE's office
José	José lives on a small farm in the municipality of Barra do Turvo, Vale do Ribeira. His livelihood is based on subsistence agriculture and the supply of dried plants to the Brazilian cosmetic company Natura. José is well-known in the region for producing <i>garrafadas</i> and has a wide knowledge of the medicinal use of the	By phone. I have visited José's farm and we had an informal conversation there. Although we had initially scheduled an in-person interview, it had to be changed to a phone

	region's plants. José does not identify as a quilombola.	interview due to medical reasons
Neire	Neire is a leader from Quilombo Ribeirão Grande. She is also a member of the National and State Coordination of CONAQ. Her livelihood is based on subsistence agriculture. Neire is part of the feminist movement and it was through this engagement that we met during a conference in Geneva. Neire accompanied me throughout my fieldwork in Vale do Ribeira.	In-person, on the way from Ribeirão Grande to Ivaporunduva
Prof. Livio	Researcher and ethnobotany professor at the agricultural department of Paulista State University (Unesp), Prof. Livio had conducted research in Vale do Ribeira before he became engaged with Natura.	By phone
Orlando	Orlando is a leader from Quilombo Porto Velho. He was the president of the community's association at the time of the Natura case. He mentioned having had the chance to visit other traditional communities throughout Brazil.	By phone
Mirana and Rodrigo	Mirana and Rodrigo are older leaders of Quilombo Ivaporunduva. They are the parents of Claudia, at whose house I stayed during the part of my fieldwork at Ivaporunduva. Mirana was the president of the community's association when their land received the quilombola land title. Rodrigo played a key role in the creation of MOAB and has also reported having traveled to meet other traditional communities in Brazil.	In-person, at their house in Quilombo Ivaporunduva
Ulisses	Ulisses is a leader from Quilombo Ivaporunduva and is part of the National Coordination of CONAQ, as well as a member of their lawyers' collective. Ulisses is a lawyer and is currently pursuing a master's degree in Curitiba, Paraná. He has participated in several international meetings, amongst them the negotiations for the CBD.	In-person, during CONAQ State meeting

Interlocutors at WIPO

- 34 At WIPO, I managed to conduct four interviews with different actors, as detailed below in Table 2. Through these interviews, I aimed at getting a deeper understanding of the working of the IGC, as well as of the perspectives of different actors on the issues at stake in the forum. I have not attributed names for these interlocutors as, being located in an international forum, giving them a name could make it easier to disclose their nationality and/or identity.

Table 2. Interlocutors at WIPO

Name	Short biography	Characteristics of the interview
NGO representative	This is the NGO representative that supported my participation in WIPO's IGC. He has participated in the IGC since 2012, although he has not attended all sessions. He is a researcher in history and political discourse of indigenous movements.	In-person, at a cafe in Geneva
Indigenous representative	A lawyer of indigenous origin, this representative focused on the issues of immaterial heritage and intellectual property and created an indigenous institute for intellectual property. She has participated in the negotiations for the CBD and has been following the discussions at the IGC since the beginning of the 2000s but did not come back to the forum after IGC 36. She is finishing her PhD and a part of her analysis is focused on the IGC.	By phone
Delegate of a developing country	This delegate from a developing country works for the mission to the WTO and WIPO. He became a diplomat in 2009 when his interest in intellectual property rights began. He came to the mission in Geneva in 2016, when he started to follow the IGC discussions. He became familiar with the subject of indigenous knowledge only at that time.	In-person, at his office in Geneva
Staff member of WIPO's Department for Traditional Knowledge and Global Challenges	This person has worked for WIPO for over twenty years. In his former position, he participated in all assemblies and discussions at WIPO. Through this position, he was involved in discussions around the organization's legal questions. He joined the Department for Traditional Knowledge and Global Challenges at the end of 2016, in a leadership position.	In-person, at his office in Geneva

2.5 Additional sources

- 35 In addition to participant observation and in-depth interviews, a varied array of additional sources has informed this work. In the case of WIPO, the analysis of official documents was essential to supplement and better understand the discussion during sessions 37 to 39. Among these documents, I have relied on minutes of previous meetings, studies prepared by WIPO and draft articles for each of the three instruments prepared by the Secretariat, among others.
- 36 In the case of Vale do Ribeira, minutes of meetings, draft contracts and news articles were central to reconstructing the stories of knowledge misappropriation and complement the information provided by interlocutors during the interviews.

2.6. Limitations

- 37 As mentioned above, having the help of both the NGO representative and the quilombola leader may have influenced what interlocutors decided to talk or not talk about in the interviews. Furthermore, an important limitation may be that I have mainly interviewed community leaders in the context of Vale do Ribeira.
- 38 On the one hand, this was a helpful strategy as these individuals were already more familiarized with the themes of this research, which are often perceived as extremely technical and hard to comprehend. Additionally, being community leaders, they were often the ones involved in the discussion of similar issues in other fora, as well as in the discussions around bioprospecting initiatives that took place in their territories. On the other hand, having conducted in-depth interviews only with community leaders may have emphasized the importance of the political aspects in this work.
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NOTES DE BAS DE PAGE

1. Other authors deploy the term *bioprospecting* (Hayden 2003). I have preferred to use biopiracy as it “reflects the commodification and privatization paradigm, which only protects the rights of those who appropriate people’s common resources and turn them into commodities” (Shiva 2007, 313).
2. I first met Neire at a conference on Feminist Solidarity Economy in Geneva. The conference “Bubbling Up Solidarities” took place at the Graduate Institute between May 03 and 04, 2018. I was engaged at the conference and had direct contact with Neire, as I was one of the students responsible for translating the content of the conference to her.
3. See Chapter V, Section 1.1.
4. *Benzimento* is a healing technique in traditional medicine.
5. A *garrafada* is a general term for traditional medicines which are made inside a bottle (*garrafa* in Portuguese). *Garrafadas* may involve a mixture of different types of plants, normally with alcohol. There are specificities to each *garrafada*: some should be used as a cream, some taken orally, while others are used in baths.
6. In Portuguese *educador popular*, as a reference to the use of a pedagogical methodology inspired by Paulo Freire’s teachings (Freire 2017).

Chapter II: Theoretical discussions on indigeneity, indigenous knowledge and intellectual property

- 1 In this work, I am taking a step back from the rights discourse to analyze in more detail the discussion around indigenous knowledge and its protection, which is being framed in terms of intellectual property rights by both scholars and lawmakers. To fully understand how narratives around the meaning of these concepts are being constructed, I have argued that we should look at the very political issues at stake. This chapter will present and discuss the theoretical tools that inform an analysis through this lens. At the same time, it will situate the debate in which this work is located.
- 2 The concepts of indigenous knowledge and intellectual property rights over indigenous knowledge are both intimately linked to the idea of indigeneity, since both concepts relate to indigenous peoples. Therefore, understanding the discussion around both of these concepts becomes much clearer in the light of the debate around indigeneity. The relational character of indigeneity, as well as the possibilities of enunciation and political articulation it enables, are key to understanding how the derived concept of indigenous knowledge is built and what it entails. Relationality and articulation are also key to understanding our next issue of analysis: intellectual property rights over indigenous knowledge.
- 3 The issue of intellectual property rights over indigenous knowledge is studied in the literature through two lenses. A convergence approach argues for the extension of intellectual property “protection” to indigenous knowledge, in a discourse that evokes indigenous peoples’ right to a legal tool used globally to protect knowledge considered as “scientific and innovative” as well as “artistic productions”. In other words, this literature frames the issue in terms of the expansion of intellectual property rights as universal rights. On the other side, a conflictual approach highlights the dispossessions entailed by new property categories. Placing power relations in the center of the analysis, these authors argue that intellectual property is a means of promoting the commodification of knowledge. By extension, the key outcome of intellectual property rights over indigenous knowledge would not be the protection of the rights of

indigenous peoples, but in fact the legitimization of the possibilities of its expropriation.

- 4 As it takes into consideration the dimension of power relations, a conflictual approach allows the analysis to address the political issues involved in the creation of the categories of this research, being more in line with the objectives of this study. Nevertheless, this approach is insufficient to explain how discussions around the same issues take place in such different spheres as WIPO's IGC and Vale do Ribeira. How is it possible that such different spaces are concerned with similar discussions? What allows us to account for the (dis)connections between these places?
- 5 The concept of friction, the "grip of worldly encounter" (Tsing 2011, 1) will allow us to understand the awkward interconnections that link these places. Tsing (2011) invites us to look at these strange encounters, because it is through varied and often conflicting social interactions that we can understand our globalized world. This lens gives us the tools to understand how our different fields are interconnected by the same discussion and finally influence one another.

1. Articulation and relationality: key elements for understanding indigeneity

- 6 Despite being widely used, the terms *indigenous* and *traditional* carry a complex history. They are key terms for this work, because they are at the basis of both concepts we are looking at and, thus, the idea of indigeneity has implications in their construction. It is worthwhile to explore what indigeneity (and traditionality) means in order to better understand the context in which the concepts of this analysis emerge.
- 7 The term *indigenous* was first coined in a colonial context, relying on the modern divide between "us" and "them" (Said 2003). Much has changed since then but still, there is no consensus around the meaning of *indigenous*, either in the anthropological literature or in policy and regulation-making fora. As Hodgson (2011, 37) divides it, there are two main approaches to the definition of indigenous in the literature: a "constructivist", "structural" or "relational" definition and an "essential", "substantial" or "positivist" one.
- 8 The latter unites those who advocate that there is an essential element for defining indigenous peoples, which would depend on evidence of territorial precedence. This was, for example, the first inclination of the United Nations' Working Group to the Permanent Forum on Indigenous Peoples, which tried to equate the meaning of "indigenous peoples" to that of "first peoples". In other words, indigenous peoples were understood as "autochthone groups such as Native Americans, Aborigines, and Maori who could clearly demonstrate their territorial precedence prior to conquest and settler colonialism" (Hodgson 2011, 37). An "essential" approach was also deployed by Kuper. In his controversial article published in 2003, the author defended that indigenous peoples' claims depart from the erroneous assumption that original inhabitants of a country have privileged rights to its resources. In his view, this might have dangerous political consequences for society overall, including for individual rights, because it would foster essentialist ideologies of culture and identity (Kuper 2003).

- 9 The entry of African and Asian groups into the international debate challenged this view. Due to their specific colonial and migratory history, which permanently dislocated them, African and Asian groups' history differs significantly from that of Native Americans and other groups. Alternatively, through a **relational** approach, they argued that they should be considered to be indigenous peoples because they shared a similar structural position to that occupied by the so-called "first peoples" in other continents (Hodgson 2011).
- 10 This centrality of experiences as a defining factor for indigeneity is also defended by many scholars who adopt a relational approach (Bayart 1996; M.C. da Cunha 2009; Hodgson 2011; Lewis and Kenrick 2004; Li 1996, 2000, 2001, 2014; Pelican 2009). Lewis and Kenrick, for example, argue that not only the negative experiences of colonization, dispossession and discrimination but also the "positive resilience of the social, economic and religious practices" are central for the definition of "indigeneity" (2004, 7).
- 11 In this sense, as happened to other categories (e.g. "tribal", "native", "aboriginal"), the term "indigenous" was appropriated by the communities designated by it. These communities converted a term charged with prejudice into one around which they mobilize and through which they carry out fights for their rights. The term "indigenous" started to be inhabited by real people, made of flesh and blood (M.C. da Cunha 2009, 278). As they entered the discussion, indigenous peoples were no longer the objects of a discussion *about* them, but the subjects of this conversation.
- 12 The possibility to forge international alliances through participation in the international indigenous peoples' movement is another key aspect for creating a privileged space to contest injustices that happen at the national level. As Hodgson (2011, 213) explains for the case of the Maasai, "becoming indigenous" was one of the few politically viable strategies available in a time of radical dislocation. It allowed them to gain visibility and access resources but also introduced a complex cultural politics of inclusion and exclusion. In this sense, some groups "may internationally qualify as indigenous peoples while locally being perceived as strangers or migrants" (Pelican 2009, 62). Being identified as indigenous had important implications for these indigenous groups, because it entitled them to seek remedy in the international arena against violations conducted by national states at the local level (Hodgson 2011; Bellier 2013).
- 13 These "identity strategies" (Bayart 1996, 10) must be taken into consideration as important elements for the understanding of *indigeneity* not as an essentialist term, but as a relational category strongly linked to the specific experiences of particular groups. As Coombe demonstrated, "the vocabularies of political indigeneity" have now been extended to embrace a greater range of the world's most marginalized peoples as they "enable traditions to serve as dynamic resources for imagining alternative futures" (2017, 391).
- 14 This study considers indigeneity, as well as traditionality, as relational categories. In this sense, they are understood not as essential or natural categories that exist on their own, but as ideas that emerge in response to a specific context of colonialism and dispossession as well as of resilience. This does not mean, however, that they are simply invented or imposed. As Tania Li explains,

self-identification (...) is rather, a positioning which draws upon historically sedimented practices, landscapes and repertoires of meaning, and emerges through

particular patterns of engagement and struggle. The conjunctures at which (some) people come to identify themselves as indigenous, realigning the ways they connect to the nation, the government, and their own, unique tribal place, are the contingent products of agency and the cultural and political work of articulation emphasis in the original . (2000, 151)

- 15 **Articulation**, the concept highlighted in the passage above, is another key marker of the empirical and political dimensions of the concept of indigeneity. Li uses Stuart Hall's (1996) concept of articulation as a framework to address these two dimensions. Articulation for Hall is at the same time a process of boundary-making and a process of connection. The concept "captures the duality of positioning which posits boundaries separating within from without, while simultaneously selecting the constellation of elements that characterize what lies within" (Li 2000, 152). At the same time, *articulation* also accounts for the provisional enunciation of collective identities, shared interests or common positions (Li 2000). The forms articulations take "are not predetermined by objective structures and positions, but emerge through processes of action and imagination shaped by the 'continuous play of history, culture and power'" (Li 2000, 174).
- 16 Articulation, and the connected idea of relationality, are key concepts to understand our field. On the one hand, they highlight that the idea of indigeneity emerges in a specific historical context and that self-identification as an indigenous group, a positioning that draws upon historical practices and is grounded in patterns of engagement and struggle, is a product of articulation work. The idea of indigeneity does not emerge from objective structures and positions, but from situated processes of action and imagination, of engagement and enunciation.
- 17 On the other hand, these concepts also stress the fact that indigeneity's political relevance is linked to the alliances it allows for. While producing boundaries that determine who is or is not part of that group, the articulation of an indigenous identity strengthens alliances between a group of individuals and allows them to organize as a collective, enunciating their collective identity in the international sphere, for example, uniting as an indigenous peoples' movement).

Traditional communities and peoples

- 18 In the Brazilian context, the same reflections presented above can be extended to the concept of traditional communities and peoples (*povos e comunidades tradicionais*) and to the groups that self-identify as such.
- 19 In the anglophone anthropological literature, however, the use of the term *traditional* has been criticized as evoking notions of temporality (Nadasdy 1999) and is therefore avoided. The situation is different in Brazil, as many communities in the country claim to be addressees of the Brazilian legislation and policy for *traditional communities and peoples*. In international legislation, this would be the equivalent to categories such as *local communities* (CBD) (United Nations 1992) or *tribal peoples* (ILO Convention 169) (ILO 1989).
- 20 The term *traditional communities and peoples* is claimed by Brazilian groups and used in a way that demonstrates that "traditional" refers to bodies of knowledge and practices that are dynamic. At least in the Brazilian context, it is possible to trace a parallel between what has happened to the term *indigenous* and what has happened to the category of *traditional communities and peoples*. Like the former, the latter was also

appropriated by the communities who were designated by it. This changed its meaning as communities started to organize around it and articulate their identities as indigenous and tribal peoples (M.C. da Cunha 2009, 278).

- 21 For Almeida (2004), the category is increasingly used to designate social agents that self-identify as traditional communities and peoples, rather than being a category used to name a group of “biologized subjects”. In fact, it is used to name
social subjects with a collective existence, incorporating through the political-organizational criterion a diversity of situations correspondent to groups such as the *seringueiros*, *quebradeiras de coco-babaçu*, *quilombolas*, *ribeirinhos*, *castanheiros* and fishermen that have equally structured themselves in social movements. (Almeida 2004, 12)
- 22 The term *traditional* is therefore used with a different meaning by quilombola and caçara communities in Brazil. It is deployed not as an opposition to modern, but as a term around which these groups organize and through which they can demand specific rights. In this context, the term *traditional* is detached from the notions of temporality that it carried, to give name to a group of communities and peoples whose ways of living are dynamic and change over time.
- 23 I will use the term *traditional* in this work, conscientious of the extremely relevant critiques presented by the anglophone literature. This is the term that has been articulated by my interlocutors most often, both in the context of WIPO and Vale do Ribeira (where the terminology *quilombola knowledge* was also deployed by quilombola communities). When it is the case, I will highlight the situations in which *traditional* was deployed in reference to notions of temporality. Whenever the term *traditional* is used in the context of Vale do Ribeira communities, however, the reader should consider that it was used with the new signification these communities assigned to the word.

2. Indigenous knowledge: articulation, relationality and a concept's life-cycle

- 24 The identification of some groups as indigenous or traditional appears in direct connection with the efforts by a part of the anthropological literature to conceptualize the practices and collective creations of such groups as “indigenous knowledge”. As Dove explains, the idea of “indigenous knowledge” was first coined as a “useful counter to the customary denial of the possibility” that something like indigenous *knowledge* (in opposition to scientific knowledge) could even exist (2000, 241).
- 25 Recognizing indigenous intellectual productions as “indigenous knowledge” has served as an “innovative tool” to counter the belief that only “modern, global scientific knowledge” could contribute to development (Dove 2000, 213). Along these lines, the concept of indigenous knowledge was coined as a response to the legacy of colonialism, which posits the hegemony of knowledge produced in the West and its imposition worldwide as the “universal” (Quijano 2000) and hierarchically superior mode of knowledge production (Agrawal 1995).
- 26 For Nadasdy, for example, indigenous knowledge refers to something that cannot be subsumed into the western definition of knowledge (1999). Instead, it refers much more to a “way of life”, not so much to “an abstract product of the human intellect, but one aspect of broader cultural processes that are embedded in complex networks of social

relations, values and practices which give them meaning” (Nadasdy 1999, 4 and 5). In this sense, it does not encompass abstract ideas locked at a point in time but accounts for the dynamism of indigenous societies. As Cunha puts it, traditional knowledge can be seen as the “lasting ensemble of particular forms of generating knowledge” (M.C. da Cunha 2009, 365). Local knowledge systems are not frozen in time, but have a great capacity for innovation (Pinedo-Vasquez, Hecht and Padoch 2012, 146). Traditional knowledge in this sense does relate to a set of practices and collective creations that exist for a certain number of years, but rather to knowledges and forms of knowing that are situated in specific knowledge systems.

- 27 This concept of indigenous knowledge has also entered the legal and policy arenas. “Traditional knowledge” and “traditional cultural expressions” are terminologies mobilized by WIPO and its IGC, as well as by the CBD and many scholars (Abdel-Latif 2017; Carvalho 2005, 2012, 2017; Hayden 2003; Oguamanam 2018; Perlman 2017; Wendland 2017). Other international legal instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), use different terminologies, such as “cultural heritage” or “indigenous knowledge” (Thathong 2014).
- 28 Although recognizing that it has served as an important tool for a while, Dove argues that, through its life-cycle, the concept of indigenous knowledge has become a “hackneyed dichotomy” (2000, 341). Both Dove (2000) and Agarwal (1995) suggest that it does not make sense to talk about indigenous and western knowledge as opposed notions. In fact, Dove argues that “the separation of local and extra-local knowledge systems implicit in the concept of indigenous knowledge leads to the eliding of interaction and contestation between them” (2000, 235). Instead of being isolated systems, so-called indigenous and western knowledge would actually be in constant interaction, an exchange that is relevant to the production of both.
- 29 The creation of the indigenous knowledge category departs indeed from an artificial division between “us and them” and recognizing this fact is essential to understanding what such a category veils. This recognition serves as a key element to rewriting oversimplified histories that oversee the interactions between “multiple domains and types of knowledges, with differing logics and epistemologies” (Agrawal 1995, 31). Nevertheless, we cannot stop the analysis of the “life-cycle of the concept of indigenous knowledge” (Dove 2000, 238) at this point. As Dove (2000, 242) mentions, this concept has been embraced by indigenous peoples as a weapon that can be used to fuel some of their revindications.
- 30 In fact, if one emphasizes the link between the concepts of indigenous knowledge and indigeneity, remembering that one is not possible without the other, it becomes clearer that articulation and relationality are also key elements required to reach a more complete understanding of the implications of the concept of indigenous knowledge. Like the concept of indigeneity, the concept of indigenous knowledge is also appropriated by indigenous and local communities and enters the political, policy and legal arenas. Through this movement, it produces effects that should be taken into consideration, because they allow for specific alliances and articulations. The concept of indigenous knowledge has material implications in the lives of indigenous peoples as it changes what is possible in the negotiation of meaning.
- 31 Through the analysis of the use of this concept in WIPO and Vale do Ribeira, I will give empirical evidence to these first theoretical affirmations. For the moment, it suffices to think that indigenous knowledges justify the creation of the IGC. While it may indeed

not make sense to enclose indigenous and western knowledge in completely isolated categories, this division is being made and is having concrete effects. It is due to the enunciation of indigenous knowledge as a body of specific knowledge systems, which carry particular characteristics and deserve particular protection by intellectual law, that the forum was created. Based on the assumed specificity of what has conventionally been called indigenous knowledge, some researchers and policymakers started to argue for the need of a specific intellectual property regime to “protect” this body of knowledge. The IGC is a very material implication of the articulation of the idea of indigenous knowledges. It goes beyond a purely philosophical enunciation of the term, because it led to the creation of a forum in which ideas are discussed and alliances are made, to create a body of international legislation that has the potential to directly affect the lives and livelihoods of indigenous peoples worldwide.

3. Between narratives of protection and dispossession: intellectual property and indigenous knowledges

- 32 The issue of intellectual property rights over indigenous knowledge is at the center of the discussions at the IGC. It has caught the attention of legal scholars and policymakers, especially in the field of intellectual property law, as well as of researchers in the social sciences, more specifically in the subfields of legal and political anthropology. To address this discussion and to organize the body of literature reviewed here, this section divides different authors into two groups in accordance with their positions. I have called these the *convergence approach* and the *conflictual approach*.
- 33 The authors that use a *convergence approach* start from the premise that intellectual property rights can be applied to indigenous knowledges as a way to protect them. In other words, they can be seen as the extension of a universal rights regime to a group that so far has been prevented from its protection. Nevertheless, these authors believe that the current intellectual property regime is unable to solve problems related to indigenous knowledge (Frankel 2017) and are worried about answering how a specific intellectual property system over indigenous knowledge should work, as well as what elements should be considered for its construction (Abdel-Latif 2017; Amaral and Fierro 2013; Carvalho 2012; Frankel 2017; Oguamanam 2018; Wendland 2017). In other words, they focus on the creation of a *sui generis* intellectual property system for indigenous knowledges. The positions encompassed in this approach are aligned with the perspective of the international organization that works with the same thematic, WIPO. The same perspective is also shared by some multinational companies working in industries to which the discussion is of utmost importance (an example is the Brazilian cosmetic company Natura & Co.). This viewpoint is at the center of WIPO’s IGC, which focuses on text-based negotiations aiming at the production of legal instruments to regulate the application of intellectual property law to indigenous knowledge (WIPO 2018a).
- 34 Among the main limitations of the convergence approach is that, although it considers some specificities regarding traditional knowledge, it does not give centrality to relations of power. By defending the consideration of indigenous peoples’ interests alongside industrial interests, those who adopt this approach do not take seriously the different and often conflicting economic and political stands of these two spheres.

Inspired by Foucault (1982), we can say that an analysis that privileges the understanding of the power relations involved in the claims for a universal intellectual property rights system allows us to better understand what is involved in the construction of such institutions. Such an understanding can clarify what the possible consequences of creating this intellectual property system are.

- 35 On the opposite side of this approach, we can situate the *conflictual approach*, composed of a set of authors who defend that intellectual property rights cannot protect indigenous knowledges. By proposing a framework to understand contemporary developments in global capitalism, these authors suggest that the concentration of corporate power in the life sciences, as well as the global imposition of intellectual property and biopiracy for both genetic resources and the indigenous knowledges associated with them, may be recognized as new moments of accumulation by **dispossession** (Boyle 2002; Harvey 2004; Kloppenborg 2010; Peschard 2009; Shiva 1997, 2007; West 2016).
- 36 “Accumulation by dispossession” is a key concept for this approach and therefore the next few lines will be dedicated to better understanding this idea. The concept derives from Marx’s concept of primitive accumulation, the historical process of divorcing the producer from the means of production, which happened in the prehistory of capitalism. As Marx explains, the expropriation of the peasant from the soil gave the basis for this process, which occurred differently in different locations (Marx 2004). Other factors, such as colonization, are highlighted by Marx as levers of primitive accumulation. The role of the state in the process of expropriation is stressed by the author, as it is the state that creates and enforces regulations that give space for dispossession and the criminalization of practices of resistance (Marx 2004).
- 37 David Harvey, building on Rosa Luxemburg’s analysis, criticizes Marx’s assumption that the processes of primitive accumulation only took place in the prehistory of capitalism, arguing on the contrary that these processes have been taking place throughout the history of capitalism and continue up to the present day. As Luxemburg explains, capitalism is based in two forms of exploitation: one that concerns the commodity market, where surplus-value is produced; and another, which concerns the relations between capitalism and non-capitalist modes of production and whose methods are colonial policy, an international loan system and war. According to Luxemburg, these two systems of exploitation are in an organic relation and this dynamic is essential for the reproduction of capitalism (Luxemburg *apud* Harvey 2004, 73). Bearing in mind that these are ongoing processes, Harvey (2004, 74) argues that it is not helpful to classify them in a linear historical way and suggests not to call these processes primitive accumulation, but *accumulation by dispossession*.
- 38 Harvey demonstrates that accumulation by dispossession can occur in a variety of forms and ways. These include, for example: conversion of diverse modalities of property into exclusive private property; colonial, neo-colonial and imperial processes of appropriation of assets (e.g. natural resources); the commodification of labor power; as well as suppression of indigenous forms of production and consumption (Harvey 2004, 75). In the past few years, new mechanisms of accumulation by dispossession have started to appear, among which there are two forms that are especially significant for our analysis: “patenting and licensing of genetic materials, seed plasmas, and all manner of other products”, which “can now be used against whole populations whose environmental management practices have played a crucial role in the development of

those materials”; and “the commodification of cultural forms, histories and intellectual creativity” (Harvey 2004, 76). Deploying an analogy with colonial conquest, Shiva argues that “the vacancy of targeted lands has been replaced by the vacancy of targeted life forms and species manipulated by new biotechnologies” (1997, 2). Along the same lines, West (2016, 66) stresses that all cycles of dispossession depend and rely on racist, colonial ideologies to set the stage for accumulation through dispossession.

- 39 By placing power relations in the center of the analysis, as well as by accounting for elements such as colonialism and coloniality, the *conflictual approach* contextualizes the creation of new property categories, the consequences these new institutions entail as well as their role in the expansion of capitalist frontiers. The concept of accumulation by dispossession is key as it demonstrates that dispossession is an ongoing and continuous process, necessary for the reproduction of capitalism. This approach puts into evidence the entire context of the development of new property categories, in particular that of intellectual property. By promoting the enclosure of the intangible productions of the mind (Boyle 2002), the creation of intellectual property is a new instance of accumulation by dispossession, in this case, dispossessions of knowledge. These movements of new enclosures are deeply connected to the entrance of more domains of human life into the juridical arena and the judicialization of political and social life (Comaroff and Comaroff 2009), as already stated in the introduction to this work.
- 40 The convergence approach puts into evidence the element of relationality, which has been key for our analysis of indigeneity and indigenous knowledge. It demonstrates that the category of intellectual property rights in regard to indigenous knowledge does not appear in a void but is directly linked to historically situated instances of knowledge dispossession. The relational link is central, especially when discussing intellectual property rights related to indigenous knowledge, because the both ideas appear in relation to dispossessions. On the one hand, intellectual property rights promote the enclosure of knowledge productions. On the other, the concept of indigeneity, appears in a context of colonization and dispossession.
- 41 Through the concepts of **dispossession and relationality**, we have key theoretical tools to analyze our field. But by themselves, these ideas do not explain why indigenous peoples are engaging in discussions about the protection of indigenous knowledge through the idea of intellectual property. Why do they decide to take part in the IGC discussions? Are intellectual property rights over indigenous knowledge a concept that can also be **articulated** by indigenous peoples and traditional communities? How is such a category built and what does it entail?
- 42 To consider these issues, we should go back to my initial specifications about the methodological approach for this work. As I have mentioned earlier, I adopt an approach of an ethnography of global connection to this field, based on multi-sited fieldwork. This method, however, does not only offer methodological tools to approach the field but also serves as a conceptual framework to understand the unexpected encounters that are at the center of this analysis.

4. Friction: interaction and zones of awkward engagement

- 43 At the heart of a multi-sited ethnography are “strategies of quite literally following connections” (Marcus 1995, 97). These strategies do not necessarily imply a comparison, as often they are “not generated for homogeneously conceived conceptual units” (Marcus 1995, 102). It is obvious that Vale do Ribeira and WIPO are far from being similar units: they are composed not only of different actors but also of different processes and rationalities. While one is a place characterized by its socio-biodiversity, where people live, produce and reproduce, the other is a political forum that aims at creating a legal instrument, a place where actors from a wide variety of places meet sporadically to discuss specific issues. Therefore, I do not argue they are comparable units.
- 44 Nevertheless, both sites are connected by the same discussion. In both sites, narratives around the meaning of indigenous knowledge and protection of indigenous knowledge are being constructed. Considering them together, therefore, may bring to light nuances that we would not be able to account for otherwise. Looking at the contingency of encounters, I hope to shed light on these regional-to-global networks of power and meaning (Tsing 2011).
- 45 In this analysis, I am looking at the efforts, in an international forum, to give a universal response to extremely distinct socio-realities, united in categories such as indigenous knowledge, to which intellectual property rights are being attributed. How is it possible, though, to make distinct socio-realities fit in a legal category? Can a legal definition account for such plural experiences? Why does this discussion appear at WIPO? Why do indigenous peoples decide to participate? In which contexts are traditional communities in Vale do Ribeira claiming a collective identity and a specific set of knowledges that are deeply linked to these identity claims? Are there any points of connection between these processes? Why does the international process matter to the local realm and, on the other hand, how is the local shaping what is discussed at the international level?
- 46 In this work, I do not aim to find normative answers to these questions. By analyzing the negotiation of meaning around these concepts, the objective is to account for the complexity of questions they are surrounded by. This process is not only creating legal categories per se, but unexpected alliances are also being forged in the process. Through **friction**, the “grip of worldly encounter” (Tsing 2011, 1), cultures are continuously co-produced: not only does the local accommodate to the global, but also the recognition of the specificity of local realities opens up new possibilities of discourse at the global level. But I am getting ahead of myself. For this analysis, it suffices now to understand that a look at friction, “the awkward, unequal, unstable, and creative qualities of interconnection across difference” (Tsing 2011, 4) will be key. Frictions remind us of the
- 47 importance of interaction in defining movement, cultural form, and agency. (...) Roads are a good image for conceptualizing how friction works: Roads create pathways that make motion easier and more efficient, but in doing so they limit where we go. The ease of travel they facilitate is also a structure of confinement. (Tsing 2011, 6)

- 48 **Friction** allows us to account for these sometimes paradoxical uses of legal categories, which at the same time enable and exclude, recognize and create, facilitate and confine. To better understand these frictions, as argued above, let's now dive into a close analysis of our field.

Chapter III. Articulating indigeneity in WIPO and Vale do Ribeira

- 1 In this chapter, I will proceed with a detailed analysis of the actors and conflicts at play both at WIPO and at Vale do Ribeira. This will help us understand the context in which the negotiation of meaning around the concepts of traditional knowledge and the protection of this knowledge are taking place. As this chapter characterizes the places of negotiations of meaning, the actors involved, as well as the conflicts at play, it will shed light on the process of creation of these categories.
- 2 On the one hand, it will be essential to understand how the IGC emerged, the process of constituting the forum, as well as how the discussion is conducted both in terms of proceedings and participation. On the other hand, the chapter will discuss the complexity of the question of identity in Brazil, as well as the process through which quilombolas and caiçaras at Vale do Ribeira have started to articulate their experiences and revindications in terms of identity.

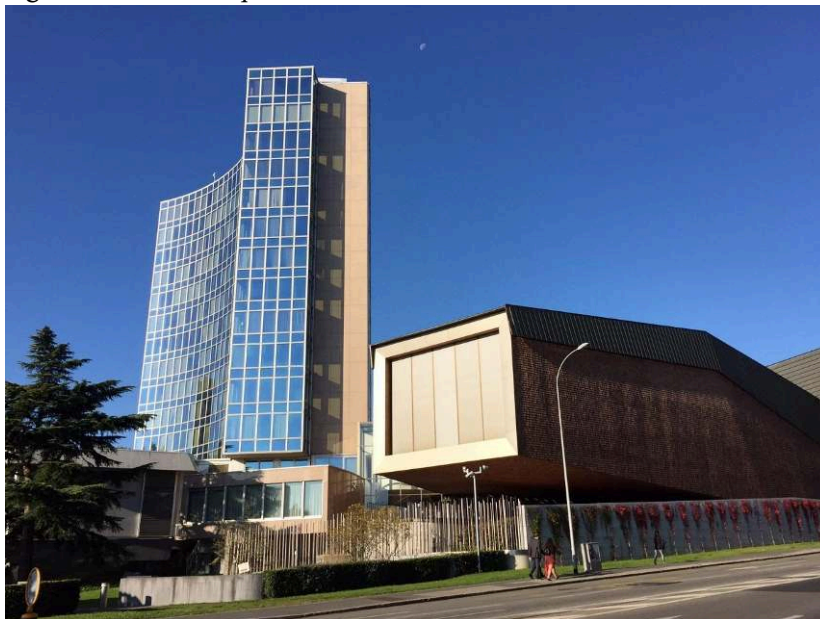
1. WIPO's IGC

- 3 The lack of an international framework to deal with disputes over authorship and ownership of collective intellectual productions manifested in indigenous knowledges and indigenous cultural expressions led to the creation of WIPO's IGC, in 2000. Before proceeding with a description of the IGC process in further detail, it is worth taking a closer look at WIPO's composition and mandate to better understand where the forum we are looking at is situated.

1.1 WIPO

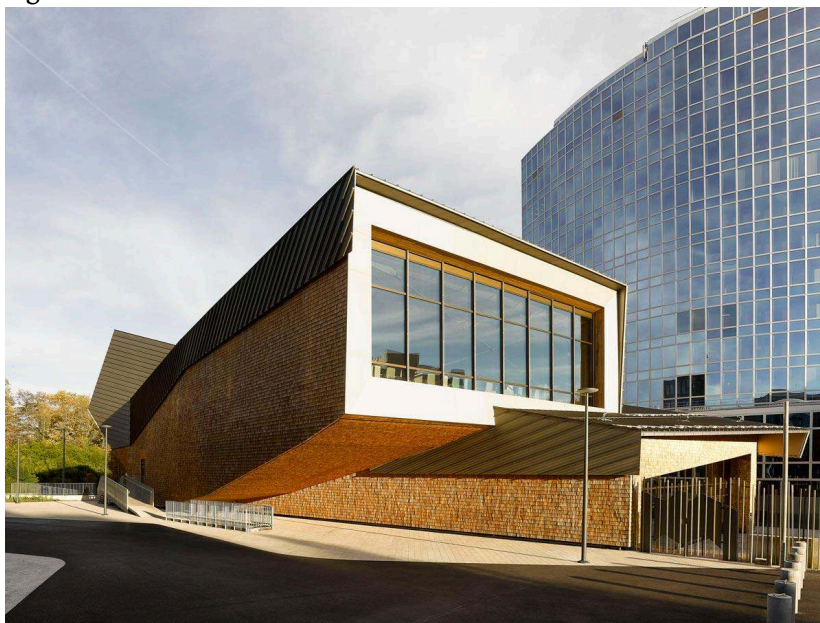
- 4 WIPO is one of the United Nations' sixteen specialized agencies. Created in 1967 (WIPO 1967), it currently counts 192 member states. Palestine has observer status at the institution (WIPO 2019a). Situated in Geneva, Switzerland, in an area known as "International Geneva", WIPO's facilities attract attention for their imposing glass building and modern conference hall architecture.

Figure 1. WIPO Headquarters in Geneva.



Photograph by David Matthiessen.

Figure 2. External view of WIPO's Conference Room.



Photograph by David Matthiessen

- 5 The organization's mission is to "lead the development of a *balanced* and *effective* international intellectual property system that enables *innovation* and *creativity* for the benefit of all emphasis added " (WIPO 2019e). The words highlighted in italic give us a strong sense of the parameters that guide the discussion in WIPO and are often used in member states' discourses at the IGC, as will be further detailed in the next chapter.
- 6 WIPO's mission is informed by the rationale that intellectual property protection incentivizes businesses and researchers to seek innovation and artists to produce creative work. In other words, the main justification for intellectual property

protection is its role in fostering creativity, as well as improvements in products and services. Without intellectual property protection, WIPO argues, people would have no incentive to seek innovation or to produce artistic goods (WIPO 2019). This rationale is criticized by many authors who argue intellectual property is more engaged in protecting exclusive rights than in fostering innovation and creativity, which would exist independently of this protection (Drahos and Braithwaite 2002; Chang 2007; Robinson 2017). According to Robinson, WIPO “has historically concentrated predominantly on the protection of private industrial and commercial property rights” (Robinson 2017, 350).

- 7 Another interesting fact about WIPO is related to its funding. Unlike the majority of UN agencies, WIPO is a self-funded organization and therefore does not depend on member states’ contributions. Instead, the organization receives 95% of its funding from fee-paid services in the cadre of the international intellectual property regime, such as “cost-effective ways to protect” inventions, brands and designs across countries,¹ as well as dispute resolution services (WIPO 2019b). These systems have “experienced growth levels that exceed those of the world economy”, spanning from a little over CHF 500 million in 2000-01 to CHF 826 million in the biennium 2018-19 (WIPO 2017, 9). WIPO thus heavily relies on funding that comes directly from the granting of intellectual property rights.

1.2 Creation of the IGC: (not so) constructive ambiguities²

- 8 The IGC had its origins in a complex international context. In the decade that preceded its establishment, the relationship between intellectual property, biogenetic resources and traditional knowledge “was gaining momentum, following the adoption of the Convention on Biological Diversity (1992) and of the Agreement of Trade Related Aspects of Intellectual Property Rights (TRIPS) (1995)” (Abdel-Latif 2017, 11). At the same time, protection of folklore was gaining renewed interest with the adoption of the WIPO Performances and Phonograms Treaty (WPPT) in 1996. These new developments in the international landscape called for attention to such subjects also inside WIPO.
- 9 After the adoption of TRIPS by the WTO, WIPO wanted to “regain prominence in global intellectual property governance” (Abdel-Latif 2017, 18). WIPO was also facing some internal disputes at the time. A proposal related to biogenetic resources, made by developing countries, threatened the adoption of the Patent Law Treaty (PLT). In exchange for withdrawing their proposal and allowing for the adoption of the PLT, developing countries accepted developed countries’ proposal to create a body especially dedicated to discussing issues related to biogenetic resources inside WIPO (Abdel-Latif 2017). Thus, the IGC appears to be a consequence of the strong interest of developing countries to regulate access to biogenetic resources, which are often linked to traditional knowledges. Following the negotiations, the IGC was created in 2000 by the WIPO General Assembly (WIPO 2000) and its first session took place in 2001.
- 10 Abdel-Latif highlights that while this “constructive ambiguity” was essential for the creation of the IGC “as a process”, it did not help the forum in reaching a relevant outcome in its negotiations (2017, 27). Initially, developing countries welcomed the proposal to deal with this subject at WIPO, because the forum was considered less politicized and more technical compared to the WTO (Abdel-Latif 2017). Soon after the IGC’s creation, however,

many developing countries started to realize they had brought their demands for measures to address “biopiracy”³ and the misappropriation of genetic resources and traditional knowledge by the patent system to a forum which was a staunch supporter of that system and derived most of its revenues from patent fees. (Abdel-Latif 2017, 24)

- 11 Ambiguity has thus played an important role in the IGC’s creation but did not help in the advancement of negotiations. Although having continued its work for nearly twenty years, no agreement on a legal instrument has been reached so far. In the next section, I will take a closer look at how the IGC operates.

1.3 Participation at the IGC

- 12 Various actors are involved in the IGC: member states’ delegates, indigenous peoples’ and local communities’ representatives, multilateral institutions, NGOs, enterprises’ representatives, as well as academic researchers. However, not all participants have the same status in the forum. While the State of Palestine and a series of NGOs and indigenous peoples’ organizations have a seat as observers, all member states that are part of WIPO have both a seat and the right to vote.
- 13 The IGC is “a spatially localized but highly heterogeneous setting” (Bendix 2013, 27), because it involves a wide variety of actors, which may or may not be present in the sessions (Groth 2012). In fact, some actors that do not directly participate in the forum strongly influence it. “This includes national government agencies determining the position a delegation is going to take during negotiations as well as numerous civil society and industry organizations working in local and international contexts on the protection of GRTKF” (Groth 2012, 41). For the moment, however, I will focus on the participants that are physically present at the IGC sessions.

Indigenous peoples and local communities: “they cannot vote, but they stay near”⁴

- 14 Both indigenous peoples and local communities are invited to have a seat in the IGC discussions, upon accreditation. The indigenous representative I interviewed did not perceive the accreditation process as a barrier to participation. She said it was enough to prove that your organization has a legitimate interest in the forum – and with her being an indigenous person, this was quite evident. However, gathering funds to attend the sessions in Geneva is a real problem, as is the lack of information. For her, information about the IGC and about intellectual property more broadly is “codified, hard, inaccessible and exclusionary”, which makes indigenous peoples’ participation more difficult.
- 15 The majority of indigenous peoples’ representatives constitute the so-called “Indigenous Caucus”. The Indigenous Caucus is not a homogeneous group, since it unifies people from different backgrounds and who may have different views. Indigenous Caucus representatives vary from one IGC session to another. However, some attend almost every session. These people seem to have prominence in the debate, as they have a deeper knowledge of the intricate dynamics of international treaty negotiations. The only indigenous organization that attends the IGC but does not participate in the Indigenous Caucus is the organization Tupaj Amaru, which represents a voice not aligned with any of the other stakeholders taking part in the IGC.

- 16 Nevertheless, it is rare to see participants that identify themselves as representatives of local communities in the forum. Furthermore, some geographical areas are better represented than others. While, for example, many representatives of indigenous peoples from the USA were present throughout IGCs 37 to 39, there were few representatives of African groups. During our interview, the WIPO staff member attributed this difference of participation to the difference in the level of organization of indigenous peoples in different geographical areas. Access to funding also varies significantly between areas. Moreover, the local meanings of indigeneity and their importance for respective communities may affect differences in geographical representation.
- 17 The Indigenous Caucus, although having the right to be heard during discussions, does not have a right to vote. As observers, its members are allowed to make propositions to the IGC (e.g. textual propositions for draft articles), but these will only be added to the records in the case that a member state supports them. As will be better explained in section 1.4, Indigenous Caucus members are also allowed to participate in *informals*⁵ and contact groups. Nevertheless, in comparison to the discussions around the CBD, for example, the level of participation allowed for indigenous people at the IGC is much lower.⁶
- 18 Furthermore, the participation of indigenous groups has been made ever more difficult, since their funding depends on the goodwill of governments. The Indigenous Caucus often proposes that their financing be made independent of voluntary donations of missions and that it should be directly attached to the IGC's budget. Despite having received verbal support from some member states and the WIPO Secretariat, this proposition has not advanced so far.
- 19 In 2009, WIPO started the "Indigenous Fellowship Program", through which a member of an indigenous group is selected every year to work in the Traditional Knowledge Division of WIPO for a certain period (Wendland 2017). The selection of the fellow is competitive, involving an online application, exams for shortlisted applicants and an oral interview. The presence of the indigenous fellow is perceived by WIPO as giving more legitimacy to its work.⁷ It also increases the interest of member states in indigenous communities that could potentially participate in the program.⁸

Member states

- 20 Member states' delegates represent the majority of IGC participants. States are treated in WIPO as entities "with distinct, clearly demarcated borders, territorial sovereignty, and sovereign equality, living under an imperative of nonintervention" (Perlman 2017, 186).
- 21 As in other international organizations, member states form groups in accordance with their geographical location. In WIPO, the following groups are present: (i) Asia-Pacific Group; (ii) Latin American and Caribbean Group (GRULAC); (iii) African Group; (iv) European Union (the European Union has a seat for itself); (v) Group of Central European and Baltic States (CEBC); and (vi) China (which constitutes a group of its own).
- 22 In WIPO there are two more groups, which are connected not by geographical location, but by their shared characteristics and interests. In this category, we can locate Group B and the Like-Minded Countries (LMCs). Group B is composed of "industrialized"

(Thiru 2011) or “developed” countries (Saez 2017; Carvalho 2017, 340), amongst which are the USA, Japan, New Zealand, the European Union and Australia (Groth 2012, 42). Other authors also include in the group Switzerland, Canada and Israel (Thiru 2011).

- 23 The LMCs, on the other hand, have their origins in the “Group of Like-Minded Megadiverse Countries”, created in February 2002 in Cancun, Mexico, in an assembly of the environment ministers and other delegates of the following countries: Brazil, China, Colombia, Costa Rica, Ecuador, India, Indonesia, Kenya, Mexico, Peru, South Africa and Venezuela (Like-Minded Megadiverse Countries 2002). This group was created “as a mechanism for consultation and cooperation to promote common interests and defend common priorities related to biological diversity”, especially concerning the implementation of the Convention on Biological Diversity (CBD) (Like-Minded Megadiverse Countries 2010).
- 24 In its declaration, the group also expressed its “will to take active part in the discussion of issues related to biological diversity within the WTO and the WIPO” (Like-Minded Megadiverse Countries 2002). In 2009, the LMCs was created at WIPO (Abdel-Latif 2017). Since then, the group has gone through changes in its original composition⁹ but continues to be composed by members of the Asia-Pacific Group, GRULAC and African Group. At the moment when this work was written, the LMCs were coordinated by Indonesia (Saez 2017).
- 25 Member states can also be divided between *demandeurs*, “including the Africa Group, the Group of Latin American and Caribbean Countries and much of the Asia Pacific Group” and *non-demandeurs*, such as the “USA, Japan, Canada and Korea” (Keating 2017, 265). In this sense, *demandeurs* are the ones that demanded the implementation of the IGC and emphasize the need to reach an agreement as soon as possible. *Non-demandeurs* are those countries that were not interested in the instauration of the Committee.

WIPO Secretariat

- 26 At the IGC, the Secretariat is composed of employees of WIPO’s Traditional Knowledge Division, a part of the organization’s Department for Traditional Knowledge and Global Challenges (WIPO 2019c). The division has a facilitatory and administrative role for the committee (Wendland 2017). Its tasks include typical secretariat work (e.g. drafting the agenda, printing and distributing copies of relevant documents, booking rooms, drafting reports) as well as facilitating text-based negotiations, through the drafting of material, organizing inter-sessional preparations with the Chair and conducting extensive consultations with member states. It also provides capacity building and technical assistance upon the requirement of member states (Wendland 2017)
- 27 The Secretariat also maintain databases and ensures the availability of content produced during the IGC on WIPO’s website. Discussions undertaken during plenaries, for example, are all made available via webcasting.¹⁰ In this sense, there is a level of transparency regarding what is discussed in plenaries. However, other formats of discussion undertaken during the sessions, such as informals, are not made available to the general public.

Chair

- 28 The IGCs Chair and Vice-Chair are elected from among the representatives of member states that follow the IGC. IGCs 37 to 39 were chaired by Mr. Ian Goss, from Australia. Goss has been the Chair of the IGC since its 29th session, in February 2016 (Saez 2016). The Chair's decisions are independent of WIPO's Secretariat work, although the Secretariat does provide him with assistance throughout the sessions.¹¹

NGOs, industry and researchers

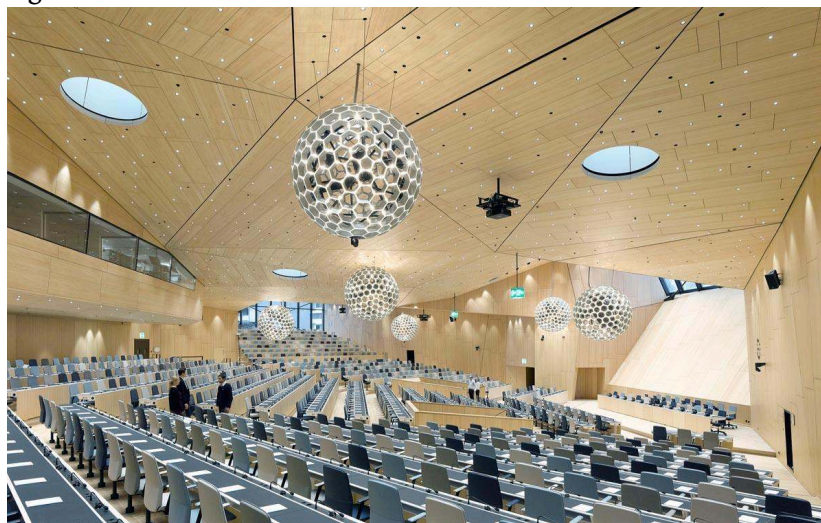
- 29 NGOs and industry representatives are allowed to participate if they are accredited members of WIPO. Researchers, on the other hand, normally participate in the forum through the mediation of an NGO. None of these actors has the right to vote.

1.4 The IGC's proceedings

- 30 The IGC's proceedings have been described as being "clearly dominated by a Western, juridical habitus (not least because legal training and lawyerly performance in the Global South were also introduced during colonial occupation)" (Bendix 2018, 249). Legal practices, like any other human practice, "are subject to cultural shaping and dynamics" (Bendix 2013, 249). These are important considerations to better understand the IGC's process.
- 31 Although earlier IGCs may have lasted a few days longer (Wendland 2017), IGCs 37 to 39 took five business-days each. Each day of a session normally comprises a first meeting between 10h30 and 13h, and a second that convenes from 15h to 18h. The first day of the meetings starts with the delivery of a short opening statement by the Chair, who introduces the principles that will guide the session (e.g. a spirit of constructive debate; an aim to narrow existing gaps; observation of WIPO general rules of procedure).
- 32 The Chair's statement is followed by opening statements from regional and interest groups, as well as an opening statement delivered by the Indigenous Caucus. In this first set of statements, groups assert the rationale that is guiding their participation in the session and normally indicate their position around controversial themes to the forum.¹²
- 33 The Agenda for the session is then presented and adopted. After that, the Panel of Indigenous Peoples and Local Communities¹³ takes place: a moment where three indigenous peoples' representatives present indigenous perspectives in themes that are relevant for the IGC.¹⁴ This is a very informative session and a unique opportunity to engage with the view of indigenous peoples and local communities but, unfortunately, member states' representatives often leave the room at this point. Normally a side event is held on the second afternoon and can be related to any subject linked to the session.
- 34 The IGC plenary sessions are held in a large auditorium, with wooden details and globe-shaped lamps. The Chair and WIPO Secretariat's representatives are seated in a long table at the front of the room. Around this table, member states' representatives' seats are displayed in a semi-hexagon and are organized in alphabetical order. The room is organized in levels: member states representatives are seated in those closer to the

main table, while the levels further up are reserved for the observers. Simultaneous translation is guaranteed at any time in all UN official languages.¹⁵

Figure 3. WIPO Conference Hall.



Photograph by David Matthiessen

- 35 Besides plenary sessions, an integral part of the IGC are the so-called *informals*: sessions that are not held in plenary and whose discussions are not put into the records. This is seen as an opportunity to have more frank conversations, as delegates know what is said there will neither be inserted into a report nor be available in webcasting.¹⁶ Informals are not undertaken in the WIPO Conference Hall, but in other rooms in WIPO's headquarters. Only two members of each delegation and of the Indigenous Caucus are allowed to participate in these sessions. The discussions are broadcasted to the main room via audio.
- 36 Recently, the Chair has also adopted the methodology of reserving time during the sessions for the so-called *contact groups*: groups of delegates that unite to discuss specific subjects (e.g. subject matter) and later present a report of this discussion in plenary. This type of methodology is not common in other forums.¹⁷ It is adopted here because the IGC is recognized as a very politicized forum, characterized by heated discussions and divergent positions.¹⁸ These methodologies are used in an effort to facilitate the achievement of an agreement.
- 37 One should not, however, be tricked into thinking that IGC activities happen only during these periods. As the Chair highlighted in IGCs 38 and 39, informal interactions during coffee breaks and at any other opportunity are strongly encouraged and are seen as a good occasion for observers to convince member states to accept their proposals.
- 38 Furthermore, many relevant meetings happen in between plenary sessions and informals, which are not part of the official agenda and are not open for all participants (e.g. group internal meetings, meetings between groups, meeting between groups and WIPO Secretariat). The weekend before the IGC, for example, the Indigenous Consultative Forum takes place: indigenous representatives meet to discuss the negotiations that will happen during the week. Also, groups normally meet during the week to consult before delivering a final position on specific issues being voted upon.

- 39 Throughout the week, two revised versions of the draft articles are presented and discussed in plenary. These are prepared by *facilitators*, delegation members who are selected and work overnight to produce the draft articles based in the negotiations that happened in plenary and in informals. These revisions may sometimes represent an advancement in the attempt to find articles that represent compromises between different positions. However, this progress is often undermined by delegations who use procedural strategies to delay negotiations, as will be further discussed.

1.5 Main goals: not such a clear future for the IGC's discussions

- 40 Defining what the main goal or goals of the IGC are is not an easy task. The opposing interests represented at the forum and the complexity of discussions would not allow us to do this in one phrase. In its mandate, the IGC's aim is described as
- reaching an agreement on an international legal instrument(s), without prejudging the nature of the outcome(s), relating to intellectual property which will ensure the balanced and effective protection of genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs). (WIPO 2018a)
- 41 Whether this instrument will or will not be binding is a dispute that has been at the heart of the forum since day one (Wendland 2017). While developing countries want a legally binding instrument, industrialized countries are supportive of the IGC as a process that leads to nothing but "soft law".
- 42 This issue, which had already detonated in IGC 27 and led to a halt in the process¹⁹ (Wendland 2017), was still vividly present throughout IGCs 37 to 39. While the Asian-Pacific Group, African Group and LMCs reaffirmed their commitment to reach binding instruments, the EU reaffirmed its opinion that the instruments should be non-binding.
- 43 In itself, the IGC mandate for 2018-19 determines that the forum has the "objective of reaching an agreement on an international legal instrument(s), without prejudging the outcome(s)". In other words, it is still open for discussion whether any instrument reached by the committee will or will not have a binding nature. The nature of the instrument, however, is not the only substantive issue that inspires controversial positions.

"Exceptional in its minimal progress"²⁰

- 44 In 2019, the IGC completed its eighteenth anniversary and although some things have changed in the organization and mandate of the Committee, many things remain the same. Both a large portion of the existing literature on the IGC (Abdel-Latif 2017; Bendix 2013; Carvalho 2017; Lankau, Bizer and Gubaydullina 2010; Groth 2012; Perlman 2017; Wendland 2017) and fieldwork data point to one main characteristic of the forum: the negotiations are lengthy and little progress is made.
- 45 Among the reasons for the forum's minimal results are both economic factors and the high level of complexity of discussions (Lankau, Bizer and Gubaydullina 2010). Additionally, the lack of political will has also been mentioned by my interlocutors as one of the main causes of such a slow process.²¹ The IGC has been characterized by many of them as a highly politicized forum.²² Because not all member states want a binding treaty, some of them actively try to slow down the process. As the WIPO staff member explained during our interview, in his twenty years of experience in the

organization, in no other forum has he seen such pronounced efforts to prevent progress in negotiations.

- 46 In the IGC, “diplomatic speaking and processing ensure minimal progress and minimal results” (Bendix 2018, 237), but, while decision making is slow, “the dynamic behind this slowness is fierce” (Bendix 2013, 43).

Procedural strategies

- 47 Procedural strategies are continuously deployed by some delegations with the objective of slowing down the process. In every session, some delegations (including the USA, Japan, Canada, South Korea and the EU) require that WIPO’s Traditional Knowledge Division proceed with the production of studies to inform the negotiations.
- 48 It could be argued that some of these studies are relevant for the negotiations, because they provide deeper insight on the potential impacts of the creation of intellectual property rights over indigenous knowledge, as well as information about how national legislation worldwide deals with the issue. However, delegations frequently present requests for studies that have already been conducted. Thus, all my interlocutors have identified these requests as a deliberate strategy for slowing down negotiations. This issue has also been raised in plenary discussions by the African Group, Brazil, Indonesia, India, Egypt and Nigeria, among others.
- 49 Another strategy used for delaying the process is the exaggerated use of brackets, which have the function of clarifying the lack of agreement on the bracketed terms, as well as the reinsertion of new alternatives to the editing of articles even after days of negotiation to reduce the number of alternatives. This practice has mainly been deployed by the US delegation. Oguamanam also emphasizes the use by the US of “a negotiation strategy that tends to fluster delegates by injecting draft texts with terms and phrases often less rigorously explored”, which ends up diverting “energy into definitional debates over terms in the texts in a manner that has proven inefficient, diversionary, obstructive and ultimately counterproductive” (2018, 28 and 29).
- 50 These strategies end up hampering negotiations and reveal the clear lack of will of some delegations from industrialized countries to contribute to the process. Not surprisingly, these are the delegations that advocate for an eventual non-binding outcome of the IGC. They are also the countries that mostly apply for patents and whose industries most profit from biopiracy (Chang 2007).

Main changes at the IGC

- 51 In the almost twenty years of negotiation in the IGC’s history, many things have changed. One central problem, however, has been present throughout these two decades: delegates are not able to reach an agreement about what *traditional* or *indigenous* means, or about what are the knowledges and cultural expressions that are the object of the negotiations. This poses persistent problems to advancing with negotiations.
- 52 Among the relevant changes is the relative abandonment of the term *folklore* in the discussions, which was substituted by the terminology *traditional cultural expressions*. Maybe an even more relevant change is that the IGC has decided not to produce one single instrument but three different ones (Ido 2017, 100): one for genetic resources

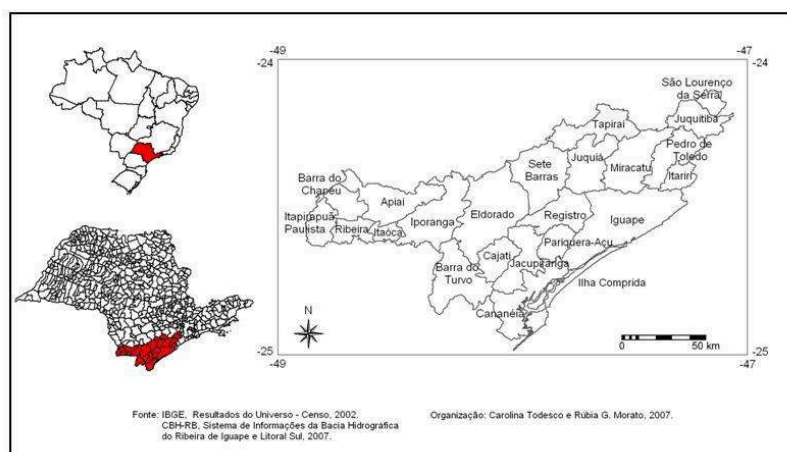
(“GR”), one for traditional knowledge (“TK”) and one for traditional cultural expressions (“TCE”). While the negotiations around the document on genetic resources were prioritized during the biennium 2016/2017, between 2018 and 2019 – when the fieldwork for this research took place – the text-based negotiations revolved around the two other topics: traditional knowledge and traditional cultural expressions. In IGC 40, which took place in June 2019, a “Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources” prepared by IGC Chair Ian Goss was presented (WIPO 2019f).²³

- 53 Although my fieldwork at WIPO just covered the negotiations of texts regarding TKs and TCEs, one should not accept such clear-cut distinctions without further questioning. As members of the Indigenous Caucus pointed out in plenary discussions, it is hard to make a clear separation between what TK and TCEs are. In the same sense, this distinction becomes more complex as traditional knowledge related to a genetic resource may overlap with other knowledges or other cultural expressions. In the terms used by one indigenous representative, they are all part of a “knowledge system”. As such, separating them into different boxes might represent an oversimplification.
- 54 Dividing and classifying these knowledges and manifestations, making diverse cosmovisions fit into legal definitions, chopping them out in eligibility criteria, defining boundaries between what is and what is not: the entire process has been described as *painful* by the delegate of Nigeria.
- 55 The exercise is, indeed, hard. Making such diversity enter the walls of WIPO’s imposing building, “suited up” and starting to use the highly technical and sometimes confusing language of intellectual property law is not a simple process. What changes? How can we bring manifestations happening throughout the world and make them fit in a single text, preliminarily drafted in English and later translated into the other five UN official languages? Is there any relationship between what is being discussed in the international realm and the content of the discussions and experiences in the local realm?

2. Vale do Ribeira

- 56 To look for answers to these questions, my analysis will now move to the other side of the Atlantic Ocean, entering the largest well-preserved area of Atlantic Rainforest. Vale do Ribeira is a region that covers twenty-three municipalities in the south of the State of São Paulo and nine in the northeast of the State of Paraná, in Brazil. Its total area of three million hectares houses nearly half a million inhabitants. Despite encompassing some of the poorest regions of both states, Vale do Ribeira is home to around 35% of the Brazilian vegetal species (Observatório dos Conflitos Rurais em São Paulo et al. 2017).

Figure 4. São Paulo portion of Vale do Ribeira



Movimiento Regional por la Tierra 2017, 2

- 57 Among the regions' inhabitants are indigenous peoples and other so-called traditional communities (Observatório dos Conflitos Rurais em São Paulo et al. 2017). More specifically, Vale is home to twenty-four Guarani indigenous communities, over sixty quilombola communities and over seven thousand family farms run by local peasant communities (caipiras), traditional fisherfolk communities (caiçaras) and migrants from Brazil's largest cities (Sempreviva Organização Feminista 2018). This research has focused specifically on the communities that live in the part of Vale do Ribeira located in the State of São Paulo.

2.1 Vale do Ribeira: a territory in conflict

- 58 Vale do Ribeira has long been the target of incursions aiming to explore its natural resources for economic growth. Land conflicts, caused by the overlap of traditional communities' and state park areas, land grabbing, illegal logging and juçara palm tree extraction were intensified during the Brazilian military dictatorship and are still present today (Sempreviva Organização Feminista 2018).
- 59 The exploitation of Vale do Ribeira's natural resources began in the sixteenth century with the construction of villages for the establishment of Portuguese settlers and with the subsequent establishment of gold mines, which made intensive use of slave labor (Berlanga 2017). Even though mining is no longer the main economic activity in the region, it continues to be practiced to date.²⁴ Nowadays, Vale do Ribeira is a focal area for agribusiness enterprises, focusing on the production of rice, tea, coffee and especially banana monocultures, which makes intensive use of labor in precarious conditions (Saori 2018).²⁵
- 60 Despite the centuries-old exploitation of its natural resources, many parts of Vale do Ribeira remained free from for-profit economic activities and have only caught the attention of external stakeholders more recently. Around the 1960s, the area was affected by the construction of the Régis Bittencourt freeway (BR-116) and, around the same time, environmentalists started drawing attention to the region due to its high level of biodiversity preservation (Sempreviva Organização Feminista 2018).
- 61 In 1969, as an initiative of the São Paulo government, the State Park Jacupiranga was created, to stop the expansion of infrastructure and agribusiness projects into the

this hydroelectric power plant would, in fact, be mainly destined to supply the energy needs of one specific enterprise, the Brazilian Aluminum Company (Berlanga 2017).

- 64 This political articulation led to protests, meetings among different communities that inhabit the area and articulations between these communities (Movimiento Regional por la Tierra 2017). In 2016, this movement had an important victory: the construction of UHE Tijuco Alto was finally dismissed (Zanchetta 2016).
- 65 As a legacy from the articulation that began in the process of fighting against UHE Tijuco Alto, in 1994 the first quilombola association of the region was created. With the aid of other organizations and professionals such as anthropologists and topographers, the Ivaporunduva quilombola community self-demarcated its land, producing a map that demonstrated their occupation of the territory. In the same year, this association filed a judicial claim against the Brazilian state, demanding the demarcation of their land, which would lead to the granting of a collective title to the community. Indeed, in 2008 a Federal Court determined that Ivaporunduva had the right to that territory and that it should be demarcated (Movimiento Regional por la Tierra 2017).
- 66 The abovementioned articulation also led to the creation of the Articulation and Advisory Group for Black Communities of Vale do Ribeira (*Equipe de Articulação e Assessoria às Comunidades Negras do Vale do Ribeira – EAACONE*). EAACONE is a civil society organization created in 1995 and currently the main organization representing quilombola interests in the state of São Paulo. EAACONE's board of directors is composed of eleven representatives from quilombola associations from Vale do Ribeira and the organization has close connections to progressive sectors of the Catholic Church as well as to MOAB (Oliveira 2009).
- 67 After years of struggle against the park, in 2008 the recognition of quilombola's right to their traditional territory led to changes in the configurations of the conservation area. The State Park Jacupiranga was turned into the Jacupiranga Mosaic, a protected mosaic area of fourteen conservation units, amongst which there are areas of State Park, Sustainable Development Reserves²⁶ and Environmental Protection Areas (Observatório dos Conflitos Rurais em São Paulo et al. 2017).
- 68 The change in the type of conservation unit did not, however, end the conflicts in traditional territories. Since 2016, agrarian and environmental conflicts in Vale do Ribeira encountered a new phase, due to the approval of legislation that "facilitates the privatization of the management of natural parks and promotion of financialization mechanisms, such as The Economics of Ecosystems and Biodiversity Initiative (*Economia dos Ecossistemas e da Diversidade – Projeto TEEB*)" (Sempreviva Organização Feminista 2018). TEEB is a project in line with international mechanisms for the financialization of nature, promoting the insertion of areas covered by the Jacupiranga Mosaic in the global carbon market. Furthermore, since the beginning of the 2000s, quilombola and caçara communities have faced cases of misappropriation of their knowledge and discovered efforts of bioprospecting in the region. These issues will be discussed in further detail in Chapter V, Section 1.
- 69 While these new conflicts appear, new forms of resistance are also emerging. In mid-2017, the Traditional Communities Forum was created. This is a space for different traditional communities whose territories overlap with the Mosaic to unite and discuss problems and strategies of action.

- 70 In the following paragraphs, I will present in further detail two groups of traditional communities that inhabit Vale do Ribeira: quilombolas and caiçaras. The largest part of my fieldwork in the region was conducted amongst quilombolas. I have stayed in two quilombola communities: Quilombo Ribeirão Grande, in the municipality of Barra do Turvo, and Quilombo Ivaporunduva, in the municipality of Eldorado, where I helped with the CONAQ meeting. Subsequently, I spent a couple of days with caiçaras in Barra do Ribeira.
- 71 As both groups have experienced issues related to knowledge misappropriation, bioprospecting and/or discussions around traditional knowledge and its protection, the next section will offer a deeper insight into their stories and specificities.

2.2 Quilombola communities in Vale do Ribeira

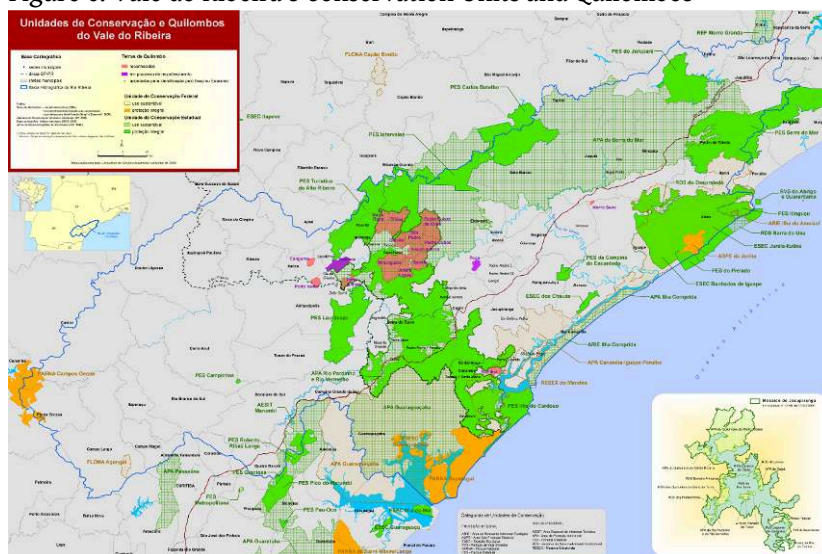
- 72 As mentioned earlier, Vale do Ribeira was highly affected by the exploitation of gold in the sixteenth century, which made intensive use of slave labor (Stucchi 1996). After the abolition of slavery in Brazil, the formerly enslaved people remained in the land that had been abandoned by miners and devalued by the fall of mineral extraction activity (Queiroz 2006, 43). These African descendants established new communities, called *quilombos*, in the middle of the Atlantic Forest and reorganized around agricultural subsistence production.
- 73 The term *quilombo* had been used in the colonial and imperial legislation in a vague way to encompass any grouping of runaway slaves²⁷ (Almeida 2002). The choice for a vague description was made with the objective to repress the largest number of situations possible (Arruti 2008, 4). After the abolition of slavery, the term was not forgotten but received a new meaning, being transformed into a symbol of both cultural and political resistance (Arruti 2008).
- 74 In the 1980s, with the re-democratization of the country after twenty years of military dictatorship, the Brazilian civil society faced a moment of strong re-articulation and the country witnessed the emergence of a series of new actors in the public sphere. The Unified Black Movement (*Movimento Negro Unificado* – MNU) gained strength nationally and, among other topics, started the debate on the “quilombola issue”. In the same decade, black rural communities of the states of Pará and Maranhão strengthened their political organization and participation in the black movement, emphasizing discussions around territorial issues (Jorge 2015). In 1986 the first meeting of the Black Rural Communities of the State of Maranhão took place, having in mind the preparation for discussions around the drafting of a new Federal Constitution, which was to be promulgated in 1988 (Arruti 2008).
- 75 The recognition of quilombola communities in the 1988 Brazilian Federal Constitution is therefore deeply linked to the mobilization of black rural communities and the black movement (Almeida 1989). They sought on the one hand to affirm the existence of black resistance to the system of slavery and, on the other, to achieve reparation for historical injustices through the guarantee of access to land and the recognition of their collective ways of using the territory (Arruti 2008).
- 76 Currently, the category *quilombos* is used to denominate specific and contemporary social situations, characterized mainly by politico-organizational instruments, whose

main objective is to guarantee access to land and control of their territory, as well as the affirmation of a common identity (Almeida 1996 *apud* Arruti 2008, 18).

- 77 One cannot, therefore, talk about an essential quilombola identity, but rather of a collective identity built around specific strategies of common use of the territory and a specific organization of daily practices of production and reproduction. In the case of Vale do Ribeira quilombola communities, these are informed by relations of kinship and solidarity (Stucchi 1996). This does not mean that there are no conflicts among members of the communities but rather indicates that the fundamental organizational principles of social life in Vale do Ribeira quilombola communities are solidarity and kinship (Stucchi 1996, 15).
- 78 An important example of these solidarity linkages are the so-called *mutirões* or *puxirões*. These are situations when quilombolas from the same quilombo or neighboring quilombos gather to help another quilombola to do a specific activity: harvest an area, plant, build a house, or move a canoe, among other activities (Mello e Souza 1964 *apud* Stucchi 1996, 20). As some of my interlocutors affirmed, this moment is normally followed by a celebration: “one invites his friends for lunch, but before eating all do at least half a day of work in the field”.²⁸ While telling me about the last *puxirão* he convoked, Francisco, from quilombo Pedro Cubas said: “I’ve gathered seventy, eighty friends, we all went to harvest rice. You hunt an animal, cook a nice lunch for everyone. There everybody drinks and eats lunch. When the time for work is finished, everyone showers, comes back to dinner, and then we throw a nice party. The party supports the day of work of our friends”.
- 79 Quilombola communities are usually organized around subsistence agricultural production and there is little or no accumulation of capital in their practices of production. It is a mode of production anchored in a strong relation with nature and around kinship (Jorge and Brandão 2012). In other words, the family is not only a social unit but also a unit of production, and productive practices rely on a long-standing knowledge of regional natural cycles. This form of organization is deeply linked to a specific relation with the territory, as knowledge of productive practices is place-specific.
- 80 The construction of the quilombola identity in Vale do Ribeira is deeply linked to a political process of struggle for permanence in this territory (Jorge 2015; Stucchi 1996). The quilombola identity was built when the communities were confronted with external initiatives of incursion into their territory, through the construction of the park and the projects for the hydroelectric power plants. Threats to their autonomy and ways of living pressured the communities to recognize themselves and seek their recognition as a differentiated group linked by ethnic belonging (Stucchi 1996, 16).
- 81 After a long campaign with the help of a partner NGO (ISA), in 2018 Vale do Ribeira quilombolas communities had their planting and harvesting practices recognized as Brazilian cultural heritage (IPHAN 2018). The shared practices of nineteen quilombola communities of the region form what is now called “Vale do Ribeira’s Quilombolas Agricultural System”.²⁹
- 82 Quilombolas’ practices of occupation of the territory, their collective use of land and their close relation to natural resources, go against the use of the territory advocated by the State and other political forces in Vale do Ribeira, as demonstrated in the section above. This sets the stage for several efforts of incursion into quilombola territory.

- 83 According to my interlocutors, these efforts have been intensifying in recent years. Several of them reported the entrance of unknown cars into their areas, with people that carried technical equipment for evaluating the presence of minerals in the soil. There is an overall apprehensiveness due to the anti-indigenous and anti-traditional communities discourse that is deployed by Brazil's present government. In 2017, before the presidential campaign, the current president not only made racist declarations about quilombolas, but also emphasized that their lands overlap areas extremely rich in natural resources (Bresciani 2018).
- 84 In the map below, it is possible to see the distribution of quilombola communities in Vale do Ribeira.

Figure 6. Vale do Ribeira's Conservation Units and Quilombos



Santos and Tatto 2008, 9³⁰

2.3 Caiçara communities

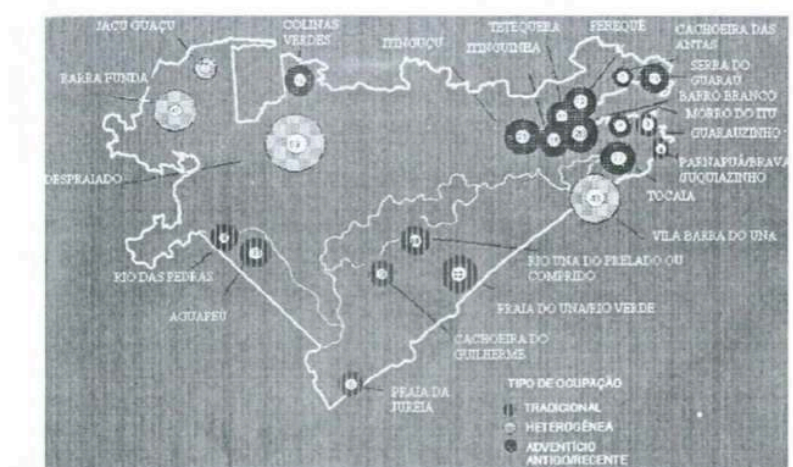
- 85 *Caiçaras* are a traditional community that inhabits the coast of the states of São Paulo, Paraná and Rio de Janeiro (Diegues 2008, 18) in an area of strong preservation of the Atlantic Forest and its biodiversity (Sanches 2016). The literature usually links the historical formation of caiçara communities to the context of the occupation of the Brazilian's South and Southeast coast during the colonial period and its economic cycles. Formed by the miscegenation of the indigenous, Portuguese and black population (Diegues 2008, 142), the caiçaras occupied a peripheral politico-economic position during the sugar-cane cycle (sixteenth century). Their geographical occupation was limited to small areas of land, which influenced the way they interact with the environment and how they use natural resources (Adams 2002).
- 86 Until the twentieth century, periods of economic prosperity and strong agricultural production in the region alternated with periods of economic stagnation, in which caiçaras turned back to their traditional practices of subsistence agriculture and artisanal fishing (Adams 2000; Sanches 2016).
- 87 From the 1950s onwards, these coastal regions started receiving the attention of the urban-industrial society and tourists from larger cities started to buy land and houses

in the regions occupied by caiçaras. As their “communal land” was normally not registered (Sanches 2016), many caiçaras were relocated (Adams 2002). Furthermore, the creation of conservation units changed their occupation of the territory and started to limit their traditional practices (Diegues 2008; Sanches 2016).

- 88 The claims related to a caiçara identity derive from what Diegues has called a *constructed identity* (2008, 90), which is partially a result of these conflictual processes of contact with the urban-industrial society. As Fernanda, a caiçara leader explained: “to be a *caiçara* is to be resistance, to embrace an identity that carries a story, that carries a lot of struggle”. She continued:

Today this is my understanding, but some years ago I had another understanding. I grew up being called a *caiçara* but in a pejorative sense. People called me *caiçara* because I lived on the beach, I had a simpler life. So, people thought that who was here was inferior (...) There was this entire process to deconstruct this pejorative sense until we assumed this identity. Just like the quilombolas, the indigenous, they have also assumed a political identity. So, for me today, to be a *caiçara* is to carry a political identity. A political identity that we have to reinforce every day, and that brings us closer to many groups of communities that have a way of living which is very similar to ours, so we came to understand that there are people at Rio de Janeiro and Paraná that live in a way very close to ours, that also recognize as caiçaras (...) Many still do not have this level of consciousness, that it is a political identity, but are making a movement for this political identity. Because we just started to be recognized as a segment of traditional communities with the Decree 6040 (Brazil 2007).³¹ But there are studies since the thirties, that research our culture, our way of living, so there is a lot of history.

Figure 7. Map of the communities at Juréia, where Barra do Ribeira is located.



Map extracted from (Sanches 2004, 37)

- 89 Unlike quilombolas, the caiçaras are not mentioned in the Brazilian Federal Constitution. Nevertheless, they have been recognized at the regional level through their participation in the Ecological Stations' Council, for example, and in the production of its Management Plan (P. Cunha 2009). Furthermore, at the national level, they have been recognized by Decree 6040 of 2007, which instituted the National Policy for Traditional Peoples and Communities (Brazil 2007). Also, in Decree 8750/2016, which instituted the National Council for Traditional Peoples and Communities (Brazil

2016), *caíçaras* are directly mentioned as one of the segments that should be represented in the council.

- 90 In 2014, *fandango*, a traditional *caíçara* celebration and musical style, to which a traditional dance corresponds, was recognized as Brazilian intangible cultural heritage. “The festivities are very linked to the daily practices”, “you do a *fandango* to celebrate the harvest, to celebrate that a house was built, that you took a canoe out of the sea, one cannot just do it out of nothing”.³² This recognition was celebrated by the communities as a way to help guarantee the continuation and protection of this cultural expression (Educativa 2014).

3. Discussion

- 91 In this chapter, by looking at the actors and processes at play both at WIPO and at Vale do Ribeira, I have presented the elements needed to understand the context in which the negotiation of meaning around concepts of traditional knowledge and intellectual property rights appears in my fieldwork. These elements are key for us to better understand this process of negotiation of meaning, as they demonstrate how indigeneity is being articulated in both spheres.
- 92 Through the presentation of the process of the constitution of the IGC, we can see that the forum emerged in WIPO as the outcome of a bargain between developing and industrialized countries. The latter accepted to create a forum of discussion related to biogenetic resources in exchange for the adoption of the Patent Law Treaty (Abdel-Latif 2017). The discussions in the forum have since then been sustained by developing countries. Its protagonists have been the LMCs and Asian Group, both currently having Indonesia as their leader, as well as the African Group.
- 93 If we go back to the discussion on indigeneity, this configuration becomes even more interesting. As already discussed, the articulation of the concept of indigeneity allowed for important alliances between indigenous and local peoples at the international level. It made it possible for indigenous groups to seek remedy against violations happening at the local level, often inferred by national states (Hodgson 2011; Bellier 2013; Pelican 2009). Developing countries are not exempt from these violations. In fact, there are many cases in which developing countries violated the rights of indigenous and local peoples located in their territory. Some examples are the cases of Brazil (Almeida 2004; M.C. da Cunha 2009), Indonesia (Li 2000, 1996, 2001; Tsing 2011), Tanzania (Hodgson 2011) and Cameroon (Pelican 2009), but this list is far from exhaustive.
- 94 It is awkward to see that, although often not guaranteeing their rights at the national level, developing countries articulate (in the sense of enunciating) (Hall 1996; Li 2000) a discourse for the protection of indigenous peoples’ knowledge at the international level in WIPO. The IGC emerged with the aim of discussing the protection of indigenous knowledges associated with genetic resources, to avoid and remediate biopiracy (Abdel-Latif 2017, 24). In this forum, developing countries are articulating the concept of indigeneity to be able to discuss processes of dispossession of genetic resources made possible through the granting of patent rights to certain companies. This articulation of the idea of indigeneity by developing countries in the context of the IGC is a key element for this analysis and we will get back to it in Chapter V.

- 95 Being at the center of the creation of the forum, the idea of indigeneity is also what serves as the basis for the participation of indigenous peoples and local communities at the IGC. However, this participation suffers from two important limitations: not only is it difficult for indigenous peoples to be present at the forum, due to lack of funding and difficulty to access information, but also their rights in the deliberation are limited, because they cannot vote.
- 96 On the other hand, this chapter has also laid out the process through which indigeneity is articulated at Vale do Ribeira. In a region marked by land grabbing and land conflicts, intensified by the implementation of conservation units and the project of implementing a hydroelectric power plant, it is in response to these processes of dispossession that Vale do Ribeira communities started to organize around issues of identity. Quilombolas and caíçaras organize to fight for permanence in their territory through articulation around their identity.
- 97 They articulate this identity not only in the sense of enunciating it, but also articulate politically around their common identity. The different quilombola communities of Vale do Ribeira made alliances between themselves and organized regionally through EAACONE, as well as nationally through CONAQ. At the same time, different traditional communities of the region organize themselves at the Traditional Communities Forum and also participate at national (e.g. National Council for Traditional Peoples and Communities) and international³³ fora through the articulation of these identities.
- 98 This process of self-recognizing identity is also central to characterizing a set of knowledges as traditional (quilombola or caíçara knowledge). In this sense, relevant examples are the fights for the recognition of the Vale do Ribeira quilombola agricultural system as well as of *fandango* as integral parts of quilombola and caíçara knowledge systems and cultural manifestations. The communities see the recognition of these as intangible heritage as a tool for the preservation of their practices and justification of their permanence in the territory.
- 99 Now with a clearer idea of the people and the places that form the process I am analyzing, in the next chapter, I will provide a more detailed analysis of how the ideas of traditional knowledge and intellectual property rights over traditional knowledge are being conceptualized in these sites.

NOTES DE BAS DE PAGE

1. E.g. the International Patent System, the International Trademark System and the International Industrial Design System.
2. This title is a reference to the expression “constructive ambiguities” used by Abdel-Latif (2017, 27) to describe the negotiations and tensions that led to the creation of the IGC.
3. Biopiracy is the patenting of indigenous knowledge related to biodiversity (Shiva 2007)
4. This is a reference to the explanation the NGO representative gave to me when I asked him why people continue participating in the forum even if they do not have the right to vote.

5. “Informals” are sessions during the IGC that are not held in plenary and whose discussions are not put into the records. They are further explained on page 43.
6. This argument was made by the indigenous representative during the interview.
7. WIPO staff member during interview.
8. *Idem*
9. In 2013, for example, a document of the LMCs group was issued and signed by the following countries: Algeria, Angola, Bangladesh, Colombia, Egypt, India, Indonesia, Malaysia, Myanmar, Namibia, Pakistan, Peru, South Africa, Tanzania, Thailand and Zimbabwe (WIPO 2011). In an interview with a delegate of a developing country, it was confirmed that Brazil continues to constitute the group, while Mexico has left the LMCs.
10. To watch plenary sessions of IGC 39, for example, see <https://www.wipo.int/webcasting/en/?event=WIPO/GRTKF/IC/39#demand>.
11. Interview with the member of WIPO staff.
12. A more detailed account of these themes will be provided in the following section.
13. Such panels have been an integral part of the IGC program since 2005 (WIPO 2018b).
14. In the IGCs 37 to 39, the following themes were discussed: differences and similarities in IP protection for TK and TCE; gaps in IP protection of TK and TCE and draft articles on IP protection of TK and TCE.
15. Namely Arabic, Chinese, English, French, Russian and Spanish.
16. In interview with a delegate from a developing country,
17. Member of WIPO’s staff in interview
18. *Idem*.
19. For the first year since its creation, the IGC did not meet in 2015 (Wendland 2017).
20. The title for this section is inspired by an expression used by Bendix (2013, 28)
21. Indigenous representative, NGO representative and delegate of a developing country during interviews.
22. All interlocutors in the cadre of WIPO.
23. The IGC’s discussions have been delayed by the COVID-19 pandemic and no sessions took place in 2020.
24. Vale do Ribeira continues to be strongly affected by mining activities and requirements for the installation of new mines are increasing. In 2012 alone, with the editing of new legislation incentivizing mineral exploitation in Brazil, 113 requests related to the licensing of mining activities in Vale do Ribeira were filed (Tomazela 2013). In 2016, 442 authorizations for research on the mining potential of the region and 112 licenses for the extraction of minerals were granted. Some traditional communities’ territories are especially targeted by this type of exploitation: three quilombola communities have between 92 and 96% of their territories included in projects for mineral exploitation (Berlanga 2017).
25. Such practices have received many incentives from the São Paulo State government. In 2002, the government created the “Regional Centre for Vale do Ribeira Agribusiness Production”, with the objective of stimulating agriculture and fishery in the region (Resende 2002).
26. In Sustainable Development Reserves (RDS in the Portuguese acronym), traditional practices can be conducted, but are still subject to the control of the administration of the park.
27. While the colonial legislation classified as quilombolas any grouping of five or more runaway slaves, during the imperial period some regional regulations would even define groupings of two runaway slaves as quilombos (Almeida 2002).
28. Francisco, during interview.
29. A short movie about Vale do Ribeira’s Quilombola Agricultural System, produced by ISA, is available on YouTube (ISA 2016).
30. Recognized quilombola land is marked in red, while quilombola land not yet recognized is signaled by red triangles.

31. A reference to the presidential Decree 6040, issued in 2007. The decree instituted the National Policy for the Sustainable Development of Traditional Peoples and Communities.

32. Denis during interview.

33. As mentioned in the presentation of my interlocutors, a quilombola from Ivaporunduva has participated in the negotiations for the Convention on Biological Diversity.

Chapter IV: Conversations between empirical contexts – understandings of traditional knowledge

- 1 As pointed out earlier, in this work I am looking at connections and disconnections between what is being discussed at WIPO and how traditional communities conceptualize their knowledge in Vale do Ribeira. Therefore, now I will turn to the analysis of what is meant by traditional knowledge in these two sites. In this chapter, I will focus on the points of articulation between the different narratives, looking at what is understood as composing traditional knowledge in both sites. Here I am mainly looking for answers to the second part of my research question, in which I search for points of articulation around the concept of indigenous knowledge.
- 2 In this sense, in this chapter I proceed with something closer to a comparison between two fields, since narratives around the meaning of knowledge in different places, one could argue, are closer to something like two similar conceptual units. The way the subject was normally treated in each of the fields, however, was rather different. In Vale do Ribeira, answers to the questions of what quilombola or caiçara knowledge means were usually preceded by laughter and small moments of discomfort – defining what knowledge means felt like a very unnatural act. In the context of WIPO, however, the answers were normally much more direct. Even if interlocutors highlighted the hardship of finding a definition for indigenous knowledge, they agreed on the need to do so. This has surely affected answers and reactions, as the participants of the IGC usually had their definitions for knowledge ready, while in Vale do Ribeira these came out during conversations, through the use of examples and anecdotes.

1. Traditional knowledge at the IGC and at Vale do Ribeira: which discourses?

- 3 Defining what knowledge means, however, is in itself a difficult task. Knowledge is not an easy subject to discuss and neither is it an easy concept to grasp. One of my interlocutors¹ proposed that to find the meaning of knowledge in general, and of

indigenous knowledge more specifically, one should do something similar to what Foucault did to power in “The Subject and Power” (1982): instead of trying to define power, Foucault looked at the expression of power. We should look at knowledge in a similar way, my interlocutor suggested. I have decided to take this proposition seriously and use it to identify which connections and disconnections exist when we look at the idea of traditional knowledge in both fields.

- 4 Indeed, during my fieldwork at Vale do Ribeira, it was much easier to grasp what people meant by traditional knowledges by looking at the practices that are understood as components of their knowledge system. As such, a helpful tactic was to identify both how knowledge is transmitted and how it is performed. In this sense, I looked at the characteristics attributed to what quilombolas and caiçaras identified as their knowledge, instead of at a fixed definition of what traditional knowledge means.
- 5 At WIPO, it was easier to look at a clear definition of what traditional knowledge means as this is one of the main subjects of discussion at the IGC. Nevertheless, several different positions are presented and sometimes people do not agree entirely on a definition, but do agree on some elements. Therefore, at WIPO, looking at characteristics attributed to traditional knowledge was also helpful to better analyze different positionings and to trace connections and disconnections around the characteristics attributed to traditional knowledge. In the end, it is also through the discussion of what constitutes traditional knowledge that the different positions are presented.
- 6 To identify the common and divergent characteristics evoked by my interlocutors, I conducted sixteen interviews with representatives of both fields. I then analyzed the characteristics evoked by my interlocutors through open coding (Emerson 2011), using the software NVivo, and identified patterns (Huberman and Miles 1994) in their narratives. I have clustered these patterns in several themes, which gave birth to the subsections below. The questions I asked and the issues I paid attention to in Vale do Ribeira have undoubtedly been informed by my participation at the IGC and, in interviews with interlocutors linked to WIPO and during observations at IGC 39, by my fieldwork at Vale do Ribeira.
- 7 The fact that I had already attended two IGC sessions before going to Vale do Ribeira certainly influenced not only the terms through which I was framing my questions but also issues to which I have paid attention. In this sense, I was very much interested in understanding how knowledge was transmitted in Vale do Ribeira, if the people there applied any temporal criteria to the transmission of their knowledge, as well as whether they also proceeded with a division of types of knowledge between cultural expression and traditional knowledge per se. On the other hand, after my fieldwork in Vale do Ribeira, the collective character of indigenous knowledge and the act of learning through experience had acquired a very relevant role for me, as these issues were often highlighted in Vale. Therefore, during IGC 39 I certainly paid even more attention to these questions.
- 8 The process of coding was carried out after the conclusion of these two fieldwork periods and therefore was informed by these two perspectives taken together. My analytical and methodological frameworks informed the identification of patterns and choice of terminology for the categories.

- 9 In the following section, I will present the items that were evoked as components of traditional knowledge and reference to which discourses these characteristics pertain. This will help us understand how the discussions at the IGC approach or drift away from the reality of quilombolas and caiçaras at Vale do Ribeira.

1.1 Intergenerational transmission of knowledge

- 10 In all the interviews in Vale do Ribeira, the intergenerational character of knowledge transmission was highlighted. Both quilombolas and caiçaras mentioned that they have learned what they know from their parents. For Denis, caiçara from Barra do Ribeira, “you need to go with your dad to do a canoe, to plant in the field, to learn it”. Aurelio, from quilombo São Pedro, affirmed quilombola knowledge is “a culture that passes from father to son”: “it is cultural, it is traditional”. Along these lines, Ulisses, quilombola and legal advisor for CONAQ, said that “the knowledge² of how to manipulate a plant, how to do the right dose, knowledge about plant roots, this is passed from generation to generation”. For Orlando, from quilombo Porto Velho, quilombola knowledge is “the African heritage passed from father to son”.
- 11 In all these interview excerpts, we see the evocation of the intergenerational character of knowledge transmission, usually among kin. The intergenerational character of traditional knowledge transmission was also evoked in two Indigenous Panels, at IGC 38 (by a representative of Tanzanian pastoralists, and by an Aymara representative) and IGC 39 (by a Kankana-ey Igorot representative and by a Pastos people representative). It was highlighted that the transmission may or may not be among consecutive generations.
- 12 In the last revised version of draft articles on the protection of traditional knowledge on IGC 39 (Rev. 2 TK IGC 39), transmission “from generation to generation” is present in the so-called “eligibility criteria” section, which determines what type of knowledge should be protected. This item appears in both alternative texts to the article, but with a significant change:
- a. In one of the alternatives, it is followed by the expression “whether consecutively or not”. As mentioned in the paragraphs above, this is the position defended by indigenous representatives at the forum;
 - b. In the second alternative, the expression is followed by “whether consecutively or not for a term not less than fifty years or five generations”.
- 13 This second alternative represents what is conventionally called at the IGC the “temporal criterion”, the object of my next point.

1.2 A temporal criterion

- 14 The addition of a temporal criterion to define what traditional knowledge is has been proposed by some delegations at the IGC, namely those of the USA, Japan, Italy and the EU. For these delegations, “the term ‘traditional’ should be clarified to guarantee predictability”.³ In this sense, the temporal criterion is presented as a way to guarantee legal certainty.
- 15 The temporal criterion has been criticized by several IGC participants, including the Indigenous Caucus, the delegations of Nigeria, Niger, Philippines, South Africa, Senegal,

Ghana, Uganda, Colombia, Bolivia, Iran as well as the African Group, LMCs and GRULAC. The IGC Chair, Ian Goss, asked the proposing delegations to reconsider and “lift above a narrow understanding of this issue”⁴ as “indigenous peoples do not have the same linear view of time”.⁵ In this same sense, the representative from the Pastos people affirmed that their time is circular and not linear.⁶

- 16 The delegate of Ghana emphasized “traditional does not mean old”⁷ and the delegate of Niger affirmed “50 years coming back is a very weird point. It is a matter of method of creation, not of duration, a dynamic knowledge. Trying to impose the classic proprietary system on it, this does not apply to TK”.⁸ Other participants highlighted the incongruence of this criterion in regard to other international instruments that deal with indigenous peoples’ rights.
- 17 In none of the interviews undertaken at Vale do Ribeira was a temporal criterion evoked. One could, however, trace a parallel between the attempt to insert a temporal criterion on the definition of traditional knowledge and a discussion that gained momentum in Brazil in the past few years regarding the application of a temporal criterion to limit indigenous peoples’ rights to land (ISA 2017).

1.3 Knowledge as dynamic and evolving

- 18 In opposition to the temporal criterion, Indigenous Caucus members and delegates of the member states that oppose the idea, as well as the IGC Chair, argue that traditional knowledge is dynamic and evolving. Traditional does not refer to a static character of the knowledge, but in fact to a knowledge that is “part of an indigenous knowledge system”, being “created, maintained, developed and governed by indigenous knowledge”.⁹
- 19 These same ideas appeared at Vale do Ribeira. In an informal conversation, Claudia emphasized that quilombolas are not stuck in the past. She affirmed that to be close to the traditional, to their ancestors’ practices, has nothing to do with having stopped at one point in time. Although it was always emphasized that their knowledge comes from their ancestors and its transmission happens through several generations, it has never been said that it stopped in time. In fact, new ways of sharing knowledge have also emerged in recent years. An example is the “Traditional Seeds and Seedlings Exchange Fair of the Quilombola Communities of Vale do Ribeira”. The fair, which has happened annually since 2007, is a place for quilombola communities from Vale do Ribeira to exchange traditional seeds among themselves (ISA 2018).

1.4 Orality

- 20 The oral character of the transmission and maintenance of traditional knowledge was highlighted throughout interviews at Vale do Ribeira as well as through informal conversations. “The dialogue, the conversation” are important for the transmission of traditional knowledge¹⁰ and are “very much linked to the memory of the group”.¹¹ Quilombolas from Ivaporunduva and Pedro Cubas also pointed to this characteristic in informal conversations.
- 21 As Fernanda explained, only recently have some community members like herself started to make efforts to produce written accounts of their practices. This is happening in partnership with some researchers, who propose to write articles in co-

authorship with community members. Through these practices, they hope “this data is seen as legit information about the community”.

- 22 In WIPO discussions, orality has not received a central position as a characteristic of traditional knowledge. In the Rev. 2 document of IGC 39, it is only mentioned as a subitem in the article about the production of databases for the defensive protection of traditional knowledge. The article states that both written and oral information about traditional knowledge should be contemplated by databases.
- 23 The oral characteristic highlighted by quilombolas and caiçaras at Vale do Ribeira is deeply linked to the intergenerational character as well as to the characteristic that will be pointed out in the next section, as the transmission of knowledge normally happens during participation in daily practices.

1.5 “Learning by doing”

- 24 Claudia, her mom, Neire and I were sitting at the kitchen of Claudia’s house and having an informal conversation. They asked me why I decided to go to Vale do Ribeira and asked me to explain a bit about my research. They laughed when I said I wanted to understand what quilombola knowledge is. Claudia’s mom, Mirana, then said: “knowledge is *vivência* emphasis added”. *Vivência* is a word in Portuguese that can be a synonym for experience, a fact or situation through which one has passed and from which knowledge derives. It can also mean ways of living (Michaelis 2019).
- 25 *Vivência* was also evoked by Neire, who affirmed there is a difference between telling someone about a recipe for a certain medicine and the person *experiencing* it, seeing how it is done in practice. “(...) you need to learn the knowledge there [the place where the knowledge in question was being put into practice] to understand how it works. This, for us, is knowledge”.
- 26 This view appeared in many other conversations, although sometimes through the use of different words. Francisco said, “they learn through practice”. Denis said, “you need to accompany someone, to learn this knowledge, you do not learn it at university, you cannot learn it in school. You need to go with your parents”. To this Fernanda added, “it is the knowledge¹² from the experience, right?”
- 27 From these interviews, we can understand that in the context of quilombola and caiçara communities at Vale do Ribeira, traditional knowledge is acquired and passed on through experiences that are shared in the context of the daily practices of a specific community. This characteristic was not highlighted in WIPO. This has a deep relation with my next point.

1.6 Knowledge as collective production: developed and maintained in a community setting

- 28 Traditional knowledge is collective and cannot be held by an individual alone. My interlocutors at Vale do Ribeira highlighted this at many points, explicitly or otherwise. Denis, for example, explained that one should be careful about transmitting caiçara knowledge to non-caiçaras due to its collective character. He affirmed that “this knowledge is not mine alone, it is of all, I would transmit a knowledge that is of the

community”, it “is a heritage of the community and that sometimes can even be shared among different segments of traditional communities”.

- 29 For Orlando, quilombola communities at Vale do Ribeira “share the same knowledge system”. This is why, for example, he could not accept the idea of progressing with an agreement with Natura¹³ without having a discussion with other quilombola communities that share the same knowledge. “We cannot live in a collective and discuss alone”, he stated.
- 30 In the context of the IGC, the delegate of a developing country affirmed that “an important element of both traditional knowledge and traditional cultural expressions are their collective character”. During Indigenous Panels throughout IGC 37 to 39, this characteristic was also used in these presentations to justify why any right related to indigenous knowledge should be collective:¹⁴ “created, maintained, developed and governed in a collective context by indigenous people”.¹⁵
- 31 Although the collective dimension of traditional knowledge was evoked by several participants at the IGC, it was questioned by others. The French delegate recalled that they “only recognize individual rights, not collective rights”.¹⁶

1.7 Knowledge as linked to identity

- 32 This section highlights the idea that underlies the two other sections above (“Learning by doing” and “Knowledge as collective production”), making it more evident. I have decided to insert it as a separate element because the expressions “learning by doing” or “learning through practice” did not appear in the IGC, but somewhat similar ideas were evoked in the forum.
- 33 Indigenous Caucus representatives mentioned several times the deep linkage between traditional knowledge and indigenous and local peoples’ cultural identity. The link between traditional knowledge and the actor that develops and perform it was highlighted.¹⁷ Along these lines, traditional knowledge is all the knowledge produced, reproduced and transmitted inside a traditional or indigenous community.
- 34 This direct link to identity has also been made by quilombolas and caiçaras at Vale in more direct terms. The traditional community identity, either quilombola or caiçara, was directly linked to their specific knowledges and practices. During the CONAQ state meeting, it was stressed that quilombolas need to know their origins and how these are deeply connected with their knowledge and practices: “I am a quilombola. I know how to plant and harvest – everything that a quilombola community knows how to do, it is in our roots”. In the same line, Fernanda, when talking about non-caiçaras that use the adjective “caiçara” to attract tourists to their restaurants on the coast said: “for me, this is also a misappropriation of a knowledge, of an identity”. When talking about what it means to be a caiçara, Fernanda related it to the ways they harvest, fish and build houses.

1.8 Specific processes of knowledge creation, connected to ways of living and viewing the world

- 35 At WIPO, representatives of the Indigenous Caucus have often emphasized that indigenous peoples may have ways of knowledge production that differ from the

methods in non-indigenous contexts. For example, they mentioned that knowledge may arrive in the form of dreams. During IGC 37, a representative of the Indigenous Caucus stated that what they want to protect is “the manner the knowledge arrives on a living culture, the process of being guided to and receiving the knowledge”. In this sense, they have stressed that there exists a difference in the way they perceive the world compared to non-indigenous cultures.

- 36 Although in Vale do Ribeira it was argued that quilombolas and caiçaras have a different relationship with the world, holding a special relationship with their territories as well as particular links of solidarity among them, there was no mention to a specific way of receiving knowledge. Nevertheless, as it has already been described above, specific ways of knowledge transmission through generations were highlighted.

1.9 Knowledge as part of a knowledge system

- 37 The idea that traditional knowledges are a part of a complex knowledge system is a characteristic that appears in opposition to the division between traditional knowledge, traditional cultural expressions and traditional knowledge related to genetic resources proposed by WIPO.

- 38 In several conversations at Vale do Ribeira, the interconnection between different knowledges was stressed. A good example of this is fandango: the festivities are deeply linked to daily practices and fandango masters not only master the technique of playing traditional songs but also build their own instruments, knowing exactly which wood to use.¹⁸ In the case of the quilombola communities, a holistic character appears in the accounts of Vale do Ribeira’s Quilombola Agricole System: “if the quilombola culture was a house, their agricultural system would be the structure of the house”; “it is a system, one thing depends on the other to exist in time” (ISA 2016). Vale do Ribeira’s quilombolas share not only ways of planting and harvesting, but also ways of artisanal production of instruments for the benefit of manioc and other plants, and a collective organization of work. The traditional parties, dances and songs that happen after a *mutirão* also only take place in this context.

- 39 The same discourse appeared in the context of WIPO. When telling me about the courses on intellectual property for indigenous peoples she conducted in the Amazon, the indigenous representative said that in one of the courses, a well-known indigenous leader¹⁹ affirmed:

The non-indigenous is very smart, they write a lot of books, they create an entire system divided into boxes. Then they take our songs and they put it in the copyright box. They take our medicine and transform it into a patent. They take our drawings and they put it as industrial design. But it is all one ritual! They do not understand that our knowledge is integral and has to be integrally protected.

- 40 The indigenous representative added: “It is not a square knowledge, you cannot chop it and put in their boxes, don’t they understand? Their system is not adequate to accommodate the greatness of our knowledge!” The Nigerian delegate also expressed discomfort with this division, arguing that traditional knowledge and traditional cultural expressions cannot be divided.²⁰

- 41 These declarations suggest that instead of talking about three different categories of knowledge in traditional communities, namely traditional knowledge, traditional cultural expressions and traditional knowledge associated to genetic resources, it

might be more accurate to talk about a *knowledge system*, where different knowledge expressions are interconnected.

- 42 Considering the existence of negotiations on three separate texts at WIPO's IGC, such an understanding is clearly not shared by all members of the forum. When interviewing the delegate of a developing country I confronted him with this issue, asking if it was indeed possible to make this division while some indigenous peoples and traditional communities' representatives have affirmed it was not. He answered me with the example of a Coca-Cola bottle, which in itself unites different types of intellectual property: industrial design, brand, copyrights. For him, although it might be challenging, it is not impossible to find answers to such questions in intellectual property law.
- 43 The division of traditional knowledge systems into three different categories seems to be an effort of applying an intellectual property law system's rationale to the reality of indigenous peoples and traditional communities, but it does not necessarily correspond to their experience.

1.10 Knowledge and solidarity

- 44 José evoked solidarity as a relevant characteristic of the transmission of traditional knowledge. As he explained, people never charge to teach something, they do it as an expression of charity: "what we learn we should also transmit to others". He affirmed that all the traditional medicine already produced by him was done "*na amizade* ('in friendship'), this traditional medicine has never been used for commerce, it is used for serving", "the solidarity quality of people stands above all". He compared how this makes life in the neighborhood different from life in other places: "nowadays we need to pay for everything. Here we go to the neighbor, to someone in our neighborhood, we eat, we sleep two or three days, we do not spend anything. All is done *in friendship* emphasis added . We give value to this type of life".
- 45 Although solidarity was mentioned by none of my other interlocutors as a characteristic of knowledge transmission, I experienced some situations in which these solidarity links were very vivid. Throughout my fieldwork, when I was accompanying Neire, it was very common that we would just arrive at a place and see if we could eat there, use the facilities (e.g. Wi-Fi, phone, a table) or even stay for a night. While I often felt uncomfortable in such situations, not only Neire but also the people helping us not only explained to me that there was no problem but also emphasized that they would normally not even consider it as a problem: "This is just the way things go around here", "that's the way we are", were phrases I heard several times in these situations. In conversations with quilombolas that hold knowledge about the production of medicine or on *benzimento*, there was never mention of expectations of returns for "rendering of this service" or sharing of knowledge.
- 46 While there was no mention of an element of solidarity in knowledge transmission at WIPO's IGC, it was recalled by the Indigenous Caucus in a plenary intervention at IGC 39 that indigenous peoples and local communities do not necessarily look for a monetary compensation for their knowledge.²¹

1.11 Knowledge as a tool for resistance

- 47 During the two-day São Paulo state-level meeting of CONAQ, the climate was of general concern around the new policies announced by the newly elected Brazilian president. Quilombolas are afraid that the new measures undertaken by the government will make it even more difficult for them to have their lands titled and will mean the withdrawal of rights that were already recognized.
- 48 In this sense, they deem it relevant to think of tools for resistance. During the conversations and presentations that took place over these two days, the preservation of the communities' cultural heritage and the exercise of their traditional knowledge was often evoked as a relevant tool for resistance. To oppose the efforts of homogenization of the territories undertaken by agribusiness, through the spread of monoculture plantation, quilombolas leaders reminded community members of the importance of continuing to plant through their traditional practices. The recognition of Vale do Ribeira's Quilombolas Agricultural System as Brazilian cultural heritage was mentioned as an important step in this direction, a relevant tool for resistance.
- 49 The transmission of knowledge to new generations was also highlighted as one of
- 50 quilombola's main challenges and an essential element for preserving their identity and culture, which was linked directly to the possibility of permanence in the territory. During our interview, Aurelio mentioned that in quilombo São Pedro:
- since 1825 we have this culture. It never "fell". Just around the 80s that it was almost over in all quilombola communities at Vale do Ribeira. Because of the decadence of the government, of all the environmental issues, that were imposed over the communities, it made us lose many seeds. But then we managed to rescue it in this way, that it is a traditional knowledge (...) Now that we have the document from IPHAN,²² documents made by USP,²³ which say our practices of work do not harm the environment, now we are confident that things will be better.
- 51 It was also interesting to see that the "political knowledge" acquired by quilombolas in the past decades, through their political organization around their identity, was highlighted by some as a knowledge that should be guaranteed to be transmitted. This demonstrates that, slowly, a more overarching understanding of what quilombola knowledge means is appearing – it would not only encompass knowledge related to daily practices, such as harvesting knowledge, but also the knowledge of political processes and strategies.
- 52 The idea that the recognition of their knowledges as traditional knowledge leads to protection and revitalization was also expressed in a declaration made by the Colombian delegate at an informal session at IGC 39. Recognition of traditional knowledge as a tool for resistance, however, is an idea that has not been evoked at this forum.

2. Discussion

- 53 Throughout this chapter, I have presented the characteristics of traditional knowledge that have been evoked in interviews and observations at WIPO and Vale do Ribeira. Some of them were referenced at both sites. At WIPO and Vale, several interlocutors understood traditional knowledge as a knowledge that is: (i) transmitted intergenerationally; (ii) dynamic and evolving; (iii) created and maintained in a

community setting; (iv) connected to specific identities, as it is created and maintained by indigenous peoples and local communities; (v) a part of a knowledge system; and (vi) based in solidarity.

- 54 These characteristics were evoked by quilombolas and caiçaras in Vale do Ribeira, as well as by representatives of the Indigenous Caucus at WIPO, highlighting the importance of the participation of indigenous peoples in the discussion. Even if they do not effectively get to vote, the presence of indigenous peoples and local communities' representatives at WIPO is relevant as it guarantees the representation of a discourse more aligned with the realities of indigenous peoples and local communities' perspectives.
- 55 These people stress the link between indigenous knowledges and indigeneity, placing the collective and contextual dimensions as key to defining this body of knowledge. In this sense, indigenous knowledges are not something that exists in a void but are deeply linked to the characterization of some groups as indigenous. The characterization of a body of knowledge as indigenous does not depend, thus, on essential elements, but on the groups that produce and maintain it. It is relational.
- 56 Interestingly, some of these characteristics were also evoked and supported by developing countries' delegates. Especially the fact that indigenous knowledge is dynamic and evolving, instead of characterized by its existence for a certain time frame (fifty years or five generations), has been advocated by a significant number of these countries. The other characteristics, although having been stressed by some delegates, did not attract the same level of support. This points to a certain level of articulation between the discourses of indigenous peoples' representatives and developing countries' delegates at the IGC. This point will be further developed in the next chapter.
- 57 The temporal criterion, on the other hand, was only considered as a characteristic of traditional knowledge at WIPO. It was proposed and supported by industrialized countries, namely the USA, Japan, Italy and the EU. As described in Chapter III, these are also the countries that do not want a binding instrument and that use procedural strategies to delay the process. A temporal criterion is much more in line with what Hodgson (2011, 37) has called an essentialist approach to indigeneity, rather than a relational approach. It assumes that indigeneity is more related to a temporality criterion, opposing tradition and modernity, than to the centrality of experiences.
- 58 The idea of a temporal criterion disregards possibilities of interaction between western and traditional knowledge, as it evokes ideas of isolation and permanence in time to characterize indigenous knowledge. The strong argumentation for a temporal criterion, which goes against most anthropological production on the issue (Agrawal 1995; Bayart 1996; M.C. da Cunha 2009; Dove 2000; Hodgson 2011; Lewis and Kenrick 2004; Li 2000; Pelican 2009), may impede achieving an agreement, since this is a non-negotiable point for developing countries and indigenous peoples alike.
- 59 This criterion is also in direct contrast to the characteristics that were only evoked at Vale do Ribeira, namely (i) learning by doing; (ii) orality; and (iii) knowledge as a tool for resistance. On the one hand, these elements highlight the role of experience and presence in community life to explain the transmission of knowledge considered traditional, much more in consonance with a relational idea of indigeneity (Hodgson 2011, 37).

- 60 On the other hand, they point to the possibilities of articulation of traditional knowledge as a tool for resisting dispossession. The recognition of traditional knowledge as intangible heritage is understood by Vale do Ribeira's quilombolas as a key tool for resisting the criminalization of their agricultural practices by the state. In this sense, the articulation of the idea of traditional knowledge gains relevance as a tool for permanence in the territory and as a counterargument to the criminalization of traditional communities' practices.
- 61 Furthermore, having their knowledge recognized as traditional is also the condition for indigenous peoples and local communities to ground their participation at the IGC. Thus, traditional knowledge works as a means not only to articulate different groups around the same issue but to justify the participation of indigenous peoples and local communities' representatives in fora where decisions about their futures are being taken – places where they were not welcomed before.
- 62 Along these lines, the life-cycle of the concept of indigenous knowledge (Dove 2000) does not stop at being a theoretical tool to argue that intellectual productions that do not conform to what has conventionally been called “scientific knowledge” are knowledge as well. It also does not stop at demonstrating the “hackneyed dichotomy” of indigenous knowledge as an example of a dividing practice (Dove 2000). In fact, as it is enunciated in the discourses of indigenous peoples and local communities, “indigenous knowledge” acquires another facet: it becomes the tool that allows for some specific articulations and the occupation of certain spaces in legal and policy discussions.
- 63 Through the articulation of the concept of indigenous knowledge, indigenous peoples and local communities can enter a forum of discussion at WIPO. Furthermore, through the articulation of this concept, Vale do Ribeira's quilombolas can continue to practice their agricultural techniques, oppose the criminalization of their traditional practices and add another argument to ground their permanence in their territory.

NOTES DE BAS DE PAGE

1. This approach was proposed by the NGO representative, during our interview.
2. In fact, Ulisses used the word *saber*. *Saber* in its use as a noun in Portuguese, can be translated as *knowledge* in English. But the Portuguese word *conhecimento* is also translatable as *knowledge*, even though *conhecimento* and *saber* have similar but different meanings. *Saber* is normally used to name a knowledge which is not necessarily backed by scientific proof. It could be translated to French as *savoir*. *Conhecimento* on the other hand, is the equivalent to the French word *connaissance*, and can be explained as the understanding of a phenomenon through reason and/or experience. In Portuguese, one can talk about *conhecimento científico* (connaissance scientifique; scientific knowledge) and of *saber tradicional* (savoir traditionnel; traditional knowledge).
3. Delegate of Japan on IGC 37.
4. Fieldnotes taken on plenary, IGC 37.
5. Fieldnotes taken on plenary, IGC 39.

6. Fieldnotes taken on Indigenous Panel, IGC 39.
7. Fieldnotes taken on plenary, IGC 38.
8. Fieldnotes taken on plenary, IGC 37.
9. Kankana-ey Igorot representative during Indigenous Panel, IGC 39.
10. Ulisses, during interview.
11. Fernanda, during interview.
12. Here again, Fernanda used the word *saber*.
13. More details on this case will be provided in Chapter V, Section 1.1.
14. This will be further discussed in the next chapter.
15. Kankana-ey Igorot representative during Indigenous Panel, IGC 39.
16. Declaration made in plenary, IGC 37.
17. NGO representative during interview.
18. Fernanda, during interview.
19. Davi Yanomami is a shaman from the Yanomami tribe and became internationally known for his fight against the genocide of his people and for Yanomami's right to land. He recently published a book "The Falling Sky", in partnership with Bruce Albert (Branford 2015).
20. Plenary IGC 37.
21. Brazilian delegate at IGC 39.
22. The Brazilian federal agency for the National Artistic and Historic Heritage.
23. University of São Paulo.

Chapter V: Conversations between empirical contexts – intellectual property rights and other narratives for the protection of indigenous knowledge

- 1 In the last chapter, I analyzed processes of construction of the meaning of indigenous knowledge at both WIPO and Vale do Ribeira. I will now look at the construction of different narratives of protection in these two places. At WIPO, protection is framed in the language of intellectual property rights, through the voices of both member states' representatives and indigenous groups that "seem ever more ready to put intellectual property regimes to work in the effort to secure the value vested in difference – and, in so doing, to render cultural identity into the language of copyright, sovereignty and patent" (Comaroff and Comaroff 2009, 56). At Vale do Ribeira, however, protection of indigenous knowledge appears not in terms of property rights, but in terms of community protocols.
- 2 This chapter aims to show how the idea of protection appears and in what terms it is enunciated. For Vale do Ribeira, this will be done through the analysis of the narratives around four cases of bioprospecting/biopiracy in the region, which were explained to me during interviews. For WIPO, the analysis will be informed by interviews, as well as official documents and statements during IGC sessions.

1. Biopiracy in Vale do Ribeira

- 3 Vale do Ribeira is an area that has attracted national and international capital's interest due to its high concentration of natural resources that have not been exploited for commercial purposes. This protection is the achievement of the collective use of land by quilombola communities. The effort to expand the frontiers of original accumulation in Vale do Ribeira not only comes from mining companies and

agribusiness already present in the region but also is strengthened by mechanisms of financialization of nature, by recently approved projects for the privatization of the park administration, as well as by the now-dismissed tentative plans for the construction of dams.

- 4 But it is not only material goods that have raised the interest of foreign actors. Quilombola and caiçara knowledge, especially knowledge associated with genetic resources, have also raised external interest in the region. During interviews and informal conversations, my interlocutors recalled innumerable cases of researchers interested in learning more about Vale do Ribeira, the community's ways of living and their traditional practices. However, often they did not provide the community with any return from their research (e.g. the community did not have access to any publication that originated from the research). Fernanda, for example, affirmed she has mapped over seventy research papers about the region of Juréia.¹ From these, far too few have been presented to the community.
- 5 Learning about these cases was not only relevant to documenting what has been happening at Vale do Ribeira, but also to getting a clearer understanding of the influence biopiracy and knowledge misappropriation have in the region. From the cases mentioned, four stood out as the most relevant. In the following paragraphs, I will tell these stories.

1.1 Natura

- 6 The Brazilian multinational cosmetic company Natura & Co.,² founded in 1969, presents itself as a relevant agent in the preservation of Brazilian biodiversity and emphasizes its social responsibility towards extractive communities as a strategy to solidify a positive institutional image (Tanure and Patrus 2011 *apud* Miyata 2013, 5). One specific line of the company, Natura Ekos, is presented as “a range of body care products and perfumes directly inspired by the ancestral traditions of the Brazilian population” (Natura Brasil 2019).
- 7 At the beginning of the 2000s, Natura became interested in Vale do Ribeira and the knowledges held by quilombola communities of the region. The company contacted professor Livio, from the Paulista State University (Unesp), who had already conducted studies with quilombola communities of Vale do Ribeira, aiming to conduct an ethnobotanical mapping of the plants used by quilombola communities. They wanted to map all plants that could be of interest for the production of cosmetic products and perfumes. Natura affirmed they would proceed with an “equitable and fair sharing of benefits” with the studied communities. In “industry terms”, this meant a percentile of around 0.5 to 5% of the net revenue derived from the commercialization of products derived from the plants covered by the contract.³
- 8 Prof. Livio and his team began the work in early 2003 and visited five communities in the region of Iporanga, which at first were open to participating in the project.⁴ Orlando, a quilombola leader, was directly contacted by Prof. Livio's team as he was the president of his community's association at the time. Orlando explained that the team was interested in getting to know more about their knowledge of both medicinal and cosmetic plants. The team offered them a truck or a tractor as a means of payment for the knowledge exchanged. In Prof. Livio's account of the story, what happened was the

opposite: the communities are the ones who asked for things like trucks, boats or assistance to get the installation of basic sanitation system in the communities.

- 9 Natura proposed to sign a contract directly with each community⁵ and not with an association that represented different communities.⁶ During the conversation with Natura, Orlando understood that sharing the community's knowledge with the company could lead to the granting of patents, a serious issue that needed further evaluation. In his words "we would no longer be the owners of this knowledge; it would be exclusive to them". That is why he searched for juridical assistance.
- 10 Orlando contacted Dr. Michelle and Dr. Susana, both nuns and lawyers, who have worked together with quilombola communities at Vale since the beginning of their struggle against the construction of the dams in their territory.⁷ These women are also responsible for assisting Vale do Ribeira's quilombola communities to get the recognition of their traditional land and are therefore regarded by the communities as key allies.⁸
- 11 According to Orlando, Dr. Michelle and Dr. Susana called attention to the fact that many quilombola communities of Vale share the same knowledge, and therefore that it could be problematic if only some of them engaged in a contract with Natura. Dr. Michelle affirmed that "at first they wanted to get a boat", "people had no idea of the value of their knowledge". According to her, "a large part of our work was to make people aware that, even if it is an immaterial good, it has a high financial value, and they should protect it".
- 12 Since then, a larger discussion among Vale do Ribeira quilombola communities themselves and also between quilombolas, allies, Prof. Livio's team and Natura began. Once the communities started to have juridical assistance, the conversation shifted to having a more serious character, because issues such as benefit-sharing and payments for accessing the knowledge entered the agenda.⁹
- 13 "After the discussion started, we realized that our knowledge reduces a lot...the company gains in time. Just telling what they should not do with the plant, they already gain a lot of time".¹⁰ For Orlando, it was important to discuss the issue among different quilombola communities since "when you start discussing in a group you discuss it well, things become clearer, you seek more information".
- 14 Indeed, through the analysis of the minutes of meetings¹¹ and contract drafts,¹² it is clear that there was a meaningful development in the terms of negotiation, as well as in the draft contracts. While the first contract is rawer in terms of defining delimitations to exclusive rights and benefit-sharing, the following ones are more nuanced about these issues.
- 15 Even though the negotiations proceeded for some months, problems appeared from both sides which led to the contract never being signed. On one side, after conversation and deliberation, the communities unanimously decided not to proceed with the project. "It was a group decision, we realized selling knowledge is not that simple, especially when we are talking about patents and not being able to use the knowledge anymore, not holding the knowledge anymore".¹³
- 16 At the same time, Natura decided not to continue with the project. After confirming with Prof. Livio that there was no clear difference between the knowledge of people who live inside or outside conservation units and that different communities may share the same type of knowledge, Natura cancelled the contract unilaterally.¹⁴

- 17 Indeed, it was hard to meet the exclusivity demanded by the juridical team of Natura. “The process of recognition of (quilombola) communities had started ten years before, there was no way we could promise other communities did not share the same knowledge”.¹⁵
- 18 This case was the first time in which Vale do Ribeira quilombola communities discussed issues related to the granting of patents over their knowledge. For Orlando, “it is already a precedent that we opened: when it comes to things about knowledge and patents we need to discuss together, so the community already knows how it works. We don’t discuss these issues so often, but when we need, then we discuss”.
- 19 Vale do Ribeira’s communities had to become well organized because there are many conflicting interests in the region, and thus it “is not easy to live there”. “So, we have this great political advantage, the communities in Vale do Ribeira are well articulated. We discuss a lot together; we create a lot of things together. So, when we have a problem, we need to discuss it together”.¹⁶ The high level of political articulation of Vale do Ribeira quilombola communities was important in this case to guarantee that communities could unite and decide together about whether or not to engage in a contractual relationship regarding their traditional knowledge.

Not with quilombola communities...but anyways still present in Vale do Ribeira

- 20 Natura decided not to proceed with the contracts with Vale do Ribeira quilombola communities and therefore gave up on their idea of making a Natura Ekos collection based on traditional quilombola knowledge. Nevertheless, this did not mean that Natura gave up working in the region of Vale do Ribeira.
- 21 In 2004, José, who lives with his six children in a small property near Barra do Turvo, the same municipality in which Quilombo Ribeirão Grande is located, signed his first contract with Natura. José is a 70-year-old black man, whose father comes from Ribeirão de Cima, a region near the Ribeira River and right between the states of São Paulo and Paraná. José told me he does not have quilombola descent. In his words, he is a *matuto do sertão* – someone who “was born in the countryside, did not go to school, who only studied the tradition of the parents”.
- 22 Since signing the contract, he has been supplying the company with dried plants. As he mentioned, normally each contract has a duration of three years, and for each plant, a new contract is made. I asked José if he has a lawyer to help him with the contracts and he said this would not be necessary because Natura has “technical personnel in who you can trust, when we need, they make a contract and present it for us to read, explain it to us and give us some time for us to evaluate if everything is ok with the contract. They have a very solid work, they do not trick anyone”.
- 23 Some plants are only available two times a year, so this type of contract does not guarantee him a monthly revenue. Therefore, José and his family also rely on subsistence agriculture to avoid spending money on purchasing food.
- 24 According to José, they have already had contracts for the supply of three different plants: *pariparoba* (*Pothomorphe umbellata*), *maracuja-doce* (*Passiflora alata*) and *erva-de-macuco* (also known as *guaçatonga*, *Casearia sylvestris*). Natura technicians normally come with a list of plants in which they are interested but, as José explained, “when there is a plant that they do not know yet, they ask for permission to research this one as well”. “They ask what we use the plant for, if it is used for something traditional, and then we

can negotiate to supply that plant during the research. After this research, they will decide if the plant is approved for something or not. If the plant has no value for them, then it is not used”.

- 25 Natura technicians did the georeferencing of José’s property and they come every year to evaluate the conditions of the plants on his property. As he explained, he only has plants that are native from the Atlantic Rainforest, but the quantities of the plants on his property may vary according to what has been required in the market. He and his family collect and dry the plants, selling them for around USD 3/kilogram.

1.2 The corn case

- 26 This case was shared with me by Dr. Michelle and Dr. Susana and was also mentioned by two members of quilombola communities, Orlando and Ulisses. Like the Natura case, it was also reported to have happened in the early 2000s, although no mention of a specific year was made.
- 27 I contacted a leader from the concerned quilombola community, Bombas, and asked if he would be interested in participating in this study. He explained that this type of decision is taken collectively by the community and therefore they would have to discuss the subject in a meeting. After discussing this proposition, they decided not to participate in my research, because they had other priorities at the time. Therefore, the case presented in the following lines has the limitation of not representing the perspective of the affected community.
- 28 As my interlocutors explained, this case happened in Bombas, the quilombola community that is hardest to access in the entire region of Vale do Ribeira (it is only possible to reach it after a three-hour hike uphill). At Bombas, they produce a specific type of creole corn. One day, when some community members were in the city selling dry corn, people from outside the community bought some of it, not specifying that it was for anything but personal consumption. Sometime after that, the community discovered the people who bought the corn were researchers and that they had applied for a patent over the creole corn.
- 29 As Dr. Michelle stressed, they only got to know about this case through their networks because, at the time, a member of an NGO that works closely with Vale do Ribeira’s quilombola communities was also a member of the council responsible for analyzing requests of patents over biogenetic resources (CGEN). As she informed them, this request entered CGEN without any mention of the quilombola origins of the corn seeds. Dr. Michelle and other allies managed to stop the process at CGEN and after that, Dr. Michelle said, they “started to talk with the communities about the value of their seeds, and this grew up to the point where we created the seeds exchange fair”. She was referring to the “Traditional Seeds and Seedlings Exchange Fair of the Quilombola Communities of Vale do Ribeira”. This two-day event, organized by quilombola communities and partners (such as ISA, EAACONE, and state bodies such as ITESP and Fundação Florestal), “celebrates the importance of traditional agricultural systems and the preservation of the quilombola culture” while promoting the exchange of creole seeds and seedlings (ISA 2018).

- 30 Despite having tried to access information about this case on CGEN's website, I was unable to find information on it. This lack of available information is likely because the communities managed to stop the patent register process in CGEN.

1.3 *Erva-baleeira*

- 31 The third case is related to *erva-baleeira* (*Cordia verbenacea*), a medicinal plant with strong anti-inflammatory properties, widely used by traditional communities at Vale do Ribeira, especially caiçaras. According to one of my interlocutors¹⁷ and public sources (Ereno 2005; Mito 2010; ANI 2019), one of the founders of the Brazilian pharmaceutical company Aché often goes to a beach house in the region of Juréia, home to many caiçara communities. One day he was playing football with his friends in the garden and injured his foot. The housekeeper, a local caiçara man, said he knew a plant that could help with the injury and gave him a medicine made of *erva-baleeira* (a *garrafada*). Because the medicine worked well, he decided to conduct laboratory research on the plant.
- 32 Between 1998 and 2004, research was conducted to isolate the active-principles of *erva-baleeira* (Lima 2013, 197). This led to the production of Acheflan, the first medicine completely produced in Brazil, through a partnership between Aché and public universities (Ereno 2005), as well as to the protocol and granting of a patent for Aché. Although it is explicitly recognized that the medicine derives from traditional caiçara knowledge of the coast of the state of São Paulo (Ereno 2005; Sugimoto 2005), Denis and Fernanda explained that the whole process was done without any agreement with the caiçara communities. They only came to know about this case years later, when it was evaluated by CGEN.
- 33 There was a dispute between the Brazilian State and Aché, as the former did not demand the authorization nor did it sign a benefit-sharing contract for the commercial exploitation of *erva-baleeira* (Thomas 2015, 54; Moreau 2011, 74). Aché filed a writ of mandamus against the Brazilian State to guarantee that the launch of Acheflan was completed before the final evaluation of CGEN and was successful (Mariot 2010). The product became a market leader in its category (Mariot 2010).
- 34 Again, as had happened in the Corn case, caiçaras only found out about this case because of a warning received by a person that had more information about CGEN's discussions. Denis affirmed that the company had to pay a condescendingly minuscule amount in royalties to the Brazilian State (something around CHF 3,000). I was unable to find any other source that confirms this information. In any case, caiçaras never received any share of the benefits.

1.4 A researcher in Barra do Ribeira

- 35 Another relevant case for my analysis was shared by the caiçara leaders Denis and Fernanda. In the 1990s, a biologist came to the region to conduct her PhD studies. She aimed at cataloguing the plants of the region of Juréia. The researcher collected a lot of information from a religious leader, who had a wide knowledge of the medicinal plants in the region.¹⁸ For a certain period, Denis worked as the researcher's guide and helped her in exchange for a small monetary compensation. They visited many communities and collected several samples of plants and flowers: "We gave a lot of information on

how to use the plants, how many you need, if you need to put salt, water”, also “if you can make a tea, if what is useful is the flower, the leaf, the root.”¹⁹

- 36 According to Denis, she catalogued many plants but by the end of the research, she was pushed by the administration of the Conservation Unit in the same territory to stop counting on Denis’ guidance, otherwise, they would not authorize her to proceed with the research. Denis understood this as a way for the administration to get back at him, because he was “fighting for the rights of traditional communities and against the Conservation Unit”.²⁰ Since then, the researcher never talked to Denis again and never provided any access to the content of the research. Currently, Denis and Fernanda are trying to access this research and trying to contact her to gather more information about the material she collected.

1.5 Protocols as tools for “self-protection”

- 37 The four cases described above show episodes of bioprospecting and misappropriation of traditional knowledge that happened in Vale do Ribeira. Some elements of these cases provide relevant insights into the processes they have triggered.
- 38 On the one hand, the strong collective organization of quilombola communities of Vale do Ribeira made them question what had first been proposed by Natura and Unesp’s researchers. They deemed it essential to discuss the problem communally, as they understand their knowledge has a collective nature and making a contract with the company would entail meaningful changes to communities’ livelihoods. At the same time, due to the relevance of the issue, they understood it was important to contact other partners in their network and seek juridical assistance.
- 39 Through these actions, Vale do Ribeira’s quilombolas collectively discussed an issue that was new to them, namely the potential patenting of elements of their knowledge system, carefully evaluating the situation to understand what was at stake. In partnership with the lawyers that offered them juridical assistance, they were able to negotiate the terms in which an eventual contractual relationship with Natura would be agreed to. Even if in the end both parties decided it was not worthwhile to continue with this project, they both had the chance to carefully discuss this highly complex issue.
- 40 Quilombolas’ collective organization and engagement with other partners was essential for them to dispute the terms of the contract. It also allowed them to form a collective response to such issues, deciding, as Orlando explained, that any questions regarding patents and quilombola knowledge should be collectively discussed.
- 41 José, on the other hand, lacking juridical assistance and also believing he does not need to discuss his contractual relation with Natura, relies completely on the terms set by the company’s legal team to establish their contractual relationship. Since he is not part of a broader collective bounded by identity ties, such as quilombolas, José took his decision individually and did not see the need to seek further assistance regarding contractual terms.
- 42 The corn and the *erva-baleeira* cases demonstrate the relevance of quilombolas’ and caiçaras’ political articulation with actors at the regional and national level. It was only because of this articulation that they learned about the misappropriation of elements of their knowledge systems. In both cases, people who were close to the communities

informed them about the cases, bringing information that would otherwise be inaccessible to quilombolas and caiçaras. In the corn case, they still had the time to intervene and managed to stop the process at CGEN, preventing the patenting of their creole corn seed. In the *erva-baleeira* case, even if they did not have the chance to intervene in the process, they now have the possibility of producing their narrative around the situation.

- 43 In the case of the researcher at Barra do Ribeira, as in many other cases, the communities felt their privacy violated. They agreed to participate in the research, but never saw the result of their participation. The knowledge produced about them was never shared with them.

Community protocols

- 44 In the aftermath of these cases, both quilombolas and caiçaras sought ways to regulate access to their knowledges. The communities started to develop *community protocols* which serve as “mechanisms of self-protection”.²¹ These protocols determine how a researcher should proceed in order to do their study with the communities and aim at regulating access to the community’s knowledge.
- 45 Representatives from the quilombola communities of Porto Velho, Ivaporunduva and São Pedro affirmed that they have these protocols. Denis and Fernanda affirmed that caiçaras are also in the process of discussing and implementing protocols and that the Vale do Ribeira Traditional Communities’ Forum is also discussing the issue.
- 46 I was myself subject to some of these protocols. As I mentioned earlier, I was unable to interview quilombolas from Bombas because they understood the research was not relevant to them at that moment. A similar situation happened at Ivaporunduva, as already explained in Chapter I. Unfortunately, there was no time for the community to convene an assembly and decide whether or not to participate in my research while I was still there, because all the community’s time was directed to the organization of the CONAQ meeting. Nevertheless, Ulisses agreed to talk to me, but in his position as lawyer and member of CONAQ.
- 47 Ulisses explained that another relevant element for Ivaporunduva to decide to produce community protocols was his participation in the discussions for the CBD. As he took part in the discussions on traditional knowledge connected to genetic resources, he realized: “we will be stolen, we need to protect ourselves”.²² He brought this issue back to the community and they decided to develop this community protocol.
- 48 In this same direction, Denis affirmed that after the new Brazilian legislation on access to knowledge related to biogenetic resources was edited, “the rights of traditional communities were made much more fragile, it became easier to have access to anything related to traditional knowledge”. That is when other communities in Brazil also started to develop their own protocols, on which caiçaras are basing the production of their own. In this sense, the participation of Denis as a delegate at the National Council of Traditional Communities and Peoples was essential. His participation in this forum “was an important reinforcement in the level of information they can access. From the moment he went for discussions at the national level with other communities, other segments, he started to bring a level of information we did not have in the local level before”.²³

- 49 By analyzing these cases, we can notice that Vale do Ribeira's traditional communities initiative to produce instruments to protect their knowledge appears in a response to (i) episodes of biopiracy and misappropriation of their knowledge; and (ii) the participation of community leaders in national and international spheres of discussion with other traditional communities and indigenous peoples.
- 50 The creation of a response to biopiracy in Vale do Ribeira is thus deeply linked to the articulation of quilombolas and caiçaras around identity markers. On the one hand, quilombolas' and caiçaras' perception of knowledge as collective is deeply linked to their identification as participants of a group united by the same cultural identity. As such, quilombola or caiçara knowledge cannot be traced to one individual. It is recognized as being part of a collective knowledge system, which belongs to the community as a whole. As such, decisions about the deployment of this knowledge cannot be taken by one or a few individuals but only by the entire quilombola or caiçara community. On the other hand, the enunciation of their identity as traditional communities and the political articulations made possible by this enunciation enabled interactions with other traditional communities and indigenous peoples. During these encounters, local community leaders had access to experiences from other community leaders, which drew attention to the problem of knowledge misappropriation and exchanged good practices on the protection of traditional knowledge.
- 51 The communities did not seek, however, any instruments of patenting of their knowledges. Nevertheless, both quilombolas and caiçaras sought instruments of recognition of their cultural heritage: the former, of their agricultural system, the latter, of their musical and dance style, the fandango.

1.6. Sharing traditional knowledge – shifting boundaries within and around Vale do Ribeira's communities

- 52 The impact of the cases explained in the sections above did not lead only to the decision to produce protocols for research. These cases have also influenced the boundaries related to the sharing of traditional knowledge in Vale do Ribeira. While the boundaries between traditional communities in Vale do Ribeira were lowered, approximating them and incentivizing the sharing of knowledge between different communities, the barriers to share knowledge to people who are not part of the traditional communities were reinforced through the adoption of community protocols.
- 53 Neire, for example, justifies and incentivizes forums of knowledge sharing among communities, such as the fair for sharing creole seeds. She affirmed that “who has knowledge, has power. If the [traditional] communities have knowledge and share that amongst themselves, they are all empowered. Now, if one has knowledge and keeps it for itself...it can exert power over the others”.
- 54 Denis, the caiçara leader I spoke with, highlighted that many traditional communities share similar knowledge, especially when it comes to healing practices (e.g. *benzimento* or *garrafada*). Also, when asking about differences between the knowledge of different quilombolas communities in Vale, I often received the same answer: although there are some specificities from one quilombo to the other, their knowledge is mainly shared. Furthermore, during my time in the field I witnessed several examples of people from

different communities sharing, for example, knowledge about the use of medicinal plants, among other things. Knowledge around techniques for political organization is also constantly being produced and shared, through political forums such as the CONAQ state meeting or the Traditional Communities Forum.

- 55 On the other hand, special protection measures are being taken since the cases reported in the previous section occurred. These episodes have caused a shift in the way knowledge sharing with people outside the community is seen. A good example of this is seen in the rules community tourist guides have developed in Ivaporunduva. In an informal conversation, Ulisses explained that community guides are only allowed to tell tourists about traditionally used plants about which information is already in the public domain.
- 56 Another common practice is that people deny that they have a specific knowledge if someone from outside the community asks them about it. In an informal conversation, Neire's mother told me she had no idea about the use of medicinal plants or about other healing techniques (e.g. *benzimento*). However, Neire explained that her mom does hold this knowledge, but only performs it for people of the community. Orlando affirmed they are more open towards other quilombola communities, but not with external people.
- 57 This demonstrates a shift in the boundaries of knowledge sharing. While it became more common and desirable to share knowledge among traditional communities, the members of these communities are more cautious about sharing their knowledge with outsiders.

2. Intellectual property rights and traditional knowledge: proprietary narratives of protection

- 58 Based on fieldwork conducted at IGCs 37 to 39, as well as on interviews, official documents and in the bibliography produced around the forum, this section presents the main parameters that frame the discussion at the IGC, as well as the positions that resulted from the forum.
- 59 For this, I analyzed the discourses of different actors at WIPO during IGCs 37 to 39, as well as interviews with interlocutors. I coded these in the software NVivo and looked at patterns to cluster them in the approaches proposed in the literature review. Furthermore, I also coded elements that were recurrent, and I deemed relevant for understanding through which parameters the discussion is undertaken in WIPO.

2.1 Framing traditional knowledge protection through intellectual property parameters

- 60 In this section, I will demonstrate how a rationale normally used in the international intellectual property law regime is used at the IGC and transposed to the understanding of the issues of traditional knowledge. During our conversation, the delegate from a developing country affirmed that one of the hardest issues of this forum is “how to apply an economic-commercial logic to something that is often not economic-commercial”.²⁴ These terms do not necessarily reflect how the issue is perceived in Vale do Ribeira.

The meaning of protection in the intellectual property regime

- 61 The intellectual property system gives a very singular meaning to the idea of protection of indigenous knowledge. In WIPO's context, protection refers to "the application of intellectual property law, values and principles to prevent misuse, misappropriation, copying, adaptation or other kind of illicit exploitation" of knowledge (WIPO 2015, 20). In this sense, intellectual property protection of indigenous knowledge entails "recognizing and exercising exclusive rights" over these knowledges, in order to "grant control over their exploitation, particularly commercial exploitation" and to "provide incentives for further creativity" (WIPO 2015, 21).
- 62 The attribution of intellectual property rights over indigenous knowledge refers at the same time to the attribution of exclusive rights to the rights holders, as well as to the possibility of alienation of the objects of protection of these rights. The recognition of these knowledges as one's property has a twofold effect: while it entails the possibility of seeking legal protection through law enforcement, which could lead to the application of sanctions to illicit exploitation of indigenous knowledge, it also opens up the possibility of disposing of such knowledge, of alienating it. Unlike the right to culture or the right to a decent life, property rights are at their basis alienable rights.
- 63 Intellectual property protection also guarantees moral rights protection, equitable compensation and protection against unfair competition (WIPO 2015). Its effects are thus mainly linked to possibilities of commercialization of indigenous knowledge and avoidance of its misuse. They refer to the protection of certain portions of indigenous knowledge systems (e.g. a particular agricultural technique, a song, a pattern, a medicinal use of a specific plant), but not to the protection of the system per se. In other words, the protection provided by the intellectual property regime does not cover the conditions of production and transmission of this knowledge, nor does it protect the people that produce it.
- 64 While offering an option to address illicit uses of indigenous knowledge, they do not offer a response to protecting the conditions of production and transmission of indigenous knowledge systems. As Agrawal argues,
- if indigenous knowledges are disappearing, it is primarily because pressures of modernization and cultural homogenization, under the auspices of the modern nation-state and the international trade system, threaten the lifestyles, practices and cultures of nomadic populations, small agricultural producers, and indigenous peoples (...) the appropriate response from those who are interested in preserving the diversity of different knowledges, might lie in attempting to reorient and reverse state policies to permit members of threatened populations to determine their own futures, and attempt, thus, to facilitate in situ preservation of indigenous knowledge. (1995, 28 and 29)
- 65 Protecting and enforcing indigenous peoples' and local communities' right to decide about their own destinies should, therefore, be at the center of any system that intends to protect indigenous knowledges and cultural expressions.

Mirroring the division between the protection of industrial property and artistic productions

- 66 As mentioned in Chapter III, Section 1.5, one of the main changes that has happened in the two decades of discussion at the IGC is that, for procedural reasons, the forum has

decided to discuss no longer just one document, but three. In this movement, the IGC has divided indigenous knowledges into three separate categories: genetic resources associated to traditional knowledge, traditional cultural expressions and traditional knowledge *tout court*.

- 67 Indigenous representatives have recalled several times in plenary that there is no real distinction between traditional knowledge and traditional cultural expressions. As a Sami Parliamentary Council representative highlighted in IGC 39, “traditional knowledge encompasses knowledge, know-how, innovation, practices. Traditional knowledge also encompasses traditional cultural expressions, such as dances, songs, tales”.
- 68 The IGC Chair has recognized that the distinction between traditional knowledge and traditional cultural expressions is strongly directed towards “making it fit into the IP system”.²⁵ In this sense, the division between traditional knowledge and traditional cultural expressions seems to mirror a central division of the intellectual property system, which differentiates between industrial intellectual property and artistic expressions. As an Aymara representative affirmed in IGC 38, “this thematic distinction responds to the IP system but not to the realities of indigenous peoples”.
- 69 Whereas some member states such as Nigeria²⁶ and South Africa²⁷ also expressed discomfort with the division, other country delegates, in fact, support this distinction. The Italian delegate, reinforcing his support for the EU’s position on the subject, pointed out that “traditional knowledge and traditional cultural expressions are different”.²⁸
- 70 As mentioned in Chapter IV, Section 1.9, the developing country delegate I interviewed for this research understood this division as something that is not easy, but that fits perfectly in the world of intellectual property rights. As he explained with the Coca-Cola example, the world of intellectual property is used to understanding that one single object can carry different categories of intellectual property rights. For him, however, there are very concrete barriers to the advancement of the discussion on TKs and TCEs at the IGC due to the lack of understanding on the meaning of these terms. Regarding traditional knowledge related to genetic resources, however, he believes the existence of well-established national and international regulations (e.g. the Nagoya Protocol) immensely facilitates discussions and that there will soon be room for a Diplomatic Convention on the topic. The interviewed WIPO’s staff member also shares this vision.²⁹
- 71 In this sense, there is a likelihood to advancing to an instrument on genetic resources associated to traditional knowledge sooner than to reaching international legal instruments on intellectual property over traditional knowledge and/or traditional cultural expressions. Indeed, at IGC 40, which took place between June 17 and 21, 2019, a draft text for an international legal instrument was presented by the Chair (WIPO 2019f). The text aims at bridging gaps between different positions and helping the forum to advance on the negotiations, potentially leading to a Diplomatic Conference in the near future.
- 72 The priority given to genetic resources in this instrument seems to have very political motivations, since these are the assets of the highest interest for a relevant number of the stakeholders involved in the forum. Developing countries, who are at the forefront of the process of creation of the IGC, have a demonstrated interest in advancing the

protection of biogenetic resources, because they are the ones that most suffer from biopiracy incursions. Industrialized countries, on the other hand, seem to prefer that the topic remained unregulated.

Balancing conflicting interests

- 73 Balance is a principle that is at the basis of the intellectual property rights regime. The rationale for the existence of a system to protect intellectual property rights is that this system “helps strike a balance between the interests of innovators and the public interest, providing an environment in which creativity and innovation can flourish, for the benefit of all” (WIPO 2019d).
- 74 In other words, the intellectual property system tries to balance competing interests: of intellectual property owners, on the one hand, and of the general population on the other. Since the adoption of WIPO’s Development Agenda in 2007, “balance” has also acquired the meaning of seeking a balance between “public and private interests in a way that promotes development” (Netanel 2009, 19).
- 75 While member states such as Switzerland and other European countries stressed the need for a “well-balanced intellectual property regime” directly in their opening statements,³⁰ reinforcing that principle, the LMCs have preferred to stress that a “balanced intellectual property system *for everyone* emphasis added ” is what should be defended.³¹
- 76 But how does one balance the interest of industry and that of indigenous and local peoples? In other words, how does one balance competing interests and power asymmetries?
- 77 Members of the Indigenous Caucus have often asked these questions at the IGC. In their opening statement for IGC 37, they affirmed that the concept of balance works against their fundamental rights. Pointing to the “vast historical misappropriation” that has occurred, they affirmed that “balance, as expressed, is actually imbalance. It cannot be achieved through inequality. We cannot agree on these instruments until everything is agreed upon”.³²
- 78 In the Indigenous Panel at the IGC 37, the Indigenous Caucus also stressed that “Balance is heavily looking on access, and not on the rights of creators (TK holders). The objective must be mainly to acknowledge and respect the rights of TK and TCE holders. Having this as a starting point does not mean there will be a standard protection for all, but that is where you start.”

2.2 Approaches to intellectual property rights and traditional knowledge at WIPO

- 79 In this second section, I will describe the positions of the different participants of the IGC as they were expressed in plenary as well as in the interviews conducted. Whenever possible, I will draw a parallel with the approaches described in the literature review. Not all the positions present in the IGC sessions are represented in the literature. It is important to keep in mind that this chapter is an exercise of clustering positions that are similar, but not necessarily homogeneous. Delegations hardly ever find agreement

in all points of discussion, but some general connections can be made, and these are the ones highlighted in the sections below.

Elements of a “conflictual approach”: dispossession and inappropriateness of WIPO as a forum for discussion

- 80 The positions clustered in this section present the inconsistencies and challenges of achieving such an agreement on intellectual property rights over indigenous knowledge at WIPO. Furthermore, they put ideas of dispossession and biopiracy at the center of analysis of the issue.
- 81 In the plenary sessions, a conflictual approach is present in the discourse of Tupaj Amaru, a Latin American representative of indigenous peoples who is rather isolated from other stakeholders at the IGC. He was the only stakeholder that used the word “biopiracy” to talk about misappropriation of knowledge at the plenary. This term is constantly avoided by other stakeholders, who prefer terminologies such as “misappropriation” or “inappropriate use”, which are understood to be more diplomatic. For him, “the text depends on some global powers, it is subjective, subject to the interests of states. Traditional knowledge cannot be subject to economic interests of occidental powers”.³³ Tupaj Amaru’s propositions hardly ever receive the support of a member state and therefore do not make their way into WIPO’s documents.
- 82 A somehow similar account to what happens at the IGC has been made by the indigenous representative I interviewed. Although having participated in the IGC sessions for several years (as she puts it: her children, babies when the IGC started, are already grown-ups and the discussions did not reach an agreement), she has not participated in any session since IGC 36. As she explained, this rupture was triggered by the move made by the USA and some of its allied countries to congeal a process that seemed to be finally advancing. For her, eighteen years of negotiations is an absurd amount of time for a treaty negotiation, which can only be justified by “bad faith”. She still believes that fighting for intellectual property rights over indigenous knowledge might be a valid avenue, but she questions the pertinence of carrying out such an endeavor at WIPO.
- 83 WIPO is a forum where there is not only a lack of political will, she argued, but also a lack of understanding of indigenous peoples’ issues and participation. According to her, the level of participation of indigenous peoples at WIPO is significantly lower than that of the negotiations of the CBD. There is not only a difference in the amount of funding to indigenous participation in both fora but also a difference in the access to information. In this sense, the IGC is much more exclusionary, as information about intellectual property is “coded, hard and inaccessible”.³⁴ She argues that it is harder for indigenous peoples to take part in this forum. Another key difference is that, during CBD negotiations, indigenous peoples and local communities had different fora for their participation. This meant a more attentive look to different realities, considering that indigenous peoples and local communities often have different levels of protection in international and national legislation. The forum was also able to have a higher number of participants in its discussions, not least because different groups were not competing for the same funds.³⁵

- 84 For her, *res nullius* is a key concept to understand the conduct of some delegations at WIPO. *Res nullius* is a thing that does not belong to anyone, the thing that does not have an owner. This is a legal concept inherited from colonial times, when it was used to say that indigenous territories were, in fact, unoccupied territories, free of owners. In her words: “they have denied our right to be humans to dispossess us from our territories, to justify the killing of millions. Hundreds of indigenous peoples are disappearing in the Americas”.³⁶ Nowadays a concept analogous to *res nullius* is used in intellectual property law to justify that indigenous peoples do not have the right to property ownership over their knowledges, the concept of the public domain. She argues that through the affirmation that the knowledge of indigenous peoples is in the public domain and therefore cannot be subject to intellectual property protection, indigenous peoples are being dispossessed of their knowledges. For her, if the objective of intellectual property law is to protect those that create, then there is no reason for it not to protect indigenous peoples. This protection, she argues, should not pass by the national state: “our State has carried out genocidal attacks, why would we let them administer our rights?”
- 85 The discourse around the treatment of indigenous knowledges as *res nullius* was also evoked during the interview with the NGO representative and by a Sami leader during the Indigenous Panel of IGC 37. For him, in the same way, the theory about *res nullius* has been revoked on the basis that it is inherently discriminatory and goes against the right to equality, the idea of the public domain over indigenous knowledge should also be revoked.
- 86 By placing the experiences of dispossession at the center of their analysis, the positions not only are aligned with a relational view of indigeneity (Hodgson 2011) but also see global processes of biopiracy as new moments of accumulation by dispossession (Boyle 2002; Harvey 2004; Kloppenburg 2010; Peschard 2009; Shiva 1997, 2007; West 2016). Just like what happened to indigenous land, which was expropriated, now indigenous peoples are being dispossessed of their knowledges. These claims echo Shiva’s analogy between episodes of biopiracy and the colonial conquest (1997). In this sense, they are aligned with what I have called a conflictual approach.
- 87 These views point to a conflict in discussing the protection of indigenous peoples’ knowledges at WIPO and see biopiracy as a new moment of accumulation by dispossession. However, they do not point to an unsurmountable opposition between intellectual property rights and the protection of indigenous knowledges. What they do is argue that indigenous peoples should also have the means to decide how their knowledges are treated. In this sense, they argue that indigenous knowledges should not be placed in the public domain, but actually that indigenous groups should also have the right to apply for intellectual property “protection” in case they deem it appropriate.

“Convergence approach”: the creation of a *sui generis* regime

- 88 Unlike the conflictual approach, the convergence approach is widely represented in the IGC’s meetings and documents. This approach unites the positions defended by the LMCs, the African Group, GRULAC, the Asian-Pacific Group, as well as a large part of the manifestations presented by the Indigenous Caucus. Norway has also been mentioned as a supporter of the IGC and the creation of a *sui generis* regime (Wendland 2017, 40).

Switzerland, although often voicing support for concerns raised by the EU, has also been mentioned as a country that currently has a more open position regarding the forum.³⁷

- 89 Although all these actors do defend the creation of a *sui generis* regime and want to achieve a binding legal instrument on the issue, their positions are not always convergent. When it comes to the question of who should be the beneficiaries of the new instrument, some member states (e.g. India, Ghana, South Africa and China) argue that nations should also be considered beneficiaries, while the Indigenous Caucus normally takes this proposition with caution. Here it is key to remember that indigenous peoples and local communities often see the international arena as a place to seek protection from the actions of states in their national territory.
- 90 The position of these actors is shared in that they all believe the current intellectual property system does not provide adequate protection for indigenous knowledge and therefore advocate for the creation of a *sui generis* system. They are convinced about the ability of intellectual property rights to protect indigenous knowledges, although arguing that a specific intellectual property regime should be built to achieve this objective. In this sense, these positions mirror the positions clustered in the convergence approach (Abdel-Latif 2017; Amaral and Fierro 2013; Carvalho 2012; Frankel 2017; Oguamanam 2018; Wendland 2017).
- 91 However, member states often advocate that a *sui generis* system should be created in consonance with the existing intellectual property system and should therefore prioritize the use of some of its criteria. Indigenous peoples and local communities, on their side, emphasize the desirability of creating a *sui generis* system in consonance with other international instruments that protect indigenous peoples' rights (e.g. ILO 169 and UNDRIP). Many also return to the idea of protocols, as prerogatives to collectively decide which parts of their knowledge should become publicly available.
- 92 The basis for seeking the creation of this special system is that the current intellectual property system is not able to account for the specificities of indigenous knowledge, and in fact may lead to its exploitation. Those who promote this approach often take into consideration the existence of different ontologies to argue for this system. As the delegate of Nigeria argued:
- For many years IPLC³⁸ communities have been played like football. Once we can act like human beings and recognize generations of injustice. This goes beyond the market economy; this document has its roots on human civilization and how we prioritize one knowledge system over another. We can do without this type of duplicity. We can make progress if we dare to be courageous.³⁹
- 93 These positions also often rely on critics to the insertion of traditional knowledge into the public domain and rely on a discourse that points to "historical dispossession"⁴⁰ and "misappropriation".⁴¹ As a member of the Indigenous Caucus argued, "traditional knowledge is not a part of the intellectual property system, it is about ways of living".⁴² For the Iranian delegate, "just like any other knowledge, (it) should be eligible for protection".⁴³
- 94 As a Sami leader highlighted during the Indigenous Panel at IGC 39 "within the current system of Western law, our traditional knowledge is exploited" but "IP Protection mechanisms have great potential to protect our TK and enable communities to control and benefit from commercial engagement. The Sami and other indigenous peoples should have the right to maintain, control, protect their cultural heritage".

- 95 The groups that take a convergence approach are currently proposing the adoption of a so-called “tiered approach” by this *sui generis* regime. A tiered approach proposes to classify indigenous knowledge according to different levels of protection, considering the level of control, the degree of diffusion and the nature of the knowledge. An indigenous knowledge that is considered sacred by the community, for example, would enjoy the highest level of protection. On the other hand, an indigenous knowledge that is not sacred and is considered widely diffused (already known by several people outside the community), would receive a lower level of protection.
- 96 When looking at the actors that are united by this approach, it is interesting to notice that the majority of the states here represented are a part of the so-called “Global South”, states that are home to a large part of the worlds’ socio-biodiversity. These are also the states that normally derive few profits from the international intellectual property system – except for China, which is currently the main driver of global growth in intellectual property filings (WIPO 2018c).
- 97 It is even odder to see that the advocacy for a *sui generis* intellectual property system for indigenous knowledge unites on the same side indigenous peoples’ representatives and delegates of member states which are not necessarily known as the most friendly territories for indigenous peoples and local communities (the obvious example is Brazil, if we think of our field in Vale do Ribeira, but one could also mention Indonesia as well as some African states that do not recognize having indigenous populations).

“Conventional IP approach”

- 98 A “conventional IP approach” is the terminology suggested by Wendland (2017, 35) to denominate the discourses conveyed at the IGC by member states that are not convinced of the necessity, or desirability, to create a *sui generis* intellectual property regime to deal with the problematic of indigenous knowledge. Along these lines, the EU argued it is essential to have “a deep understanding of how the intellectual property system can or cannot assist on guaranteeing the interests of traditional knowledge and traditional cultural expressions holders”.⁴⁴
- 99 For them, conventional intellectual property law instruments (copyrights, trademarks, patents) could already serve as means of protection of traditional knowledge and the creation of a *sui generis* regime might lead to an overlap of protection.⁴⁵ Therefore, they often insert suggestions of text that reinforce “promoting the use of the existing and applicable intellectual property regimes”⁴⁶ – even if this is already evident, as any new instrument that enters into force in the context of WIPO will not exist in a void.⁴⁷
- 100 The main representatives of the conventional approach are the delegations of the USA, Japan, South Korea, Group B and the EU. In other words, the *non-demandeurs* or the group of industrialized countries, which pioneers the rankings of intellectual property applications (WIPO 2018c). The references to this position in the literature seem to be confined to the realm of the discussions at WIPO. The only references identified are the articles by Wendland (2017), director of the Division of Traditional Knowledge at WIPO, by Keating (2017), one of the USA’s delegates for the IGC, and by Oguamanam (2018), Nigeria’s delegate at the IGC.
- 101 Another marker of the positions defended by these actors is the preference for an instrument that has the characteristic of “soft law”, instead of a binding treaty. Furthermore, they often refuse the use of the term “misappropriation”⁴⁸ and mobilize

concepts such as “legal certainty” to argue that one should be careful about the economic and social impacts of such an instrument.⁴⁹

- 102 Nevertheless, as specified also in the previous approach, these positions are not always the same. In the case of the conventional approach, a key difference is the passionate defense of the public domain by the delegation of the USA, which is normally supported by Japan. Frequently, during the text-based discussions on the objectives of the instrument, the US and the Japanese delegations propose the insertion of expressions such as “recognizing the value of a vibrant public domain”,⁵⁰ “to enhance and protect the public domain” or “to protect and preserve the public domain”.⁵¹
- 103 These positions are very interesting, as these countries have “worked tirelessly over the decades to ratchet up intellectual property protection at the expense of the public domain” and now when it comes to the discussion on intellectual property over indigenous knowledge, “have re-constituted themselves into champions of the public domain” (Oguamanam 2018, 13).
- 104 The adoption of such positions seems to become clearer in light of the conflicts around *açaí*, a berry from an Amazonian tree which had been patented by Japan as the property of the company Eyela KK Corporation (Agência Estado 2007) or the US patenting of another Amazonian plant, the “ayahuasca” vine (CIEL 2019). Another position that is interesting to notice, in this sense, is Japan’s open opposition to the consideration of States as beneficiaries of this instrument.⁵²

3. Discussion

- 105 In this chapter, we have looked at the construction of narratives of protection of traditional knowledge at WIPO and Vale do Ribeira. Through the analysis of four cases in Vale do Ribeira, it became clear that the development of the idea of protection of their traditional knowledge had not always existed in the region. Just like the concept of indigeneity, understood through a relational lens, the idea of the need to protect quilombolas’ and caiçaras’ body of knowledges is relational and emerges in a context of dispossession. Narratives of protection of quilombola and caiçara knowledge appear among Vale do Ribeira communities as a response to episodes of biopiracy and misappropriation in the region.
- 106 Having a strong articulation around identity markers and considering their knowledge as collective, quilombola and caiçara communities see the decision of how to employ this protection as a collective decision. The forms of protection of indigenous knowledge are thus decided in assemblies, through collective discussions. These conversations benefit from inputs from community leaders that have participated in national and international political fora. Some relevant examples are the cases of Denis, a caiçara who was part of the National Council for Traditional Peoples and Communities, and of Ulisses, a quilombola from Ivaporunduva who participated in the negotiations for the CBD.
- 107 Gathering together the experience of national and international discussions they participated in, as well as exchanges with other indigenous and traditional communities, both have understood that their community’s knowledge is deemed valuable by external actors. Thus, they realized it was important to explore ways to regulate access to this knowledge.

- 108 Considering these points, the importance of participation of indigenous peoples and local communities in political fora cannot only be measured by the influence they effectively have had on the outcomes of the negotiations. The broader effects of articulation (Li 2000; Hall 1996) should also be considered: organized around an identity marker, quilombolas and caiçaras have had the chance to participate in certain discussion fora in which they have accessed information that would otherwise be inaccessible to them.
- 109 After exchanges between traditional communities at Vale, as well as between members of traditional communities and members of indigenous groups from other regions, caiçara and quilombola communities in Vale do Ribeira developed their own community protocols. Protection in this context has a meaning of preservation of their culture and control of access. The communities want to know in advance what the information they provide to researchers will be used for. Traditional knowledge protection, in this context, acquires a certain political meaning, regulated in a communal response.
- 110 These processes changed boundaries between communities and outsiders. On the one hand, the political alliances among quilombolas and also between quilombolas, caiçaras and other traditional communities, are strengthened. On the other hand, quilombolas and caiçaras are much more careful when exchanging information with outsiders (e.g. applying protocols for researchers and not mentioning the name or use of certain plants for tourists).
- 111 In opposition to the political response to indigenous knowledge protection given by traditional communities at Vale do Ribeira, protection at WIPO is framed in terms of intellectual property rights. In this context, protection means at the same time, the possibility of seeking legal protection through law enforcement and the possibility to alienate the object of protection. In other words, intellectual property while offering a type of protection for a body of knowledge, also lays out the conditions for its commodification (Boyle 2002; Harvey 2004).
- 112 In this context, protection is analyzed at WIPO through some already existing parameters of the intellectual property system. Along these lines, it is stressed that this protection should be balanced with industrial interests and mirror the division between the protection of industrial property and artistic production.
- 113 By further entering the substantial discussion, it was possible to see that some indigenous representatives argued in line with some elements of the conflictual approach (Boyle 2002; Harvey 2004; Kloppenburg 2010; Peschard 2009; Shiva 1997, 2007; West 2016). Although these have given a central position to experiences of dispossession, they do not argue for the impossibility of protection of indigenous knowledge through intellectual property rights.
- 114 On the complete opposite side of this approach is the conventional IP approach. Although it aggregates the position of several actors in the forum, it is not widely represented in the literature on the subject. As already mentioned, this position is only evoked in the literature specialized on the IGC (Oguamanam 2018; Wendland 2017). To my knowledge, the only theoretical defense of this point is made by one of the US delegates, Keating (2017).
- 115 In the cadre of the conventional IP approach, what especially catches one's attention is the fierce defense of the public domain by the US and Japan delegates. A positioning

that would seem impossible in other fora gains momentum during discussions inside the IGC. This unusual positioning points to an unequal and awkward quality of the IGC, a forum that is only possible through the connection of two subjects that at first sight may seem unrelated: indigenous peoples' rights and intellectual property rights.

- 116 The most interesting point in the analysis of the positions at WIPO is, however, the union of Indigenous Caucus and developing countries' advocates in the construction of a convergence approach (Abdel-Latif 2017; Amaral and Fierro 2013; Carvalho 2012; Frankel 2017; Oguamanam 2018; Wendland 2017). The elements for this conclusion were already inserted in the past two chapters: (i) developing countries articulate, in the sense of enunciating (Hall 1996; Li 2000), the concept of indigenous knowledge to institute a specific forum inside WIPO to discuss access to biogenetic resources; (ii) some of the characteristics for the definition of traditional knowledge are advocated for by both indigenous and developing countries' representatives.
- 117 But it is in the defense of changes to the international intellectual property regime that we find the peak of convergence of these two actors' positions. At WIPO, both are strong defenders of a *sui generis* intellectual property rights regime. Their positions converge in their understanding that intellectual property rights may offer protection to indigenous knowledges.
- 118 The articulation of the concept of indigenous knowledges is key for the institution of the IGC. Indigenous knowledge, as we have argued, is an idea derived from the concept of indigeneity. Indigeneity is a concept against which many states have fought, as is the case for some African countries that do not recognize the existence of indigenous peoples in their territories (Hodgson 2011). However, in this forum, developing states, including the African group, articulate the concept of indigenous knowledge to justify the creation of a specific intellectual property regime, destined to its protection.
- 119 In this sense, only the articulation of a concept that recognizes the specificities of some experiences and local realities allows for this discourse at the global level. Aiming to address issues of biopiracy at the international level, developing countries articulate the concept of indigeneity to justify a special regime of protection to indigenous knowledges that, consequently, is also a regime to protect resources present in their national territory from foreign exploitation.
- 120 In this sense, the recognition of local realities influenced the types of discourses that are possible at the global level. But what is interesting is that the articulation of this discourse is not only done by indigenous peoples. It is being pursued exactly by a part of those from whom indigenous peoples sought remedy in the international arena (Bellier 2013; Hodgson 2011).
- 121 The idea of friction (Tsing 2011) gives us the tool to understand this awkward alliance between indigenous peoples and national states. The articulation of the concept of indigenous knowledge by developing countries in the international arena allows for an encounter that is contingent, unequal and unstable: that of converging positions between groups that, outside the international arena and, more specifically, of the walls of WIPO, have opposing interests. This encounter is only possible inside WIPO, where indigenous peoples and developing countries ally to oppose the interests of industrialized countries.
- 122 It is in this context of pronounced friction, that indigenous peoples and developing countries become advocates for the protection of indigenous knowledge through the

intellectual property regime. Through friction (Tsing 2011), a forum that concerns indigenous peoples' rights is created inside WIPO, an organization that has close ties to industrial interests. And it is through the articulation of indigeneity and of the singularity of indigenous knowledge that indigenous peoples get a seat at the forum – although, and this cannot be stressed enough, still being deprived of the right to vote on themes related to their futures.

- 123 Tsing, nevertheless, reminds us that while frictions makes certain movements possible, it also acts as a “structure of confinement” (Tsing 2011, 6). While it is impossible to know for sure the outcomes of a text that is still under negotiation, this metaphor alerts us to the central role played by the conditions through which these instruments come to life.

NOTES DE BAS DE PAGE

1. During interview.
2. Natura & Co. regroups Natura, Aesop and The Body Shop companies (Natura 2019).
3. Prof Livio during interview.
4. As described in the study “Ethnobotany studies of plants for medicinal and cosmetic use by traditional communities of Iporanga, in the Basin of the Iguape River/São Paulo”, written by Prof. Livio and his team in the context of the Natura project.
5. To do this, the communities would have to already have a legal entity constituted. This was the case for some of the communities, which were already organized in an association of neighbors, but not for all of them.
6. Orlando, during interview.
7. Orlando, during interview.
8. Prof. Livio read this process as a moment in which the communities felt they needed to get “the approval of the Catholic Church”.
9. Orlando during interview.
10. Orlando during interview.
11. One from a meeting on March 06, 2004, made between the quilombola communities themselves and two from the meeting that took place on November 26, 2004. This last one happened in Dr. Michelle’s office in São Paulo; among the participants were quilombola communities’ juridical assistance as well as Natura and Unesp representatives.
12. I had access to three contract drafts, which were used for a more concrete discussion of the terms of an eventual contract between Natura and the quilombola communities.
13. Orlando during interview.
14. Prof. Livio, through interview.
15. Dr. Michelle, during interview.
16. Orlando, during interview.
17. Denis during interview.
18. Fernanda during interview.
19. Denis during interview.
20. Denis during interview.
21. Ulisses, during interview.

22. Ulisses, during interview.
23. Fernanda, during interview.
24. Delegate of a developing country, during interview.
25. Plenary session, IGC 37.
26. During an IGC 37 plenary session, the Nigerian delegate affirmed: “We got ourselves into this problem (dividing TK and TCE), they cannot be divided.”
27. During an IGC 37 plenary session, the South African delegate highlighted that “Already dividing between TK and TCE is a serious violation. Now dividing into secret and commercial, this is a demonstration of failure to understand what our colleague from Nigeria submitted”.
28. Plenary, IGC 37.
29. WIPO staff member, during interview.
30. Plenary sessions IGC 37.
31. Plenary sessions IGC 37.
32. Plenary session IGC 37.
33. Plenary session IGC 37.
34. Indigenous representative during interview.
35. Indigenous representative during interview.
36. Indigenous representative during interview.
37. Interview with WIPO staff member.
38. Indigenous peoples and local communities.
39. Plenary session IGC 37.
40. Indigenous Caucus’ opening statement at IGC 38.
41. African Group’s opening statement at IGC 39.
42. Plenary IGC 37.
43. Plenary IGC 39.
44. Opening statements for IGC 38 and 39.
45. Italian delegate in Rev 1 IGC 39.
46. This proposition was supported in plenary at IGC 39 by the delegates of the USA, EU, Australia, Group B and Switzerland.
47. Bolivian delegate, plenary IGC 39.
48. Swiss and EU delegations, plenary IGC 37.
49. CEBS in plenary at IGCs 37 and 38, USA delegation in IGC 39.
50. Japanese delegate, plenary IGC 37 and IGC 39.
51. USA delegate, plenary IGC 37.
52. Plenary, IGC 37.

Conclusion

- 1 In the introduction to this work, I have proposed to take a step back from calling what we are analyzing a *right* to protection of intellectual property over indigenous knowledge. Moving away from a rights discourse, I have aimed at putting in the center of the analysis the political issues at play when we discuss the creation of two legal categories that concern indigenous and local peoples: one for indigenous knowledge and one for the protection of indigenous knowledge.
- 2 Using the approach of an ethnography of global connection, I have looked at how narratives around the meaning of these two concepts are built in the local and in the international arenas. Vale do Ribeira and WIPO are connected by the same discussion which, however, has different outcomes. Many connections and disconnections can be traced between these two spheres.
- 3 The IGC, on the other hand, is created through an unexpected use of the concept of indigenous knowledge, articulated by developing countries for the creation of a forum in which it is possible to discuss biopiracy. The creation of this forum is linked to the aim of these countries to fight dispossession of biogenetic resources in their territories through the grant of patent rights to companies from industrialized countries.
- 4 This articulation is only possible through previous recognition of a body of rights for indigenous peoples in the international arena. Such recognition is the result of the articulation of indigenous peoples and local communities from around the world in an international indigenous movement. This movement is created through the articulation of the concept of indigeneity by peoples around the world, which although coming from very different realities, recognize the similarities of their experiences of dispossession and discrimination, as well as of resilience. Thus, they recognize their similarities through an identity marker, enunciate the concept of indigeneity and articulate political alliances around it.
- 5 This narrative at the global level is only possible through the recognition of the specificities of local realities, through the articulations of concepts of indigeneity and indigenous knowledge. In this sense, local processes are creating new narratives at the international level.
- 6 As the IGC is created, indigenous peoples have the possibility to enter the discussion in an international organization that has strong ties to commercial and economic

interests. This characteristic is not left behind when WIPO starts to discuss indigenous peoples' rights. In fact, it has a strong influence in the framing of the discussion, producing a very specific narrative of protection of indigenous knowledge: a protection that passes through the attribution of exclusive rights and the creation of the conditions of alienation of its objects of protection. In other words, the creation of intellectual property rights over indigenous knowledge does not only open the possibility for indigenous peoples to seek protection through law enforcement, but it also paves the way to the commodification of traditional knowledge (Boyle 2002; Harvey 2004).

- 7 The participation of indigenous peoples and local communities' representatives in this forum is relevant as it inserts in the discussion around the meaning of indigenous knowledge more elements that are closer to indigenous peoples' experiences, echoing many characteristics that were evoked at Vale do Ribeira.
- 8 Comparing discussions at Vale do Ribeira and WIPO, it is clear that not only one narrative around the protection of traditional knowledge is possible. The creation of these narratives is deeply linked to the contexts in which they appear. In Vale, the idea of protecting traditional knowledge, just like the impulse to organize politically around identity markers, emerges as a response to episodes of dispossession. In this context, decisions around traditional knowledge are taken collectively, as traditional knowledge is considered as traditional communities' collective production.
- 9 The idea of protection that is built in Vale is thus deeply rooted in collective deliberation and is informed by the experiences of other traditional communities with whom they articulate politically due to their organization as indigenous or traditional communities. The response that comes out of this context is not of protection through intellectual property rights, but of collective decision about knowledge sharing through community protocols.
- 10 The narrative of protection of traditional knowledge through intellectual property rights is thus only one possible narrative out of many. The case of Vale do Ribeira communities demonstrates that other narratives of protections, rooted in collective processes, are also possible.
- 11 By considering the context in which the discussion around intellectual property rights over indigenous knowledges is constructed, and by putting it in perspective as *one* narrative of protection, we can see that this is not a story of expanding universal rights (Tsing 2011). The narrative of protection of indigenous knowledge through intellectual property, in the context of WIPO, is, in fact, a very specific one as it relies on unstable and unequal alliances between indigenous peoples' representatives and delegates from national states.
- 12 It is a narrative that emerges through friction. As such, although enabling for some movement, it also limits the road along which the narrative can move. Making an analogy with Tsing's claim around the expansion of universal rights, we can say that the revindication of intellectual property rights over indigenous knowledges may also have a two-fold outcome: "it extends the reach of the forms of power they protest, even as it gives voice to their anger and hope" (Tsing 2011, 9).
- 13 Although we cannot be sure about the outcomes of the creation of a category of intellectual property rights over indigenous knowledges, the possibilities and

limitations unleashed by this category can be better understood if we consider the encounters and alliances that paved the way for its creation.

Bibliography

- Abdel-Latif, Ahmed. 2017. "Revisiting the Creation of the IGC: The Limits of Constructive Ambiguity?" In *Protecting Traditional Knowledge: The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, 10–30, <https://doi.org/10.4324/9781315666358-2>
- Adams, Cristina. 2000. "As Populações Caiçaras e o Mito Do Bom Selvagem: A Necessidade de Uma Nova Abordagem Interdisciplinar." *Revista de Antropologia*, São Paulo, USP 43 (1): 145–82.
- Adams, Cristina. 2002. "Identidade Caiçara: Exclusão Histórica e Sócio-Ambiental." In *Atualidades Em Etnobiologia e Etnoecologia. Palestras Convidadas Do IV Simpósio Brasileiro de Etnobiologia e Etnoecologia.*, edited by Ulysses P. de Albuquerque. Recife: Sociedade Brasileira de Etnobiologia e Etnoecologia.
- Agência Estado. 2007. "Brasil Recupera Registro Da Marca 'Açaí,'" February 21, 2007. http://g1.globo.com/Noticias/Economia_Negocios/0,,AA1464046-9356,00-BRASIL+RECUPERA+REGISTRO+DA+MARCA+ACAI.html.
- Agrawal, Arun. 1995. "Dismantling the Divide Between Indigenous and Scientific Knowledge." *Development and Change* 26 (3): 413–39. <https://doi.org/10.1111/j.1467-7660.1995.tb00560.x>
- Almeida, Alfredo Wagner Berno de. 1989. "Terras de Preto, Terras de Santo, Terras de Índio - Uso Comum e Conflito." *Cadernos Do Naea*, no. 10: 163–96.
- Almeida, Alfredo Wagner Berno de. 2002. "Os quilombos e as novas etnias." In *Quilombos: identidade étnica e territorialidade*, edited by Eliane Cantarino O'Dwyer, 43–82. Rio de Janeiro: Editora FGV.
- Almeida, Alfredo Wagner Berno de. 2004. "Terras tradicionalmente ocupadas: processos de territorialização e movimentos sociais." *Revista Brasileira de Estudos Urbanos e Regionais* 6 (1): 9. <https://doi.org/10.22296/2317-1529.2004v6n1p9>
- Amaral, Luciene F. Gaspar, and Iolanda M. Fierro. 2013. "Profile of Medicinal Plants Utilization through Patent Documents: The Andiroba Example." *Revista Brasileira de Farmacognosia* 23 (4): 716–22. <https://doi.org/10.1590/S0102-695X2013005000046>
- Arruti, José Maurício. 2008. "Quilombos." In *Raça: Perspectivas Antropológicas*, edited by Osmundo Pinho, 1–33. Campinas: ABA / Editora UNICAMP / EDUFBA.

- Associações Quilombolas do Vale do Ribeira e Instituto Socioambiental. 2018. *#TáNaHoraDaRoça Para Os Quilombolas Do Vale Do Ribeira*. <https://www.youtube.com/watch?v=HsyaK7Iugmo>.
- Bayart, Jean-François. 1996. *L'illusion identitaire*. L'espace du politique. Paris: Fayard. <http://data.rero.ch/01-2286804/html>.
- Bellier, Irène. 2013. "We Indigenous Peoples ...": Global Activism and the Emergence of a New Collective Subject at the United Nations." In *The Gloss of Harmony: The Politics of Policy-Making in Multilateral Organisations*, edited by Birgit Müller, 177–201. London: Pluto Press. <https://www.jstor.org/stable/j.ctt183p5j6>.
- Bendix, Regina. 2013. "The Power of Perseverance: Exploring Negotiation Dynamics at the World Intellectual Property Organization." In , edited by Birgit Müller, 23. London: Pluto Press.
- Bendix, Regina. 2018. *Culture and Value: Tourism, Heritage and Property*. Bloomington: Indiana University Press.
- Berlanga, Maria Sueli. 2017. "Conflitos Nos Quilombos – Vale Do Ribeira/SP." In *Lutas Sociais No Campo. São Paulo 2014-2015.*, 39–52. IFHC/Unicamp.
- Boyle, James. 2002. "Fencing off Ideas: Enclosure & the Disappearance of the Public Domain." *Daedalus* 131 (2): 13.
- Brazil. 2007. "Decreto Nº 6040. Política Nacional de Desenvolvimento Sustentável Dos Povos e Comunidades Tradicionais." http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6040.htm.
- Brazil. 2016. "Decreto Nº 8750. Institui o Conselho Nacional Dos Povos e Comunidades Tradicionais." http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2016/Decreto/D8750.htm.
- Bresciani, Eduardo. 2018. "Bolsonaro defende que áreas quilombolas possam ser vendidas." *O Globo*, July 6, 2018. <https://oglobo.globo.com/brasil/bolsonaro-defende-que-areas-quilombolas-possam-ser-vendidas-22859321>.
- Carvalho, Nuno Pires de. 2005. "From the Shaman's Hut to the Patent Office: In Search of a TRIPS-Consistent Requirement to Disclose the Origin of Genetic Resources and Prior Informed Consent" 17 (January): 77.
- Carvalho, Nuno Pires de. 2012. "From the Shaman's Hut to the Patent Office: A Road Under Construction." *Biodiversity and the Law*. May 4, 2012. <https://doi.org/10.4324/9781849770576-28>
- Carvalho, Nuno Pires de. 2017. *Sisyphus Redivivus? The Work of WIPO on Genetic Resources and Traditional Knowledge*. Routledge Handbooks Online. <https://doi.org/10.4324/9781315530857-22>
- Chang, Ha-Joon. 2007. *Bad Samaritans: Rich Nations, Poor Policies, and the Threat to the Developing World*. London: Random House Business Books. http://data.rero.ch/01-R004677402/html?view=GE_V1.
- CIEL. 2019. "Protecting Traditional Knowledge: Ayahuasca Patent Dispute." *Center for International Environmental Law* (blog). 2019. <https://www.ciel.org/project-update/protecting-traditional-knowledge-ayahuasca/>.
- Comaroff, Jean, and John L Comaroff. 2009. *Ethnicity, Inc*. Chicago Studies in Practices of Meaning. Chicago: The University of Chicago Press. http://data.rero.ch/01-R005186370/html?view=GE_V1.

- Coombe, Rosemary. 2017. "Frontiers of Cultural Property in the Global South." In *The Routledge Companion to Cultural Property*, edited by Jane Anderson and Haidy Geismar, 373–400. New York: Routledge.
- Cunha, Manuela Carneiro da. 2009. *Cultura com aspas : e outros ensaios*. São Paulo: Cosac Naify. <https://trove.nla.gov.au/version/49983785>.
- Cunha, Pedro. 2009. "Jureia ganha plano de manejo | Unidades de Conservação no Brasil." *A Tribuna, Cidades*, March 22, 2009.
- Diegues, Antonio Carlos Sant'Ana. 2008. *O Mito Moderno Da Natureza Intocada*. 6th ed. São Paulo: Nupaub-USP/CEC.
- Douzinas, Costas. 2008. *The End of Human Rights : Critical Legal Thought at the Turn of the Century*. Repr.. Oxford ; Portland, Or.: Hart Pub. http://data.rero.ch/01-R005118940/html?view=GE_V1.
- Dove, Michael R. 2000. "The Life-Cycle of Indigenous Knowledge and the Case of Natural Rubber Production." In *Indigenous Environmental Knowledge and Its Transformations: Critical Anthropological Perspectives*, 213–51. Amsterdam: Harwood Academic Publishers.
- Drahos, Peter, and John Braithwaite. 2002. *Information Feudalism: Who Owns the Knowledge Economy?* London: Earthscan Publications Ltd. https://explore.rero.ch/en_US/ge/result/L/VLRMU19SRVJPJAwNDAzOTE0Mg==.
- Educativa, Rádio e TV. 2014. "Fandango Caiçara é reconhecido como Patrimônio Cultural Brasileiro." *Paraná Educativa - Rádio e Televisão Educativa do Paraná*. <http://www.paranaeducativa.pr.gov.br/modules/video/videosProgramas.php?video=11950>.
- Emerson, Robert M. 2011. *Writing Ethnographic Fieldnotes*. 2nd ed.. Chicago Guides to Writing, Editing, and Publishing. Chicago: The University of Chicago Press. http://data.rero.ch/01-R006077244/html?view=GE_V1.
- Fals-Borda, Orlando. 1987. "The Application of Participatory Action-Research in Latin America." *International Sociology* 2 (4): 329–47.
- Ferreira, Lúcia da Costa. 2004. "Dimensões humanas da biodiversidade: mudanças sociais e conflitos em torno de áreas protegidas no Vale do Ribeira, SP, Brasil." *Ambiente & Sociedade* 7 (1): 47–66. <https://doi.org/10.1590/S1414-753X2004000100004>
- Finger, Michael J, and Philip Schuler, eds. 2004. *Poor People's Knowledge : Promoting Intellectual Property in Developing Countries*. Trade and Development Series. Washington, DC etc.: The World Bank [etc.]. <http://data.rero.ch/01-R003758594/html>.
- Foucault, Michel. 1982. "The Subject and Power." *Critical Inquiry* 8 (4): 777–95.
- Frankel, Susy. 2017. "The Challenge of Cross-Border Protection of Traditional Knowledge." In *Protecting Traditional Knowledge : The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, 325–31. London ; New York: Routledge Research in International Environmental Law.
- Freire, Paulo. 2017. *Pedagogy of the Oppressed*. London: Penguin Books. <http://data.rero.ch/01-R008705076/html>.
- Giordani, Rubia Carla Formighieri, Daniela Ferron Carneiro, Maisa Santos, and Alessandro Donasolo. 2015. "Modelos alimentares e arranjos produtivos no Vale do Ribeira Paranaense: um estudo sobre os princípios da soberania alimentar." *Revista Internacional Interdisciplinar INTERthesis* 12 (2): 156–79. <https://doi.org/10.5007/1807-1384.2015v12n2p156>

- Groth, Stefan. 2012. *Negotiating Tradition - The Pragmatics of International Deliberations on Cultural Property*. Universitätsverlag Göttingen.
- Hall, Stuart. 1996. "On Postmodernism and Articulation: An Interview with Stuart Hall." In *Stuart Hall: Critical Dialogues in Cultural Studies*, edited by Lawrence Grossberg, 131–50. London: Routledge.
- Hansen, Terri. 2018. "Breaking a Sacred Trust: On the Exploitation of Traditional Native Knowledge." *Pacific Standard*. September 20, 2018. <https://psmag.com/social-justice/breaking-a-sacred-trust>.
- Hartman, Shelby. 2017. "The First Scientific Studies of Ayahuasca's Health Effects Are Now Underway — Quartz." April 20, 2017. <https://qz.com/963683/the-ayahuasca-ceremony-is-going-under-the-scientific-method-microscope/>.
- Harvey, David. 2004. "The 'New Imperialism': Accumulation by Dispossession." *Actuel Marx* No 35 (1): 71–90.
- Hayden, Cori. 2003. "From Market to Market: Bioprospecting's Idioms of Inclusion." *American Ethnologist: The Journal of the American Ethnological Society*, 359–71.
- Hodgson, Dorothy L. 2011. *Being Maasai, Becoming Indigenous: Postcolonial Politics in a Neoliberal World*. Bloomington: Indiana University Press. <http://data.rero.ch/01-R007545803/html>.
- Huberman, Alan Michael, and Matthew Miles. 1994. *Qualitative Data Analysis: An Expanded Sourcebook*. 2nd ed. Thousand Oaks; London etc.: Sage Publ. http://data.rero.ch/01-1839911/html?view=GE_V1.
- Ido, Vitor Henrique Pinto. 2017. "Conhecimentos Tradicionais na Economia Global." Master thesis, São Paulo: Universidade de São Paulo.
- ILO. 1989. "Convention C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)." https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169.
- IPHAN. 2018. "Notícia: Sistema Agrícola Tradicional Do Vale Do Ribeira Agora é Patrimônio Cultural Do Brasil - IPHAN - Instituto Do Patrimônio Histórico e Artístico Nacional." September 20, 2018. <http://portal.iphan.gov.br/noticias/detalhes/4838/sistema-agricola-tradicional-do-vale-do-ribeira-agora-e-patrimonio-cultural-do-brasil>.
- ISA. 2016. *Sistema Agrícola Quilombola*. <https://www.youtube.com/watch?v=0B0ydEqJ8E>.
- ISA. 2018. "Quilombos do Vale do Ribeira (SP) festejam, dias 17 e 18 de agosto, sua 11ª Feira de Sementes." ISA - Instituto Socioambiental. 2018. <https://www.socioambiental.org/pt-br/blog/blog-do-vale-do-ribeira/quilombos-do-vale-do-ribeira-sp-festejam-dias-17-e-18-de-agosto-sua-11a-feira-de-sementes>.
- Jooste, Cobus. 2013. "'Awakening The Lion' – Portraying The Tip Of The Iceberg | CIP - The Anton Mostert Chair of Intellectual Property." February 1, 2013. <http://blogs.sun.ac.za/iplaw/2013/02/01/awakening-the-lion-portraying-the-tip-of-the-iceberg/>.
- Jorge, Amanda Lacerda. 2015. "O movimento social quilombola: considerações sobre sua origem e trajetória." *Vértices* 17 (3): 139–51. <https://doi.org/10.19180/1809-2667.v17n315-08>
- Jorge, Amanda Lacerda, and André Brandão. 2012. "Comunidades Quilombolas, Reconhecimento e Proteção Social." *Vértices* 14 (Especial 1): 83–101.

- Keating, Dominic. 2017. "The WIPO IGC: A U.S. Perspective." In *Protecting Traditional Knowledge: The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, 265–76.
- Kloppenburger, Jack. 2010. "Impeding Dispossession, Enabling Repossession: Biological Open Source and the Recovery of Seed Sovereignty." *Journal of Agrarian Change* 10 (3): 367–88. <https://doi.org/10.1111/j.1471-0366.2010.00275.x>
- Kuper, Adam. 2003. "The Return of the Native." *Current Anthropology* 44 (3): 15.
- Lankau, Matthias, Kilian Bizer, and Zulia Gubaydullina. 2010. "Die Verborgene Effektivität Minimaler Resultate in Internationalen Verhandlungen: Der Fall Der WIPO." In *Die Konstituierung von Cultural Property: Forschungsperspektiven*, 197–220. Universitätsverlag Göttingen. <https://books.openedition.org/gup/514?lang=de>.
- Lewis, Jerome, and Justin Kenrick. 2004. "Indigenous Peoples' Rights and the Politics of the Term 'Indigenous.'" *Anthropology Today*, 4–9.
- Li, Tania Murray. 1996. "Images of Community: Discourse and Strategy in Property Relations." *Development and Change* 27 (3): 501–27. <https://doi.org/10.1111/j.1467-7660.1996.tb00601.x>
- Li, Tania Murray. 2000. "Articulating Indigenous Identity in Indonesia: Resource Politics and the Tribal Slot." *Comp. Stud. Soc. Hist.*, 149–79. <https://doi.org/10.1017/S0010417500002632>
- Li, Tania Murray. 2001. "Boundary Work: Community, Market and State Reconsidered." In *Communities and the Environment. Ethnicity, Gender, and the State in Community-Based Conservation*, 157–79. New Brunswick, New Jersey and London: Rutgers University Press.
- Li, Tania Murray. 2014. "À l'abri Du Marché. Capitalisme, Petits Producteurs et Solution Communautaire." In *Au Delà de l'accaparement. Ruptures et Continuités Dans l'accès Aux Ressources Naturelles.*, 197–216. Bruxelles: P.I.E. Peter Lang.
- Like-Minded Megadiverse Countries. 2002. "Cancun Declaration of Like-Minded Megadiverse Countries." https://www.environment.gov.za/sites/default/files/docs/cancun_lmhc_declaration1.pdf.
- Like-Minded Megadiverse Countries. 2010. "Statement by H.E. Ms. Izabella Teixeira, Minister of the Environment of Brazil, on Behalf of the Group of Like-Minded Countries at the Panel Discussion 'The Way Forward in Achieving the Three Objectives of the CBD, and the Internationally Agreed Biodiversity Goals and Targets.'" https://www.cbd.int/doc/strategic-plan/unga-hlm/statements/Megadiverse_Countries.pdf.
- Marcus, George E. 1995. "Ethnography in/of the World System: The Emergence of Multi-Sited Ethnography." *Annual Review of Anthropology*, 95–117.
- Marx, Karl. 2004. *Capital: A Critique of Political Economy*. Translated by Ben Fowkes. Vol. I. London: Penguin Classics.
- Merry, Sally Engle. 1991. "Law and Colonialism." Edited by Martin Chanock, Sally Falk Moore, Joan Vincent, Peter James Nelligan, Robert J. Gordon, Mervyn J. Meggitt, Yash Ghai, et al. *Law & Society Review* 25 (4): 889–922. <https://doi.org/10.2307/3053874>
- Mitchell, Timothy. 2002. *Rule of Experts: Egypt, Techno-Politics, Modernity*. Berkeley etc.: University of California Press. http://data.rero.ch/01-R004039930/html?view=GE_V1.
- Miyata, Hideko. 2013. "A Sustentabilidade Socioambiental e Os Sistemas Produtivos Emergentes Na Amazônia: O Caso Das Comunidades Parceiras Da Natura." *ENANPEGE*, 1–12.

- Movimiento Regional por la Tierra. 2017. "Quilombo de Ivaporunduva: Protagonismo Na Luta Por Reconhecimento. Estudo de Caso." <https://porlatierra.org/casos/69/naturaleza>.
- Nadasdy, Paul. 1999. "The Politics of Tek: Power and the 'Integration' of Knowledge." *Arctic Anthropology* 36 (1/2): 1–18.
- Natura Brasil. 2019. "Ekos Cosmetics. With Ingredients from the Brazilian Biodiversity." June 6, 2019. <https://www.naturabrasil.fr/en-us/about-us/our-lines/ekos>.
- Netanel, Neil Weinstock. 2009. "The WIPO Development Agenda and Its Development Policy Context." In *The Development Agenda. Global Intellectual Property and Developing Countries*, 1–29. Oxford: Oxford University Press.
- Observatório dos Conflitos Rurais em São Paulo, Direção Estadual de São Paulo do Movimento dos Trabalhadores Rurais Sem Terra, Maria Sueli Berlanga, Gabriel da Silva Teixeira, Lilian da Rosa, Adriana de Souza Lima, Dauro Marcos do Prado, Patricia Regina Vannetti Veiga, and Vinicius Nonato Campos de Souza. 2017. *Lutas Sociais No Campo. São Paulo 2014-2015*. Edited by Ellen Gallerani Corrêa, Gabriel da Silva Teixeira, Gabriela Balvedi Pimentel, Giovana Gonçalves Pereira, Haidi Jarschel, Leonardo Ferreira Reis, Lilian da Rosa, et al. Campinas: IFHC/Unicamp.
- Oguamanam, Chidi. 2018. "Wandering Footloose: Traditional Knowledge and the 'Public Domain' Revisited." SSRN Scholarly Paper ID 3155440. Rochester, NY: Social Science Research Network. <https://papers.ssrn.com/abstract=3155440>.
- Oliveira, Federico Menino Bindi de. 2009. "Mobilizando Oportunidades: estado, ação coletiva e o recente movimento social quilombola." Master thesis, São Paulo: Universidade de São Paulo.
- Pelican, Michaela. 2009. "Complexities of Indigeneity and Autochthony: An African Example." *American Ethnologist* 36 (1): 52–65. <https://doi.org/10.1111/j.1548-1425.2008.01109.x>
- Perlman, Marc. 2017. "Traditional Cultural Expressions." In *Protecting Traditional Knowledge: The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, 173–91.
- Peschard, Karine. 2009. "Biological Dispossession: An Ethnography of Resistance to Transgenic Seeds Among Small Farmers in Southern Brazil." Montréal: McGill University. http://digitool.library.mcgill.ca/webclient/StreamGate?folder_id=0&dvs=1558191973246~461.
- Pinedo-Vasquez, Miguel, Susanna Hecht, and Christine Padoch. 2012. "Amazonia." In *Traditional Forest-Related Knowledge. Sustaining Communities, Ecosystems and Biocultural Diversity*, edited by John Parrotta and Ronald L. Trosper. Netherlands: Springer Netherlands.
- Queiroz, Renato da Silva. 2006. *Caipiras negros no Vale do Ribeira. Um estudo de antropologia econômica*. Second. São Paulo: Editora da Universidade de São Paulo.
- Quijano, Aníbal. 2000. "Colonialidad del Poder y Clasificación Social." *Journal of World-Systems Research* 2: 342–86.
- Randeria, Shalini. 2007. "The State of Globalization: Legal Plurality, Overlapping Sovereignties and Ambiguous Alliances between Civil Society and the Cunning State in India." *Theory, Culture & [and] Society: Explorations in Critical Social Science*, 1–33.

Resende, José Venâncio de. 2002. "Implantado Pólo Regional Dos Agronegócios No Vale Do Ribeira." September 10, 2002. <http://www.iea.sp.gov.br/out/TerTexto.php?codTexto=663>.

Robinson, Daniel F. 2017. *Is the Whole Greater than the Sum of Its Parts?* Routledge Handbooks Online. <https://doi.org/10.4324/9781315530857-23>

Rougemont, Laura dos Santos, and Jorge Ramon Montenegro Gómez. 2011. "A USINA HIDRELÉTRICA DE TIJUCO ALTO (VALE DO RIBEIRA) NO CONTEXTO DOS CONFLITOS GERADOS PELA CONSTRUÇÃO DE BARRAGENS." *PEGADA - A Revista da Geografia do Trabalho* 12 (2). <https://doi.org/10.33026/peg.v12i2.922>

Saez, Catherine. 2016. "Chair Of WIPO Committee On Genetic Resources Issues Draft Plan For The Week." *Intellectual Property Watch* (blog). February 15, 2016. <https://www.ip-watch.org/2016/02/15/chair-of-wipo-committee-on-genetic-resources-issues-draft-plan-for-the-week/>.

Saez, Catherine. 2017. "WIPO Gives Overview Of Its Legislative Assistance To Developing Countries." *Intellectual Property Watch* (blog). December 14, 2017. <https://www.ip-watch.org/2017/12/14/developing-countries-call-review-wipos-legislative-assistance-beaten-back/>.

Said, Edward W. 2003. *Orientalism*. [Repr. with a new preface]. Penguin Classics. London ; New York etc.: Penguin Books. <http://data.rero.ch/01-R003764803/html>.

Sanches, Rosely Alvim. 2004. *Caiçaras e a Estação Ecológica de Juréia-Itatins: Litoral Sul de São Paulo*. São Paulo: Annablume, Fapesp. <https://books.google.ch/books?id=KAZy7Qlx6Y4C&printsec=frontcover&hl=de#v=onepage&q&f=false>.

Sanches, Rosely Alvim. 2016. "Caiçaras e o Mosaico de Unidades de Conservação Jureia-Itatins: Desafios Para a Gestão." *UNISANTA Bioscience* 5 (1): 1–11.

Saori, Sheyla. 2018. "O TERRITÓRIO AMEAÇADO: VALE DO RIBEIRA/SP." *Debates Feministas*, no. 11 (September): 19.

Schattan P. Coelho, Vera, and Arilson Favareto. 2008. "Questioning the Relationship between Participation and Development: A Case Study of the Vale Do Ribeira, Brazil." *World Development*, Special Section: Social Movements and the Dynamics of Rural Development in Latin America (pp. 2874-2952), 36 (12): 2937–52. <https://doi.org/10.1016/j.worlddev.2007.11.019>

Sempreviva Organização Feminista. 2018. *Feminist Practices for Economic Change: Women's Autonomy and Agroecology in the Vale Do Ribeira Region*. São Paulo. <http://www.sof.org.br/wp-content/uploads/2018/03/Praticas-feministas-ingles-web1.pdf>.

Seshia, Shaila, and Ian Scoones. 2003. "Tracing Policy Connections : The Politics of Knowledge in the Green Revolution and Biotechnology Eras in India." <https://opendocs.ids.ac.uk/opendocs/handle/123456789/3984>.

Shiva, Vandana. 1997. *Biopiracy : The Plunder of Nature and Knowledge*. Boston, MA: South End Press. [http://data.rero.ch/01-\(OCoLC\)ocl36260342/html?view=GE_V1](http://data.rero.ch/01-(OCoLC)ocl36260342/html?view=GE_V1).

Shiva, Vandana. 2007. "Bioprospecting as Sophisticated Biopiracy." *Signs: Journal of Women in Culture and Society* 32 (2): 307–13. <https://doi.org/10.1086/508502>.

Stucchi, Débora. 1996. "Os Bairros Negros Do Vale Do Ribeira." *Laudo Antropológico*. São Paulo: Procuradoria da República de São Paulo.

- Thathong, Sun. 2014. "Lost in Fragmentation: The Traditional Knowledge Debate Revisited." *Asian Journal of International Law* 4 (2): 359–89. <https://doi.org/10.1017/S2044251313000350>
- Thiru. 2011. "WIPO Patent Committee: Statement of Group B (Industrialized Countries) at WIPO on Discussions of Patents and Health." *Knowledge Ecology International* (blog). December 7, 2011. <https://www.keionline.org/21747>.
- Tomazela, J.M. 2013. "Vale Do Ribeira Tem Recorde de Pedido de Exploração de Minérios." *July 01, 2013*, 2013. <https://economia.estadao.com.br/noticias/geral,vale-do-ribeira-tem-recorde-de-pedidos-de-exploracao-de-minerios-imp-,1048814>.
- Tsing, Anna Lowenhaupt. 2011. *Friction: An Ethnography of Global Connection*. Princeton; Oxford: Princeton University Press.
- United Nations. 1992. "Convention on Biological Diversity." <https://www.cbd.int/doc/legal/cbd-en.pdf>.
- Walsh, Aisling. 2018. "How Mayan Women in Guatemala Are Fighting to Protect Their Designs – and Their Identity." AWID. August 13, 2018. <https://www.awid.org/news-and-analysis/how-mayan-women-guatemala-are-fighting-for-their-identity>.
- Wendland, Wend. 2017. "The Evolution of the IGC from 2001 to 2016: An Insider's Perspective." In *Protecting Traditional Knowledge: The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, 31–55.
- West, Paige. 2016. *Dispossession and the Environment: Rhetoric and Inequality in Papua New Guinea*. New York: Columbia University Press. <https://doi.org/10.7312/west17878>
- WIPO. 1967. "Convention Establishing the World Intellectual Property Organization." http://admin.theiguides.org/Media/Documents/WIPO%20Convention_1.pdf.
- WIPO. 2000. "WIPO General Assembly Twenty-Sixth (12th Extraordinary). Session Geneva. Matters Concerning Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore." https://www.wipo.int/edocs/mdocs/govbody/en/wo_ga_26/wo_ga_26_6.pdf.
- WIPO. 2015. *Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions*.
- WIPO. 2017. "Program and Budget for the 2018/19 Biennium." Switzerland. https://www.wipo.int/export/sites/www/about-wipo/en/budget/pdf/budget_2018_2019.pdf.
- WIPO. 2018a. "IGC Mandate 2018/2019." https://www.wipo.int/export/sites/www/tk/en/igc/pdf/igc_mandate_2018-2019.pdf.
- WIPO. 2018b. "Information Note for the Panel of Indigenous and Local Communities." https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_37/wipo_grtkf_ic_37_inf_5.pdf.
- WIPO. 2018c. "World Intellectual Property Indicators 2018."
- WIPO. 2019a. "Member States." 2019. <https://www.wipo.int/members/en/index.jsp>.
- WIPO. 2019b. "Results, Budget and Performance." 2019. <https://www.wipo.int/about-wipo/en/budget/index.html>.
- WIPO. 2019c. "Traditional Knowledge Division." 2019. https://www.wipo.int/about-wipo/en/activities_by_unit/index.jsp?id=122.
- WIPO. 2019d. *What Is Intellectual Property?*

WIPO. 2019e. “Inside WIPO.” May 27, 2019. <https://www.wipo.int/about-wipo/en/index.html>.

WIPO. 2019f. “IGC’s Chair Draft International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources. Prepared by Mr. Ian Goss.” June 2019. https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=438199.

Zanchetta, Inês. 2016. “População do Vale do Ribeira está livre de Tijuco Alto.” ISA - Instituto Socioambiental. November 16, 2016. <https://www.socioambiental.org/pt-br/noticias-socioambientais/populacao-do-vale-do-ribeira-esta-livre-de-tijuco-alto>.