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■ *Stefan Groth*
University of Zurich
stefan.groth@uzh.ch

Implicit Ethics: Normative Claims to Culture in Multilateral Negotiations

Abstract

Multilateral negotiations are often critiqued for not sufficiently addressing issues of justice and for rendering contentious issues 'technical.' Such a view is problematic as it limits the voicing of justice claims to explicit utterances and neglects implicit claims. This paper shows that the communicative modalities of multilateral negotiations can lead to situations in which a shift to implicit justice claims is advantageous. The seeming absence of such claims does not necessarily preclude a mostly technical discourse or the absence of issues of justice but can also signify a shift towards a strategically favorable diplomatic register in which normative stances are implied but not made explicit. [justice, context, nonindexicality, diplomacy, negotiations]

A committee of the United Nations World Intellectual Property Organization (WIPO) has deliberated on issues of culture and intellectual property (IP) since 2001 (Robinson, Abdel-Latif, and Roffe 2017). The committee focuses on intangible property rights to traditional knowledge, expressions of folklore (such as dances, songs, or visual works), and associated genetic resources, for example, of medicinal plants used in indigenous knowledge systems (Ray 2005). Within these negotiations, delegates from WIPO member states seek to develop international instruments that regulate the contested distribution of rights to traditional cultural expressions and traditional knowledge. Negotiations began in the UN system as a result of global and national political pressures and because various actors experienced the status quo as unjust, inequitable, or at the very least problematic (Hafstein 2004). In this setting, notions of justice and fairness are pluralized and accompanied by an intensified communicative exchange between state delegations, nongovernmental organizations (NGOs), and industry representatives, as well as policy advisers and scholars.

What is striking in the WIPO negotiations on traditional knowledge is that justice issues are seldom addressed explicitly in negotiations, despite the multiple ways justice resonates in the field. Although voicing such aspects in the context of debates on traditional knowledge and IP is frequent (see Groth and Döpking 2015), plenary sessions and other meeting formats mostly lack such references. This is in keeping with the notion that there exists a "dejustization" or "technization" of discourse in multilateral negotiations of different issues (see B. Müller 2009). Dejustization entails negotiations that are said to avoid addressing issues of justice. In the case of the WIPO committee, member states from the Global South and NGOs view the current

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global IP system as skewed toward the interests of Western nations and pharmaceutical industries, yet related historical or current injustices are seldom discussed in this forum. Likewise, indigenous and local communities (ILCs) observing negotiations argue that their IP is infringed on and that provisions of the UN Declaration on the Rights of Indigenous Peoples are violated by not granting them effective participation rights in negotiations. Although these issues are frequently discussed in the context of the committee, their occurrence in negotiations is low. This and other examples have led to conclusions that normative issues are left out of debates and contentious issues are rendered as "technical" (Shore and Wright 2011, 16), to be deliberated by experts and solved on the basis of seemingly neutral expertise (see Merry 2011; Mosse 2011). Technization shifts the focus away from questions of justice and toward issues of legal harmonization or technical standards.

If "openly antagonistic debates between states hardly exist in the muted diplomatic atmosphere of the UN" (B. Müller 2013, 12), it is not only a matter of form and style but one that has implications for policy making. In this article, I argue that such a view is problematic because it limits voicing justice claims to explicit utterances and neglects implicit claims. I show that the communicative modalities of negotiations can lead to situations in which a shift to implicit justice claims is advantageous. The apparent absence of such claims does not mean that discourse is only technical and excludes issues of justice; it can also signify a shift toward a strategically favorable diplomatic register in which normative stances are implied but not made explicit. This article provides a closer scrutiny of conditions of communicative indirection and conversational implicature under which it is felicitous to make normative claims. I use the phrase "normative claims" as an umbrella term for utterances that include value judgments, specifically those pertaining to issues of justice—in the case of the WIPO committee, these are mainly claims for participatory and distributive justice.

Based on an ethnography of this committee (Groth 2012), the argument follows the linguistic-anthropological emphasis on context as a central factor in analyzing and understanding linguistic performances (Duranti and Goodwin 1992) and asks for situated felicity conditions (Austin 1962) of normative claims. With reference to work on communicative indirectness (Saville-Troike 2008, 29; Silverstein 1976, 48f; Tannen 1986), this article scrutinizes situations in multilateral negotiations in which "sweet talk" is preferred over "straight talk" (Brenneis 1984). It shows how diplomatic nonindexicality—which "allows the hearer to respond to speech as though it constituted a semantico-referential event, all the while understanding completely the distinct functions of the indexes which overlap in surface form" (Silverstein 1976, 48)—constitutes a major facet of communicative conventions in the committee and leads to voicing indirect normative claims. Thus, the apparent absence of normative claims in negotiations does not preclude a technization or dejustization of discourse. Rather, it signifies a strategic shift toward a diplomatic register in which normative stances are only implied—not as a way of masking or concealing the normative content of utterances but as a strategy for communicating them more effectively.

Situational factors can favor more implicit ways of voicing normative positions. This is especially important because the articulation of values and normative stances plays a central role in political discourse (Mendus 2009; Primoratz 2007). As Hill (2008) demonstrates on the topic of racism, values and stances are often voiced indirectly and covertly, not just as a strategic way to mask racism but also as unconscious or unreflected reproductions of racist discourse. In a similar way, Bourdieu's (1991) work on language and symbolic power outlines the indirect expression of power relations in language use. Both strands of research highlight the necessity of contextualizing utterances and scrutinizing the relation between normative and nonnormative statements to tease out the implicit normative contents of communication. In the case of WIPO, the implicitness of normative claims is not due to unconscious or habitual factors but to a deliberate communicative strategy.

Competing normative claims in multilateral negotiations and their contexts feature strongly in human rights debates, deliberations on global justice, and in development frameworks. This is no different for the WIPO committee, but explicit normative claims are mostly limited to publications, media coverage, or debates beyond plenary negotiations. References to justice, fairness, or equity are sparsely present in this and other official settings. The way normative claims are voiced, understood, and countered contributes significantly to the process of negotiations, including taking stances, forming alliances, and drafting strategies. Thus, answers to questions about how, when, and by whom normative claims are voiced constitute a situated and ephemeral communicative constellation and influence broader policy debates and developments. Although the effect normative claims can have on the outcome of negotiations has been analyzed from the perspective of political science (H. Müller 1994; Ulbert and Risse 2005), there is little ethnographic material on the modalities under which conceptions of justice are mediated in discourse, especially in multilateral settings. How are moral convictions and ethical principles encoded in communicative acts, and how are aspects of justice communicated, negotiated, and reproduced in social interaction? Because the specificities of diplomatic register and debate influence the communicative conventions and pragmatic strategies in multilateral negotiations decisively (Groth 2012), a linguistic analysis is needed to analyze the situated use (see Erickson 2011) of normative claims and the conditions influencing their efficacy—especially as implicit normative claims and communicative indirectness are used strategically.

Examining multilateral negotiations on traditional knowledge within a committee, I analyze the different types of normative claims relevant to this forum. I start by outlining the context of WIPO negotiations based on fieldwork at WIPO from 2008 to 2015, including interviews with diplomats, NGO representatives, and extensive document analysis. I examine the link between language and ethics before focusing on the notion of justice in multilateral negotiations. I analyze the situated elicitation of normative claims in discourse and the conditions that make them felicitous or infelicitous using two specific examples from negotiations: the first about participatory justice and the second about distributive justice. The article concludes by arguing for a situated analysis of communicative practices to grasp different forms of normative claims and the modalities of their use.

WIPO's Committee on Traditional Knowledge

WIPO addresses IP issues at the international level, which includes trademark, copyright and patent questions, and broadcasting treaties. The WIPO General Assembly decided to establish an intergovernmental committee in 2000 to address issues of IP, traditional knowledge, and folklore. Since 2001, the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) has brought together representatives from member states, NGOs, and a growing number of ILCs, focusing on developing legal frameworks concerning intangible cultural resources in the IP regime. Increasing pressure from developing countries and indigenous groups within WIPO and the UN system preceded the foundation of the committee (Abdel-Latif 2017, 17; Groth 2012, 31–41). Their dissatisfaction with the handling of IP legislation concerning culture was rooted in conflicts with pharmaceutical companies that capitalized on traditional medicinal knowledge or the commercial misappropriation of indigenous artworks and folklore. The emergence and development of WIPO negotiations on culture is thus to be understood against the backdrop of the rising involvement of indigenous movements in the UN system, in national contexts (Carneiro da Cunha 2009) and on the international stage (Bellier, Cloud, and Lacroix 2017). The expectations of member states and observers regarding the results of this process could not be more diverse. Industrial nations are predominantly satisfied with the current state of copyright and patent regimes and not interested in changes or creating a new legal instrument for

IP, as the current system works to their advantage (Halewood 1999, 986). The "classical" patented and copyrighted works are protected on the national and international levels. This does not hold true for the resources under negotiation in the IGC. There are no vigorous instruments against the transnational misappropriation of cultural resources in international IP law. Therefore, countries like India, Brazil, Peru, or many in Africa with a high proportion of indigenous population or a broad range of traditional knowledge or cultural expressions advocate for a legally binding international agreement that protects or recompenses the holders of these resources.

The IGC consists of participants from a broad range of sociocultural and linguistic backgrounds and is challenged not only by different strategic agendas but also by a multitude of perceptions of culture and property. The IGC is more open to including other NGOs and ILCs in contrast to other fora, where only international organizations with close relations to IP and the specific issues of the committee are allowed to participate. Although observers at early IGC sessions had little opportunity to voice their concerns, it has become customary for such participants to be granted rights to speak and contribute to the negotiation process. As a result, there is a multiplication of normative claims and perspectives on the subject under negotiation, making it increasingly ambiguous and reducing the degree of shared understanding of communicative conventions and terminology among different actors. In this setting, notions of justice are pluralized and accompanied by an intensified communicative exchange to grasp this plurality. As a speech community (Hymes 1974), the degree to which members share norms of interaction and interpretation is small and dynamic as new participants enter negotiations and others leave the table. New ILC or NGO actors bring divergent views and communicative competences for such forums. The committee is not underpinned by a stable and agreed-on repertoire of communicative conventions, but by a dynamic nature and uncertainty as to the interpretation of implicit or explicit utterances, normative and nonnormative (Groth 2012, 56ff). The resulting situation falls in line with perspective of a speech community as "the product of the communicative activities engaged in by a given group of people" (Duranti 1997b, 82). Processes of (communicative) interaction in the IGC generate a shared understanding of rules of interaction and interpretation, yet also entail differences and conflict. As a dynamically constituted group of social actors with different backgrounds and perceptions, this speech community makes references to established rules of communicative action (such as procedural and institutional rules or diplomatic register) and simultaneously negotiates, challenges, and modifies them (see Groth 2019). A relatively stable communicative register of international law and diplomacy is confronted by unstable and uncommon communicative practices. The IGC can be understood as an emergent speech community in which un- or underdefined communicative norms outweigh generic or structural conventions of interaction. This ambivalence in norms does not necessarily constitute a problem, but it can be harnessed strategically to avoid concessions, include multiple viewpoints, and retain flexibility (Groth 2018, 71f). Given the communicative instability of the IGC, actors are challenged by a multitude of divergent normative claims and a communicative setting in which overly explicit statements could cause other actors to leave the negotiation table. Accordingly, the relation between language and normative claims and the one between language and morality are of importance to this committee.

Language and Morality

The relationship between morality and language has been analyzed based on the assumption that language and linguistic conduct are of central importance to the various ways moral models are conveyed, framed, and negotiated in everyday life and between persons and institutions (Zigon 2007, 133). Linell and Rommetveit (1998, 472) programmatically posit that "morality is an intrinsic feature of dialogue. It is in and through dialogue that man constitutes himself as a moral agent." From this

perspective, morality is embedded in language, yet linguistic signs only mediate but do not constitute moral content (Bergmann and Luckmann 1999, 13). This relation between moral models and communicative interaction has been a topic in the anthropological writings of Boas, Sapir, and Whorf (see Zigon 2007). Studies in linguistic anthropology have dealt with morality as part of narratives (Duranti 1992, 1994; Prasad 2007) and moral aspects of disputes and conflicts (Brenneis 1988; Brenneis and Myers 1984; Pagliai 2010). Bauman and Briggs (2003) analyzed the function of language in the differentiation between tradition and modernity, including the political construction and legitimation of inequalities. Ethical implications of language and linguistic fragments (see Agha 2003) have been scrutinized for the social dimension of language in signaling value propositions and transgressions (Silverstein 1996), in relation to court proceedings (Hirsch 1998; Richland 2008) and public discourse (Hill 2008; Hill and Irvine 1992).

These studies point to two things. First, normative stances find their expression in communicative interactions. Actors mediate their perceptions of justice, voice normative perspectives, and argue for the validity of justice claims in and through language. Linguistic behavior—from narratives to smaller utterance fragments—can give insights into the normative content purveyed in communicative interaction, be it implicit or explicit. An analysis of normative claims must not be limited to explicit statements with normative content but should also pay attention to implicit factors. These can be unconsciously and unreflectively (see Hill 2008) or habitually (see Bourdieu 1991) employed. Yet they can also be a strategic choice in the form of conversational implicature (Levinson 1983, 97) when normative contents of a message are only alluded to. Wodak gives the example of Austrian politics, where codes such as "East Coast" or "spin doctor" are used to latently cater to anti-Semitic audiences (Wodak 2007) while not explicitly expressing a respective resentment. Furthermore, as Silverstein shows, form and style can suffice to convey the political (and normative) content of a "message" (Silverstein 2003).

Second, speech acts in general (Mey 2011) and specifically normative claims are situated (Groth and Döpking 2015). They are embedded in larger contexts, including communicative conventions, audiences, specific linguistic registers, or communicative channels. Interpreting and uttering normative claims are contingent on situated factors that need to be considered when analyzing the claim. This holds true for the felicity conditions of performative utterances: normative claims need to fulfill a number of conditions to be successful, among them that utterances must be conventional in the given context, be appropriate in terms of circumstances and audience, have a propositional content directed at a future act, or be sincere (Austin 1962). These felicity conditions have been shown to be highly specific regarding cultural and situational contexts (Duranti 1997a; Hall 1999; Rosaldo 1982) rather than universal properties of communication. Because communicative context is not given but is continually constructed by participants in communicative exchanges (see Duranti and Goodwin 1992), felicity conditions change with time, are subject to interpretation, and can be manipulated. For judgments about the felicity of utterances, these conditions need to be intersubjectively known for speakers and listeners, as Bax shows using the example of veiled racial slurs (Bax 2018, 124). Furthermore, they are not limited to linguistic aspects but have performative dimensions as well. Building on Butler's work on gender, Calder illustrates how such visual aspects of performances are closely tied to linguistic aspects (Calder 2019, 2–3). Likewise, felicity conditions in multilateral negotiations are not limited to language but stretch to contextual features such as those outlined in Hymes's SPEAKING mnemonic (Hymes 1974).

Studies in international relations have shown that actors try to create acceptance for their norms by changing the contexts of negotiations (Deitelhoff 2006, 137). They frame debates according to their interests and influence felicity conditions to improve chances of successfully "pushing" normative claims. Actors choose strategies to pursue their goals depending on the situational and communicative context (Saretzki

2007, 114–15). Part of such strategies can be the inclusion of broader publics and, with it, a change in felicity conditions. Based on the assumption that a third party influences the modalities of negotiation, creating a bigger audience for statements has the ability to give more weight to certain claims (Risse 2007, 69–73)—in the context of WIPO, this is the case for normative claims voiced by ILCs. An analysis of normative claims and respective felicity conditions requires awareness of the multiple facets of context of communicative situations (Duranti and Goodwin 1992). Indirect speech, conversational implicature, and felicity conditions are used by actors in the IGC strategically to avoid making concessions or talking about justice and to communicate normative claims.

Justice in Multilateral Negotiations on Culture

In the debate on entitlements to culture, the anthropological literature focuses mainly on collective rights to culture as special rights for indigenous communities (Brown 2010). As a question of distributive justice (see Groth 2015), this relates to recognizing rights to cultural property. Regarding normative dimensions on the procedural level, there are studies mainly on cooperation between indigenous communities and corporations (Groth 2013; Raven 2006) and on inclusion of ILCs in national processes of constituting cultural property (Adell et al. 2015; Bendix, Eggert, and Peselmann 2013). The literature on justice and international diplomacy similarly distinguishes between two clusters of distribution and participation, with participation being a subset of procedural issues (see H. Müller 2011). Although a more fine-grained differentiation of normative claims based on their content and specific alignment is possible (see Groth and Döpking 2015), this article focuses on these two clusters.

The distribution cluster is about entitlements, that is, about who is entitled to different sets of rights in traditional knowledge, traditional cultural expressions, and genetic resources. In WIPO, such rights are mainly IP rights, such as patents for pharmaceutical compounds that might have been derived from the traditional knowledge of ILCs. Furthermore, property rights to works of art, land rights to territory from where indigenous groups originate, and human or cultural rights are discussed in the context of the IGC.

The participation or procedural cluster concerns who is permitted to participate in the decision-making process. It includes informational participation or transparency, that is, whether actors are informed about negotiations or the misappropriation of their culture, and factors such as infrastructure, financial means, language, and technical competence. In addition, an observer's indirect or nominal participation can be distinguished from a more direct participation in decision making. This also relates to the question of whether negotiations are procedurally just.

These issues of distributive and procedural justice have been dealt with primarily by creating a typology of speech acts based on their perlocutionary function, such as flagging a justice issue, framing an issue as a justice claim, claiming something, justifying a situation, or blaming somebody for an unjust situation (H. Müller 2011, 6). However, there have been no specific or more detailed analyses of the contextual variables accompanying or influencing the elicitation and interpretation of such speech acts. In other words, these speech acts have been analyzed primarily in terms of their general function and not regarding their context, pragmatic, or indexical qualities in specific situations and under specific felicity conditions. Yet an analysis of situated speech acts requires more than a typology; it also needs a closer scrutiny of context and the specific conditions under which it is possible or felicitous to make justice claims, regardless of the specific type or function.

As Hirsch illustrates for the example of Islamic courts, while different registers and types of speech in legal processes assigned to social groups (here men and women) can reinforce prescribed roles, they can also be used to achieve advantages (Hirsch 1998). In the case of the IGC, a focus on registers and types alone misses finer or implicit aspects of communicative action and needs to be complemented by a

contextualized analysis, including implicit facets of speech. The indirect character of speech in negotiations can easily be taken as a sign of a lack of justice claims and a technization or dejustization of the debate. However, because conversational implicature and "diplomatic non-indexicality" (Silverstein 1976, 48) are used strategically in this setting, an ethnographic account is necessary to scrutinize aspects that are not directly visible. Likewise, when actors in the IGC refrain from making explicit normative claims as they anticipate their infelicity, this calls for a contextual analysis to grasp the underlying strategies and conditions.

Normative Claims in the IGC

Discourses on culture and tradition as property and on traditional knowledge are heavily value-laden (see Groth 2015; Groth and Döpking 2015). Connections between language, communicative conduct, and justice are salient in two different respects. First, these discourses include propositions on ethical conduct and judgments, that is, who is entitled to rights to culture, tradition, or traditional knowledge from a justice perspective (vis-à-vis—but not necessarily contradicting—legal or formal perspectives). Second, these discourses constitute ethical conduct and judgment by evaluating speech or by way of regulating who is allowed to partake and speak in them, make decisions, and so forth. These two respects are pertinent for WIPO negotiations as participants deliberate on distributive and procedural justice. Questions about who is entitled to rights are negotiated alongside questions about who is allowed to partake in the committee, make statements, and vote on proposals. Distributive and procedural justice issues are seldom addressed explicitly in the IGC negotiations on traditional knowledge, despite the multiple resonances of justice in the field and in statements by ILCs, NGOs, and state representatives beyond plenary discussions. The social dynamics of the meta-action of negotiating or meeting are often deemed sufficient for implementing ethical demands leading to the installation of a committee. Thus, the explanation of aspects of justice during the course of a meeting is seen as a hindrance to talking about culture as right and property. This creates the paradoxical situation that discourses on justice internalize aspects of justice and simultaneously delegitimize their explanation, privileging instead a technicalized formal language, indirect references to normative claims, and discourse without references to justice.[1] This leads to a shift in felicity conditions, which favors a more technical language and impedes the explicit voicing of normative claims. Concerns about justice are viewed as valid and partially constructed as a reason for the establishment of the specific committee, but they are simultaneously neglected and thrust aside as irrelevant for the purposes of negotiations and appear nonpertinent in legal and contractual frameworks. Voicing specific concerns about justice by NGOs or indigenous observers and participants in such meetings is accordingly perceived as insubstantial for specific procedural matters. Such a negative evaluation of speech reinforces social inequality through language, not only regarding, say, gender (Philips 2004, 483) but also regarding normative claims on the international stage. Although such markedness of speech is not the central criterion for the evaluation of claims in negotiations, the "deviations from a norm" and "failures to measure up to an implied or explicit standard" (Bucholtz and Hall 2004, 372f) of speech has the potential to reinforce views that indigenous groups or other claimants are not competent enough to participate in multilateral negotiations or should not be able to voice their views because they are not compatible with established procedure. Paradoxically, those indigenous groups or NGOs "who do not conform to the stereotypical behavior expected of them are also susceptible to accusations of inadequacy or inauthenticity" (Bucholtz and Hall 2004) and show a lack of explicit normative claims or a proficiency in international law and diplomatic register can lead to doubts that they fit the "indigenous slot" (Karlsson 2003) and can represent indigenous interests.

There are, however, cases where the explicit utterance of justice claims are viewed as appropriate and where different justice claims are actually negotiated. Using two examples typical for the IGC, I show when and how different actors refer to aspects of justice, explicitly or implicitly, and when, whether, and how these references are seen as felicitous.

Claims of Participatory Justice

Representatives of indigenous communities are permitted to participate in the IGC as observers and make statements. However, their participation is limited because their suggestions must be supported by member states to be included in texts under negotiation. The modalities of participation of indigenous representatives is a frequent topic of discussion in terms of rules of procedure and access. For example, the Voluntary Fund, a mechanism to enable indigenous representatives to participate in IGC meetings, has run out of funds numerous times, with states hesitant to declare their willingness to contribute additional money. There has been a proposal to allot money from WIPO's official budget to the fund, but member states are wary of establishing a precedent of financing observer participation. Accordingly, the participation of ILCs and their funding are contentious issues. In addition to this fundamental issue of participation, normative claims voiced by indigenous actors are directed at the equal allotment of time for statements, a more effective and extensive participation, or the inclusion in informal high-level consultations.

The following exchange between the representative of an ILC and the chairperson of the meeting, taken from the official transcript of the seventeenth IGC meeting in 2010, is a common example of when such participatory justice claims are made.

(1) The representative of Tupaj Amaru believed that IWG 1 had clarified the
(2) fundamental problems that had taken up so much of the Committee's time. He
(3) stated that the indigenous experts had contributed to the discussion and had
(4) proposed specific themes, concepts and articles for the draft provisions. He
(5) recalled the Chair's statement that proposals by observers would only be
(6) accepted if they received support from Member States. He wished to know
(7) whether proposals from indigenous peoples could be taken up directly,
(8) because indigenous peoples were the main stakeholders.
(WIPO 2011, 14)

The claim for extended participation beyond merely stating proposals to a consideration and reflection of remarks by indigenous observers in draft texts is based on the proposition that "indigenous peoples were the main stakeholders" and should be eligible for greater participation in decision making. In response to this statement, the meeting's chair countered with reference to prior discussions and recourse to rules of procedure, stressing that these procedural issues had been subject to previous discussion.

(9) In response to concerns raised by the representative of Tupaj Amaru, the
(10) Chair stated that it was a matter that the Committee had deliberated upon, and
(11) a decision had been reached that an observer could make contributions and
(12) proposals. Unless it received support from a Member State, it would be
(13) dropped.
(WIPO 2011, 15)

In such cases, where claims for procedural justice regarding the effective participation of ILCs are made, references to rules of procedure are frequently used to rebut them. Without dealing with the details of such claims, prior committee

decisions and the institution as a whole are referred to and claims are infelicitous and fail, respectively.

A similar exchange occurred in the context of an IGC working group decision to delete textual proposals for a draft document submitted by ILCs. Again, established rules and procedure were referred to by the chair, explaining and legitimizing the reasons for this procedure with reference to "ground rules."

(14) The representatives of Tupaj Amaru and CISA regretted that the drafting
(15) group had deleted the proposals made by experts representing indigenous
(16) peoples on grounds that such proposals did not have support from the Member
(17) States.
(WIPO 2011, 52)

As in the first two examples, this claim for inclusion of proposals by ILCs is answered with a reference to rules established prior to the exchange:

(18) The Chair stated there had been agreement on the ground rules that could not
(19) be changed at this stage. As the Chair, he assured that he would try his best to
(20) treat the indigenous communities as best as he could within the rules.
(WIPO 2011, 52)

The participatory justice claim voiced by indigenous groups failed in these and many other instances during the course of IGC negotiations since 2001. The respective speech acts are perceived as infelicitous in the given context. Although the claim by ILCs to have opinions and proposals in draft and working documents is valid and many member states have stated their principal support for the involvement of ILCs and their proposals, the specific context causes objection to the claim on the grounds of procedural issues and established conventions of the committee. Utterances such as "this has already been deliberated upon" or "these are ground rules" are used to counter claims for extended participation. Although the chair's statement is factually true, there have been cases where, based on other modalities and contextual configurations, claims for participatory justice in negotiations have been more successful. Regarding the IGC, this concerns primarily the questions of when and to what extent ILC representatives are allowed to make statements. Following intense critique and indigenous representatives temporarily leaving the negotiation table after the meeting chair did not give ILCs the chance to make statements in early 2008, participatory claims to have more time allotted to ILC statements and allow such interventions even when time is short were mostly successful (author's fieldnotes).

The influence of the modalities of normative claims is limited. In the case of participatory normative claims, allowing ILCs to make statements is less far-reaching than including their proposals in draft texts. Narrower normative claims with little impact are generally more likely to succeed. Although ILCs are limited by constraints such as rules of procedure and legal provisions, there can be leeway to accommodate their broader participation. Thus, there are also cases in which normative claims with the same or similar content as in the two unsuccessful situations above are seen as felicitous. Examples of this are cases where member states expressed their support for textual proposals by ILCs, making them pertinent, according to the rules of procedure. Such expressions of support are often preceded by informal consultations and lobbying efforts in which ILC representatives seek to influence member state delegates beyond formal plenary settings (author's fieldnotes). Including phrases proposed by indigenous representatives has no major influence because the respective texts do not constitute binding decisions or prejudge any outcomes. This concerns both the amendment of draft text and the deletion of passages requested by

ILC representatives. However, they constitute improvement of the participatory status of ILCs and including textual proposals on the record is a step toward greater visibility of normative claims in multilateral negotiations.

The reasons for the success or failure of these normative claims cannot be explained by their factual content and relation to member state interests alone. There are other pragmatic and communicative factors that can make such participation claims appropriate and successful. What are the influencing variables or "soft factors" with explanatory potential? Key aspects in this regard are shared interests, meaning that when normative justice claims by ILCs coincide or do not conflict with the strategic interests of member states, they are more likely to succeed. Furthermore, if normative claims and interests are communicated beforehand to potentially supportive member states and the proposal is purveyed in a confrontational manner, the utterance is more appropriate. Time pressure is another important factor. Normative claims by ILCs are less likely to succeed in urgent situations and more likely to succeed when some member states are interested in stalling negotiations. The composition of the audience also plays an important role. Concessions are made more easily when the situation of the speech act is less formal and the support for a proposal is not openly attributable to the position of a member state.[2]

Explicit justice claims in protocols, reports, and statements can be scarce because it is hard to fulfill felicity conditions directed at the large audience of the main plenary, and justice claims are articulated or brokered either less explicitly or more privately in other contexts, with smaller audiences. The felicity conditions constructed for normative utterances in multilateral negotiations favor voicing claims not phrased in a confrontational manner or embedded in lengthy normative explanations but directed at cooperation with member states and spoken to the point.

The case of participation in the context of the IGC is not very problematic, as the practice of international negotiations is well structured and based on national sovereignty. The understanding that it is mainly states who negotiate and decide is widely accepted. Here, justice is not an absolute claim but is flexible in how it can be dismissed or compensated for more easily by making "soft" concessions, such as advocating a larger allotment of time for indigenous interventions or sponsoring ILC statements without direct implications.

Claims for Distributive Justice

Justice claims regarding the distribution of goods or rights are less flexible. In the case of the IGC, this relates to the distribution of rights to IP, for example, patents and copyright, as well as related rights, such as land or human rights. Here claims are more likely to be formulated in an absolute manner following the structure of "it is unjust that actor A is entitled to good X, and actor B is not." It is more demanding for member states and NGOs or ILCs to voice distributive justice claims, because they could be understood as blaming another group of actors while claiming a specific good (see the typology of speech acts introduced earlier). In many cases, such claims are not productive, as they create a strong opposition between the parties negotiating —in this case, mainly between developed and developing countries and between ILCs and member states. An example are references to historical injustices in plenary negotiation by ILCs and member states.

(21) The Representative of CONGAF stated that CONGAF's participation was
(22) due to the fact that formerly-colonized peoples or countries had become aware
(23) that their capital, including also their identity, was not only threatened, but
(24) was at risk of being exploited, in the wake of the plundering carried out under
(25) the colonial system.[3] The Representative underscored that indigenous peoples
(26) would continue to be subject to international law and that CONGAF intended
(27) to plead their cause and to denounce the misappropriations and abuses of
(28) traditional knowledge, and spiritual and sacred symbols. The Representative

(29) of CONGAF believed that those abuses were due to the fact that international
(30) intellectual property law had ignored and marginalized indigenous peoples at
(31) their expense. For intellectual property law to become a catalyst for economic
(32) development, exploitation of the heritage of humanity by such private sector
(33) companies should be controlled and equitable sharing mechanisms should be
(34) implemented based on disclosing the origin of resources and prior consent, in
(35) the name of fairness and justice.
(WIPO 2009, 58)

Statements with reference to alleged historical or structural injustices are scarce in IGC negotiations, yet they constitute typical generalized normative claims trying to strengthen the speaker's position with recourse to the past. The statement by India at an IGC meeting in 2009 entails a similar distributive claim, invoking concepts such as "equity" or "balance."

(36) For the first time developing countries were asking for protection of their
(37) rights and that as one NGO had pointed out, it was a very small portion of the
(38) global IP rights that developing countries were asking for, and that non-
(39) binding declarations or guiding principles or model laws would not be
(40) acceptable. The Committee was at a critical juncture where it had to be
(41) recognized that there was a need for equity, balance and justice, whether it be
(42) in IP, global equity in economy, political rights, and that it was the occasion to
(43) bring a certain semblance of proportion, equity and justice to the IP
(44) discourse.
(WIPO 2009, 45)

There are numerous cases where ILCs and developing countries make reference to historical injustices. Because of the specific context of the plenary discussions, the developed countries so accused do not have to react directly to such statements but can counter them with general statements, for example, reaffirming the value of traditional knowledge and shifting the blame to technical or procedural issues, as the following statement by the European Union illustrates.

(45) The EU continued to believe that one of the most important achievements of
(46) the Committee had been to recognize the importance of TK [traditional knowledge],
(47) TCEs [traditional cultural expressions] and GR [genetic resources] to
(48) traditional and indigenous cultures worldwide. . . . It continued to support the
(49) Committee's spirit of open and responsible collaboration, and looked forward
(50) to further progress in the form of consensus solutions. However, the EU also
(51) recognized the inherent difficulty that had been encountered by the Committee
(52) in defining the essence of TK and TCEs, and the methods that could be used
(53) in protecting them.
(WIPO 2008, 10–11)

This shifting of referential frames—from normative claims with strong indexical meaning to a general affirmation of the committee's objectives and technical difficulties—is a common communicative strategy in negotiations (see Groth 2012, 107–35) and perhaps the most important used for weakening justice claims. By shifting from frames implying specific steps of action (fifth and sixth examples) to frames limited to general statements without concrete consequences (seventh example), actors can avoid concessions while simultaneously not rejecting or objecting to normative claims. In the case of the IGC, actors can circumvent agreeing to normative claims without openly contradicting them. This is partially achieved by referencing technical difficulties, the need to gather more expertise, or by recourse to

procedural needs. Distributive claims are hard to negotiate in diplomacy, especially when the audience is large, there is an official report, members from civil society participate, and a lot of member states are present. In such situations, distributive justice claims are mostly infelicitous, partly because the felicity of a speech act is not just contingent on the direct context. Furthermore, the latter depends on subsequent interaction, meaning that the response by the party accused of acting unjustly must also be considered. If it is easy to sidestep a justice claim communicatively by making use of genre conventions in diplomacy (such as shifting to a more general or technical referential frame), the appropriateness of a justice claim will not be of much advantage. Normative claims such as the fifth and sixth examples (lines 21-44) can be countered with reference to technical or procedural problems or issues of expertise.

This is more a question of communicative context and felicity conditions than a general absence of normative claims, illustrated by examples where distributive justice claims can gain more traction in negotiations. The discussions about possible legal sanctions against the infringements of property rights during the IGC meeting in 2013 are an example where normative claims about the distribution of entitlements and historical injustices were negotiated between member states and ILC observers.

(53) I think we do need to work out what the maximum sanction would be. I think
(54) that sanctions have several functions. . . . Sanctions generally are to
(55) discourage people who from getting on the wrong path whether they got on
(56) that wrong path by in good faith or in bad faith. I think we do need to
(57) remember that the legislation policies are there in order to achieve results. If
(58) we are thinking of measures without sanctions then I think that this regulation
(59) will not have any results and finally on the search for solutions faces with two
(60) extremes. I think the law is meant to be blind, there should be no favoring of
(61) one party over another but what we are looking for here is equity and
(62) somewhere between the law in strico sensu and equity we may find arbitration
(63) —but of course, arbitration can be lengthy and costly, however not as much as
(64) a legal process might be.

(Transcript of a statement of a representative from a central African country)

The discussion on sanctions during this meeting lasted a couple of hours and—in a similar fashion to this example—was mostly a rational exchange of arguments and implied normative content and less an exchange of policy objectives and national interests. There are a lot of factors that enable these exchanges, and they can make distribution claims felicitous. The framing of the discussion is a central factor. Although the fifth and sixth examples (lines 21-44) are taken from the main plenary meeting, where member state positions are exchanged, the latter discussion was framed by the chair as a "technical exercise" in which participants were asked to share their professional views. This was accompanied by a less formal setting: delegates were addressed using their first names and not the name of their respective member states or organizations, stressing that they were not supposed to deliberate on the basis of policy views but on professional expertise. The setting and with it a change in felicity conditions allowed participants to use different and nonconventional registers and nondiplomatic rhetoric than they are used to. Law professors, lawyers, and technical experts among the delegates made use of legal ways of arguing, using cases to illustrate certain points or going into technical details of the patent system to argue for or against proposed measures. Terms such as *equity* as part of a less value-laden register in contrast to more confrontational language add to this. Moreover, the fact that this and other exchanges of rational arguments were of little consequence for negotiations enabled the delegates to speak more openly. The statements and proposals exchanged here, particularly in this multilateral setting, were superseded by policy objectives after this technical exercise. A key point that made this exchange of normatively grounded positions and proposals possible was the implicitness of justice claims: No direct accusations based on historical injustices

or absolute claims were exchanged, but a situation of inequity was implicitly presupposed in the statement above.

Felicity Conditions of Situated Normative Claims

Starting from the observation of a secondary situating of ethics, negotiations and meetings relating to culture as rights and property can be viewed as meta-actions ordered and structured by pragmatic features of language, partially erasing and partially rephrasing aspects of justice. However, justice claims are still pervasive in such negotiations, and the fact that in many cases they are infelicitous does not mean that there are no effective normative utterances. Added to explicit justice statements —and this is a central feature for diplomatic discourse—there are many implicit justice claims. For one, these can be encapsulated in policy. The US policy that IP law is vital for fostering innovation is an example of such a claim that can be understood as stemming from a distributive justice claim, following a liberalist notion of justice and property. Furthermore, the position of developing countries in the IGC to push toward a legally binding agreement is based on normative claims, even when they are not made explicit in all communicative situations. Thus, although technical or procedural arguments can lack explicit normative content, the respective positions can be based on normative claims. In this respect, seemingly neutral expertise is often used politically or strategically and is accordingly based on or tied to normative claims and intentions (see Mosse 2011).

Although such positions and forms of knowledge are based on normative propositions, they do not make them explicit but leave them implicit. A crucial reason for this is that implicit justice claims are often more successful or appropriate than explicit claims, because they prevent direct confrontation and leave room for open communicative exchanges. Here, indirect speech is used as a deliberate strategy that considers felicity conditions. Furthermore, as language and speech is evaluated vis-à-vis "standard" (Silverstein 1996) or conventional forms, deviations from norms of interaction and interpretation, however dynamic or unstable, can entail negative consequences for speakers. This includes the nonobservance of utterances and their negative evaluation, which can be a hindrance to building coalitions, as well as more direct reprimands.

Other communicative situations can be and are used to mediate normative claims. In these, felicity conditions are configured differently and allow for explicitly voicing normative claims. Bilateral and less formal exchanges between actors from different member states or organizations, for example, are often used in the committee to mediate normative views. Cafeteria meetings, informal hall talks, information sessions, or group meetings constitute communicative events where other conditions exist and where explicitly voicing normative claims is more felicitous. These exchanges, however, do not appear in official meeting reports or transcripts. This is a methodological problem that needs to be considered when conducting document analyses in the context of policy processes (see Groth 2018). Ethnographic research that includes less formal, undocumented exchanges and pays attention to communicative modalities generally and specifically for felicity conditions is needed to grasp the full extent of normative claims—implicit and explicit, on the record and informally. Context, in this regard, not only includes specific communicative situations but stretches to the broader setting in which speech occurs. In the case of the IGC, this setting consists of week-long negotiations and a multitude of different situations.

It does not suffice to create a typology of justice claims in multilateral negotiations or other fields of discourse, because they tend to miss the situatedness of speech acts. The embeddedness of justice claims in discourse promotes a shift to implicit ethics or implicit justice claims and the felicity conditions for explicit justice claims require a high level of competency from speakers. At first glance, the negotiations observed seem to lack justice claims, but it is worth probing into the complex interrelations

between different utterances, both normative and nonnormative. Furthermore, observations of a technization, which erases or denies justice claims in negotiations or policy making, need to take into account the implicitness of normative claims. Whereas shifting to a referential frame stressing technical or procedural issues can be a strategy to avoid talking about justice claims, such claims can nonetheless be embedded in nonnormative speech—if you want to talk justice in international diplomacy, it is best to do so without talking justice. As one indigenous representative put it, "playing the game" (author's fieldnotes) in multilateral negotiations with implicit (rather than explicit) normative claims and framing interests according to situational communicative conditions can be a more successful way to build alliances, garner support for issues, and achieve participatory and distributive justice in the long run. Although limited in influence by structural and institutional constraints and power relations, normative claims fulfilling situated conditions and communicative conventions can be felicitous and efficacious.

Similarly, the critique of a justization in international politics, that is, the more frequent occurrence of speech acts that "raise an issue above the realm of routine politics" (H. Müller 2011) and into the sphere of justice, has to be analyzed regarding felicity conditions and the communicative situatedness of normative claims. It is not only the explicit and apparent justice claims but also other less apparent utterances that mediate normative issues and convey conceptions of justice. Because of infelicitous claims and genre conventions, the apparent justization of discourse in international diplomacy can also be more strategy than the elicitation of justice claims. By contrast, discourse lacking justice claims can hint at the implicitness of such justice claims.

Their analysis requires a close scrutiny of communicative context. As Goodwin's (1994) study of courtroom negotiations illustrates, a purely linguistic analysis of talk (here: multilateral negotiations) would miss indexical features that point to social features of communicative event (such as the speaker's affiliation to a stigmatized social group, invoking frames including ethical arguments). For the international committee analyzed here, as well as for other policy processes, this requires a focus on the relation between implicit and explicit normative claims and their felicity conditions.

Notes

1.. See Irvine (1979) for a detailed discussion of the labels of "formality" and "informality" in communicative interaction. For the IGC, the distinction between formal and informal events includes factors such as the documentation of negotiations, the involvement of observers and media, and whether utterances are understood as binding. Informal settings are not documented, "off the record," and not made accessible to outside observers or the public so that speakers can make statements without being held accountable for them. Formal settings are mostly "on the record" and accessible to a broad range of actors; statements by state representatives are understood to be more or less official and can have direct repercussions.

2.. A broader audience, including civil society organizations and media, can be helpful when threats to leave the negotiation table or other issues of open conflict are involved. In such cases, claims are countered with more difficulty, and the publicity of protest can lead to concessions, such as the granting of speaking time.

3.. CONGAF (Coordination des ONG africaines des droits de l'homme) is a pan-African NGO representing a number of smaller NGOs in the human rights sector, see http://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_9/wipo_grtkf_ic_9_2_add.pdf (accessed July 23, 2018).

References

Abdel-Latif, Ahmed. 2017. "Revisiting the Creation of the IGC: The Limits of Constructive Ambiguity?" In *Protecting Traditional Knowledge: The WIPO IGC on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*, edited by Daniel F Robinson, Ahmed Abdel-Latif, and Pedro Roffe, 10–30. London: Routledge.

Adell, Nicolas, Regina F. Bendix, Chiara Bortolotto, and Markus Tauschek, eds. 2015. *Between Imagined Communities and Communities of Practice: Participation, Territory and the Making of Heritage*. Göttingen: Göttingen University Press.

Agha, Asif. 2003. "The Social Life of Cultural Value." *Language & Communication* 23: 231–71.

Austin, John L. 1962. *How to Do Things with Words*. Cambridge, MA: Harvard University Press.

Bauman, Richard, and Charles L. Briggs. 2003. *Voices of Modernity. Language Ideologies and the Politics of Inequality*. Cambridge: Cambridge University Press.

Bax, Anna. 2018. "'The C Word' Meets 'the N Word': The Slur Once Removed and the Discursive Construction of 'Reverse Racism'." *Journal of Linguistic Anthropology* 28: 114–36.

Bellier, Irène, Leslie Cloud, and Laurent Lacroix. 2017. *Les droits des peuples autochtones. Des Nations unies aux sociétés locales*. Paris: L'Harmattan

Bendix, Regina F., Aditya Eggert, and Arnika Peselmann, eds. 2013. *Heritage Regimes and the State*. Göttingen: Göttingen University Press.

Bergmann, Jörg, and Thomas Luckmann. 1999. "Moral und Kommunikation." In *Kommunikative Konstruktion von Moral*, edited by Jörg Bergmann and Thomas Luckmann, 13–36. Opladen: Westdeutscher Verlag.

Bourdieu, Pierre. 1991. *Language and Symbolic Power*. Oxford: Polity.

Brenneis, Donald. 1984. "Straight Talk and Sweet Talk: Political Discourse in an Occasionally Egalitarian Community." In *Dangerous Words: Language and Politics in the Pacific*, edited by Donald Brenneis and Fred R. Myers, 69–84. New York: New York University Press.

———. 1988. "Language and Disputing." *Annual Review of Anthropology* 17: 221–37.

Brenneis, Donald, and Fred R. Myers, eds. 1984. *Dangerous Words: Language and Politics in the Pacific*. New York: New York University Press.

Brown, Michael F. 2010. "Culture, Property, and Peoplehood: A Comment on Carpenter, Katyal, and Riley's 'In Defense of Property'." *International Journal of Cultural Property* 17(3): 569–79.

Bucholtz, Mary, and Kira Hall. 2004. "Language and Identity." In *A Companion to Linguistic Anthropology*, edited by Alessandro Duranti, 369–94. Malden, MA: Blackwell.

Calder, Jeremy. 2019. "From Sissy to Sickening: The Indexical Landscape of /s/ in SoMa, San Francisco." *Journal of Linguistic Anthropology*. https://doi.org/10.1111/jola.12218.

Carneiro da Cunha, Manuela. 2009. *"Culture" and Culture: Traditional Knowledge and Intellectual Rights*. Chicago: Prickly Paradigm Press.

Deitelhoff, Nicole. 2006. *Überzeugung in der Politik. Grundzüge einer Diskurstheorie internationalen Regierens*. Frankfurt: Suhrkamp.

Duranti, Alessandro. 1992. "Language in Context and Language as Context: The Samoan Respect Vocabulary." In *Rethinking Context: Language as an Interactive Phenomenon*, edited by Alessandro Duranti and Charles Goodwin, 77–99. Cambridge: Cambridge University Press.

———. 1994. *From Grammar to Politics: Linguistic Anthropology in a Western Samoan Village*. Berkeley: University of California Press.

———. 1997a. "Universal and Culture-Specific Properties of Greetings." *Journal of Linguistic Anthropology* 7(1): 63–97.

———. 1997b. *Linguistic Anthropology*. Cambridge: Cambridge University Press.

Duranti, Alessandro, and Charles Goodwin, eds. 1992. *Rethinking Context: Language as an Interactive Phenomenon*. Cambridge: Cambridge University Press.

Erickson, Frederick. 2011. "From Speech as 'Situated' to Speech as 'Situating': Insights from John Gumperz on the Practical Conduct of Talk as Social Action." *Text and Talk* 31(4): 395–406.

Goodwin, Charles. 1994. "Professional Vision." *American Anthropologist* 96(3): 395–412.

Groth, Stefan. 2012. *Negotiating Tradition: The Pragmatics of International Deliberations on Cultural Property*. Göttingen: Göttingen University Press.

———. 2013. "Allmendgemeinschaften und Cultural Commons in der Diskussion um kulturelles Eigentum." In *Kultur_Kultur. Denken, Forschen, Darstellen*, edited by Reinhard Johler, Christian Marchetti, Bernhard Tschofen, and Carmen Weith, 59–65. Münster: Waxmann.

———. 2015. "Between Society and Culture: Recognition in Cultural Heritage Contexts." In *Between Imagined Communities and Communities of Practice: Participation, Territory and the Making of Heritage*, edited by Nicolas Adell, Regina F. Bendix, Chiara Bortolotto, and Markus Tauschek, 59–81. Göttingen: Göttingen University Press.

———. 2018. "Entstehungskontext, Materialität und Sprachspezifik. Elemente einer empirisch-kulturwissenschaftlichen Quellenkritik von Dokumenten in politischen Prozessen." *Schweizerisches Archiv für Volkskunde* 114(1): 57–75.

———. 2019. "Ordnung als Methode und Praxis: Zur Kommunikationsethnografie internationaler Verhandlungen." In *Ordnungen in Alltag und Gesellschaft: Empirisch-kulturwissenschaftliche Perspektiven*, edited by Stefan Groth and Linda Mülli, 297–315. Würzburg: Königshausen und Neumann.

Groth, Stefan, and Lars Döpking. 2015. "Clustering Justice: Über normative Dimensionen kulturellen Eigentums." In *Kultur als Eigentum: Instrumente, Querschnitte und Fallstudien*, edited by Stefan Groth, Regina F. Bendix, and Achim Spiller, 413–44. Göttingen: Göttingen University Press.

Hafstein, Valdimar T. 2004. "The Politics of Origins: Collective Creation Revisited." *Journal of American Folklore* 117(465): 300–315.

Halewood, Michael. 1999. "Indigenous and Local Knowledge in International Law: A Preface to Sui Generis Intellectual Property Protection." *McGill Law Journal* 44: 953–96.

Hall, Kita. 1999. "Performativity." *Journal of Linguistic Anthropology* 9(1/2): 184–87.

Hill, Jane H. 2008. *The Everyday Language of White Racism*. Malden, MA: Wiley-Blackwell.

Hill, Jane H., and Judith T. Irvine eds. 1992. *Responsibility and Evidence in Oral Discourse*. Cambridge: Cambridge University Press.

Hirsch, Susan F. 1998. *Pronouncing and Persevering: Gender and the Discourses of Disputing in an African Islamic Court*. Chicago: University of Chicago Press.

Hymes, Dell. 1974. *Foundations in Sociolinguistics: An Ethnographic Approach*. Philadelphia: University of Pennsylvania Press.

Irvine, Judith T. 1979. "Formality and Informality in Communicative Events." *American Anthropologist* 81(4): 773–90.

Karlsson, Bengt G. 2003. "Anthropology and the 'Indigenous Slot': Claims to and Debates about Indigenous Peoples' Status in India." *Critique of Anthropology* 23(4): 402–23.

Levinson, Stephen C. 1983. *Pragmatics*. Cambridge: Cambridge University Press.

Linell, Per, and Ragnar Rommetveit. 1998. "The Many Forms and Facets of Morality in Dialogue." *Research on Language and Social Interaction* 31(3/4): 465–73.

Mendus, Susan. 2009. *Politics and Morality*. Cambridge: Polity.

Merry, Sally Engle. 2011. "Measuring the World: Indicators, Human Rights, and Global Governance." *Current Anthropology* 52(S3): S83–95.

Mey, Jacob L. 2011. "Speech Acts in Context." In *Context and Contexts: Parts Meet Whole?* edited by Anita Fetzer and Etsuko Oishi, 171–80. Amsterdam: John Benjamins.

Mosse, David. 2011. "Introduction: The Anthropology of Expertise and Professionals in International Development." In *Adventures in Aidland*, edited by David Mosse, 1–31. New York: Berghahn.

Müller, Birgit. 2009. "Comment Rendre Technique un Débat Politique. Controverses Autour des Biotechnologies Agricoles au Sein de la FAO." *Tsantsa* 14: 27–36.

———. 2013. "Introduction. Lifting the Veil of Harmony: Anthropologists Approach International Organizations." In *The Gloss of Harmony: The Politics of Policy Making in Multilateral Organisations*, edited by Birgit Müller, 1–20. London: Pluto Press.

Müller, Harald. 1994. "Internationale Beziehungen als kommunikatives Handeln. Zur Kritik der utilitaristischen Handlungstheorie." *Zeitschrift für Internationale Beziehungen* 1(1): 15–44.

———. 2011. "Justice in International Diplomacy." Peace Research Institute Frankfurt Working Paper 8, 1–14.

Pagliai, Valentina, ed. 2010. *Performing Disputes: Special Issue of the Journal of Linguistic Anthropology* 20 (1).

Philips, Susan U. 2004. "Language and Social Inequality." In *A Companion to Linguistic Anthropology*, edited by Alessandro Duranti, 474–87. Malden, MA: Blackwell.

Prasad, Leela. 2007. *Poetics of Conduct: Oral Narrative and Moral Being in a South Indian Town*. New York: Columbia University Press.

Primoratz, Igor, ed. 2007. *Politics and Morality*. Houndmills, UK: Palgrave Macmillan.

Raven, Margaret. 2006. "Protocols & ABS: Recognising Indigenous Rights to Knowledge in Australian Bureaucratic Organisations." *Indigenous Law Bulletin* 39: 1–6.

Ray, Barnhardt. 2005. "Indigenous Knowledge Systems and Alaska Native Ways of Knowing." *Anthropology & Education Quarterly* 36(1): 8–23.

Richland, Justin B. 2008. *Arguing with Tradition: The Language of Law in Hopi Tribal Court*. Chicago: University of Chicago Press.

Risse, Thomas. 2007. "Global Governance und kommunikatives Handeln." In *Anarchie der kommunikativen Freiheit: Jürgen Habermas und die Theorie der internationalen Politik*, edited by Peter Niesen, 57–86. Frankfurt: Suhrkamp.

Robinson, Daniel F., Ahmed Abdel-Latif, and Pedro Roffe (eds.). 2017. *Protecting Traditional Knowledge: The WIPO IGC on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore*. London: Routledge.

Rosaldo, Michelle Z. 1982. "The Things We Do with Words: Ilongot Speech Acts and Speech Act Theory in Philosophy." *Language in Society* 11(2): 203–37.

Saretzki, Thomas. 2007. "Argumentieren, Verhandeln und Strategie. Theoretische Differenzen, begriffliche Unterscheidungen und empirische Studien zu Arguing und Bargaining in der internationalen Politik." In *Anarchie der kommunikativen Freiheit*, edited by Peter Niesen, 111–46. Frankfurt: Suhrkamp.

Saville-Troike, Muriel. 2008. *The Ethnography of Communication*. Malden, MA: Wiley.

Shore, Cris, and Susan Wright. 2011. "Conceptualising Policy: Technologies of Governance and the Politics of Visibility." In *Policy Worlds: Anthropology and the Analysis of Contemporary Power*, edited by Cris Shore, Susan Wright, and Davide Però, 1–25. New York: Berghahn.

Silverstein, Michael. 1976. "Shifters, Linguistic Categories, and Cultural Description." In *Meaning in Anthropology*, edited by Keith H. Basso and Henry A. Selby, 11–55. Santa Fe, NM: SAR Press.

———. 1996. "Monoglot 'Standard' in America: Standardization and Metaphors of Linguistic Hegemony." In *The Matrix of Language: Contemporary Linguistic Anthropology*, edited by Donald Brenneis and Ronald K. S. Macaulay, 284–306. Boulder, CO: Westview.

———. 2003. *Talking Politics: The Substance of Style from Abe to "W"*. Chicago: Prickly Paradigm Press.

Tannen, Deborah. 1986. *That's Not What I Meant! How Conversational Style Makes or Breaks Relationships*. New York: Harper.

Ulbert, Cornelia, and Thomas Risse. 2005. "Deliberately Changing the Discourse: What Does Make Arguing Effective?" *Acta Politica* 40(3): 351–67.

WIPO. 2008. "Report of the 12th Session, IGC on GRT KF. WIPO/GRT KF/IC/12/9." November 21. http://www.wipo.int/meetings/en/doc_details.jsp?doc_xml:id=118812.

———. 2009. "Report of the 14th Session, IGC on GRTKF. WIPO/GRTKF/IC/14/12." October 1. http://www.wipo.int/meetings/en/doc_details.jsp?doc_xml:id=129634.

———. 2011. "Report of the 17th Session, IGC on GRTKF. WIPO/GRTKF/IC/17/12." June 6. http://www.wipo.int/meetings/en/doc_details.jsp?doc_xml:id=171057.

Wodak, Ruth. 2007. "Pragmatics and Critical Discourse Analysis: A Cross-Disciplinary Inquiry." *Pragmatics & Cognition* 15(1): 203–25.

Zigon, Jarrett. 2007. "Moral Breakdown and the Ethical Demand: A Theoretical Framework for an Anthropology of Moralities." *Anthropological Theory* 7(2): 131–50.