

Paradoxes of Ratification: The Nagoya Protocol and Brazilian State Transformations

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Thomas R. Eimer^{1,a} and Flavia
Donadelli² 

Abstract

This article explores the paradoxical behaviour of Brazil in relation to its national and international approaches to the regulations of access to genetic resources and benefits sharing with indigenous and other traditional communities. Brazil was one of the leaders in the international negotiations that led to the UN Nagoya Protocol but only ratified it 11 years later, after remarkable transformations of its internal biodiversity laws. We suggest that the seemingly contradictory behaviour has been shaped by the country's internal political and ideological changes. This transformation goes hand in hand with substantial changes in state–society relations, particularly with regard to the balance of coalitions' power between indigenous groups and industrial and agrarian elites. The article builds on the literature on state transformations and relies on the Advocacy Coalition Framework to show the importance of considering the impact of national-level politics on the fate of international agreements.

Keywords

Nagoya Protocol, Brazil, indigenous communities, competition state

¹ Radboud University Nijmegen, Nijmegen, the Netherlands

² School of Government, Victoria University of Wellington, Wellington, New Zealand

^a In Memoriam

Corresponding Author:

Flavia Donadelli, School of Government, Victoria University of Wellington, 33 Bunny Street, Pipitea, Wellington 6011, New Zealand.

Email: flavia.donadelli@vuw.ac.nz

Introduction

Brazil is the most biodiverse country in the world and has historically been an international leader in debates around the need to recognize and remunerate provider states of genetic resources. While the principles of a mutually beneficial exchange had already been formulated in the Convention on Biodiversity (CBD) in 1992, their realization did not take place until nearly two decades later, when industrialized countries promised in the 2010 Nagoya Protocol (NP), to establish a regulatory framework for effective benefit-sharing of resources acquired through the use of genetic resources (Santilli, 2015). The NP has been internationally hailed as a victory for the provider states and the genuine donors of these resources, namely, indigenous and other traditional communities (Vermeulen, 2013). But, despite its leadership and central role in this debate, Brazil took 11 years to ratify the NP (only ratifying it in March 2021). Even more puzzling, the country that had been internationally recognized as a pioneer in regulating access to genetic resources and benefit-sharing with traditional communities watered down its internal legislation in 2015, reversing previously strong requirements for the protection and informed consent of indigenous and traditional communities' rights, clearly contravening the wording and spirit of the NP (Santilli, 2015).

Our article situates the Brazilian case in analyses that simultaneously observe the national and international dynamics affecting the fate of international agreements and negotiations (Gourevitch, 2002; Putnam, 1988). It adopts a transnational neopluralist account of international relations, according to which states are not monolithic entities (Cerny, 2010), and investigates the impacts of internal coalition changes to international negotiations. Relying on the Advocacy Coalition Framework (ACF) and on the Narrative Policy Framework (NPF) as our theoretical and analytical frameworks we show that the seemingly contradictory Brazilian behaviour around the NP can be explained by internal power and ideological struggles that led to a shift in predominant beliefs in the Brazilian biodiversity subsystem. This shift is interpreted through the descriptive categories of the literature on state transformations, according to which the predominant coalition would have changed from one that adopted a 'new democratic developmental' state narrative towards another groups of stakeholders more adept to the 'competition state' views, just after the protocol had been signed and started to be ratified (Cerny, 2010). While these models expect the state to play an active role in socio-economic relationships, they differ with regard to the implications of its increased integration into the global market. The new democratic developmental state's narrative is socially focused. It attempts to proactively shape globalization and to purposefully coordinate domestic policies with the aim of both economic and social progress (Bresser-Pereira, 2009). This also entails the protection of certain segments of society against competitive pressures (Morais & Saad-Filho, 2011). The competition state, in contrast, is characterized by a reactive and selectively adaptive stance towards globalization. According to this theoretical ideal-type, to enhance the efficiency of domestic economic development, it subjects all spheres of life to the dynamics of global market forces, which ultimately strengthens the position of economic elites to the detriment of less privileged actors (Cerny, 2010; Taylor, 2010).

To support our claims, we trace the interplay between international negotiations and Brazilian biodiversity policies from the early 1990s until 2021, emphasizing and explaining the role of the main coalitions that gained and lost power throughout this process. Our research is based on ‘multi-sited fieldwork’ (Henne, 2017). Inspired by ‘multi-sited ethnography’ (Marcus, 1995), ‘multi-sited fieldwork’ is a methodology frequently used to explain the ways in which the design of local regulations ‘both respond to and reflect globalised changes’ (Henne, 2017, p. 98). The methodology proposes that to understand the interwoven dynamics of international negotiations and domestic politics, we should simultaneously analyse the ‘events, social conditions and actors that shape regulation’ at both levels and ‘analyse how participants’ perceptions and social context inform the meaning attributed to regulation’ (Henne, 2017, p. 100). Uniquely adapted to the study of local regulations which are nested in international regimes, this approach is particularly well suited to the kind of in-depth qualitative analysis of policy coalitions proposed here. Empirically, we make use of publicly available documents, including parliamentary protocols, legislative texts, media publications and, stakeholder statements from both Brazilian and inter-and transnational actors. In addition to document-based process tracing, we draw on 21 interviews and more than 100 not directly quoted conversations with public officials, indigenous activists and representatives from public research institutions, corporations and transnational as well as domestic non-governmental organizations in Brazil between 2010 and 2020.

Our article is organized as follows; in the first section, we give an overview of our analytical framework and of the literature on state transformations. The second section describes the history and dialectics between Brazilian economic diplomacy, the changing international context, and the country’s domestic biodiversity policies between 1990 and 2021, which an emphasis on changes in predominant coalitions. In the third section, we sketch the contours of the emerging environmental competition state in Brazil and provide evidence of a shift in local politics. Our article concludes with a reflection on the generalizability of our findings and some recommendations for further research.

Theories of the Policy Process and the Brazilian Context

Developed in the early 1980s by Paul Sabatier and Hank Jenkins-Smith, the Advocacy Coalition Framework (ACF) is an actor-based approach focused on explaining processes of policy change. Among the most important premises of the framework are that, in any policy debate, actors form coalitions which share a specific ‘belief system’ and that resulting policies are translations of these predominant ‘belief systems’ (Sabatier, 1988 p. 139). Another premise of the framework relates to the choice of ‘policy subsystems’ as the most appropriate scale and unit of policy analysis (Sabatier, 1988, p. 131). Policy subsystems are defined as ‘semi-autonomous decision-making networks of policy participants that focus on a particular policy issue’ such as the genetic resources and traditional knowledge (GR&TK) subsystem discussed in this paper. Ideally, the study of changes in any subsystem requires a time perspective of at least 10

years or more (Sabatier, 1988, p. 131; Weible et al., 2010, p. 523). Finally, the ACF attributes policy or belief changes to two main observable outcomes: ‘basic orientations or value priorities’ and the ‘overall assessment of the seriousness of the problem, its basic causes, and preferred solutions for addressing it’ (Jenkins-Smith et al., 2014, e-book 45%).

The empirical operationalization of ‘belief systems’ has long been perceived as a challenge in the application of ACF (Hann, 1995; Jones et al., 2014; Schlager, 1995, p. 24). Normative beliefs and assessments might not be easily revealed in interviews and public statements, and even if they are revealed they tend to be highly unstable and not necessarily followed by political actions. Following Donadelli (2016) we propose to operationalize the framework based on actors’ main public narratives or statements, following analytic methods drawn from the ‘Narrative Policy Framework’ (NPF). We, therefore, rely on actors’ public statements (during interviews, media or parliamentary debates) to categorize them in coalitions. The main advantage of operationalizing the premises of the ACF through the analysis of public statements is that it ‘eliminates concerns that actors might not express their actual beliefs’ in public declarations and allows for a more objective and replicable identification of coalitions (Donadelli, 2016).

Additionally, as emphasized by Jones et al. (2014, p. 5), ‘NPF rejects the post-structural claim that narratives are completely relative’ and suggests that any analysis has to begin from ‘a clear and concise operationalisation of policy narratives’. Following this operationalization guideline, we the literature on state transformations in developing countries to guide our narrative analysis (Behuria, 2018; Gezmiş, 2018; Grugel and Ruggirozzi, 2012; Wade, 2018; Wylde, 2016). This literature provides a specific interpretive scheme, or ‘ideal-types’ for the categorization of arguments and actors within different coalitions, and it was inductively selected based on our knowledge of the Brazilian context and historical changes.

By the end of the 1990s, it had become obvious that the laissez-faire prescriptions of the Washington Consensus had failed to bring about the expected positive effects for economic development, especially in Latin American countries (Higgott, 2000). While most of them had more or less followed the neoliberal paradigm, they subsequently ended up in another substantial foreign debt crisis (Neto and Vernengo, 2002). Even Joseph Stiglitz, then chief economist of the World Bank, called for a redefinition of the role of the state in the era of the post-Washington Consensus. In his words, ‘the choice should not be whether the state should or should not be involved. Rather, it is often a matter of how it gets involved’ (Stiglitz, 1999, p. 27).

Many Latin American scholars understood Stiglitz’s comment as an encouragement to return to the idea of state-led development. They demanded institutionalized coordination of governmental activities to ensure economic progress and welfare at the same time (Bresser-Pereira, 2009). On the domestic level, the new developmental state literature recommends a neo-Keynesian demand side policy (Bresser-Pereira, 2011; Coutinho, 2010). The state bureaucracy is expected to overcome internal divisions in order to take up a supportive and even a coordinating role for industrial sectors (Massi and Singh, 2018). At the same time, public bureaucracies should avoid a patrimonial capture by economic elites (Bresser-Pereira, 2009). While this idea of an ‘embedded

autonomy' had already been formulated by the classical developmental state literature (Evans, 1995), the new wave of scholarship puts particular emphasis on the involvement and participation of larger parts of the population (Grugel and Ruggirozzi, 2012).

In contrast to the historical and contemporary experiences in Asia (Hsu 2018; Wade, 2018), the narrative of new democratic developmental state scholars put particular emphasis on inclusive and participatory politics because they think that democratic procedures can immunize the state against the rent-seeking behaviour of economic elites (Robinson and White, 1998). At the same time, the democratic developmental state actively establishes welfare policies which, at least partially, protect the poorer parts of the population against the hardships of economic competition (Herrlein Júnior, 2014). In this vein, democratic developmental state scholars claim that the rights of marginalized groups such as indigenous communities must be defended (Grugel and Ruggirozzi, 2012, p. 2–3). While admitting that social and human rights policies are often difficult to achieve if they collide with developmental goals, they argue that the reconciliation of these priorities is part of the normative orientation of a democratic developmental state (Dagnino, 2016).

While the new democratic developmental state narrative proposes a powerful state to at least strive for inclusive growth, competition state theory doubts from the outset whether these aspirations can be reached under the conditions of globalization. They agree that the state is not only a passive respondent but a strategic promoter of the new world order (Cerny, 2010), but when compared to the developmental state literature, they tend to portray the state as a reactive entity (Fougner, 2006). To improve its position within the global economy, the competition state makes selective use of the international regulatory framework to serve the interests of its industrial elites (Cerny, 1999), portraying these tendencies as a necessary reaction to the pressures of globalization (Taylor, 2010).

This goal orientation implies substantial changes within the domestic polity. The sharp distinction between public authority and private interest articulation, a core feature of the (new) developmental state, is blurred. While not a unitary actor, the state apparatus attempts to formulate and to enforce a coherent policy strategy in rather closed regulatory networks consisting of public bureaucrats from various ministries, elected politicians and private interest groups (Kütting and Cerny, 2015).

In terms of its instruments, the competition state clearly deviates from the expectations of the developmental state literature. Instead of hierarchical steering, the increased emphasis on financial incentives even 'generates markets where they do not exist' (Levi-Faur, 1998, p. 674). This does not prevent state authorities from occasionally protecting 'national champions', but the general idea is to enforce an adaptation of all societal actors to the discursively constructed imperatives of the global market (Fougner, 2006; Taylor, 2010, p. 40). Pre-existing non-market exchange mechanisms, which rely on trust and solidarity, are increasingly undermined by 'commodification', that is, the translation of lifeworld objects into monetarily measurable and tradable goods (Cerny, 2010, p. 16–17; Goodwin, 2018). Whenever certain segments of the population attempt to resist the pressures of competition, the state does

not hesitate to make use of coercive means in order to enforce its new vision of development by competition (Taylor, 2010, p. 46). The impacts of this recent ‘turn’ towards a competition state have been emphasized in several contexts and sectors, ranging from exportation policies in Finland (Kaitila, 2019); immigration decisions in NZ and UK (Mavelli, 2018), to the conception of sustainability in the Sustainable Development Goals (SDG) in agriculture (Spann, 2017). More specifically, recent studies have also applied it to describe and explain the increasing denial of indigenous consent rights in Brazil (Eimers & Bartels, 2020).

Table 1 summarizes the main differences between the democratic developmental and the competition state descriptions.

Our analysis broadly corresponds to the claims of the state transformation perspective presented above but some caveats and contradictions should be emphasized. By tracing the history of Nagoya related negotiations in Brazil and abroad until 2021, we show that many of the emerging contradictions or paradoxes of this process can be attributed to these stark ideological and strategic changes, that resulted in the prevalence of a new coalition in Brazilian politics. Our subsequent historical and coalition analysis provides evidence to the argument that Brazil moved from a developmentalist orientation during Lula’s two mandates and the first of Rousseff’s mandate (2003–2015), to a predominantly competition type of state since then, which has continued but become more authoritarian since Bolsonaro’s election in 2019.

Although useful for high level categorizations, we acknowledge that this proclaimed shift from the ‘democratic developmental state’ to a ‘competition state’ pays no heed to some of the nuances and internal contradictions of the Brazilian political landscape. One of the most remarkable contradictions refers to the Belo Monte Hydroelectric project designed and executed during Lula and Dilma’s mandates in sacred indigenous lands. The construction process of Belo Monte was highly controversial as it directly opposed the claim for indigenous rights and self-determination. This was one of the main reasons for the resignation of Marina Silva in 2009, one of the former environmental ministers most closely aligned with minorities such as indigenous groups and rubber tappers. The resignation of Silva is certainly an early indication of the state

Table 1. Comparative Summary of the Literature.

	Democratic developmental state	Competition state
Involvement with the global economy	Proactive influence-seeking	Strategically selective adaptation
Domestic policy processes	Inclusive, participatory	Elite- and network-based
Domestic policy style	Interventionist, coordinating	Regulatory, incentive-oriented
Predominant policy goals	Broadening of economic and political participation by partial de-commodification	Realization of efficiency gains by commodification of all life spheres

Source: originally produced.

transformations that are referred to in this study, but it happens much before than our indicated ‘turning point’ (second Rouseff’s mandate).

Second, despite presented as representatives of the ‘democratic developmental state’ era, neither Lula nor Rouseff were ever capable of directly opposing strong national interests (e.g. agribusiness and pharmaceutical companies) and push for the ratification of the NP before the Brazilian regulation on the topic had been fully completed. It is clear, in this manner, that elements of the ‘competition state’ were evident during the Workers party’s government much before the definitive turning point indicated by this analysis and, as further explained below, some of the most indigenous inclusive elements of the biodiversity legislation were not even implemented by the Worker’s Party, but by the previous Social Democratic centre-right government of Fernando Henrique Cardoso. As it will be shown in the following sections, the relatively ‘simplistic’ characterization of the ‘state transformations’ literature corresponds to the identification of predominant trends and coalitions, but opposing and contradictory forces always co-existed. [Table 2](#) presents the main milestones of the Brazilian political landscape and of the GR&TK regime that will be further described and explained in the following section.

Brazil’s Move Towards Green Competitiveness

The transformation of Brazil from a democratic developmental state towards an environmental competition state is rooted in mutually reinforcing and recursive dynamics on both the international and the domestic level. To illustrate this claim, this section starts with a description of the Brazilian biodiversity policies up to the early 2000s (section 2.1) and moves on to the country’s diplomatic efforts, which eventually triggered the international adoption of the NP in 2010 (section 2.2). The section ends with an analysis of the coalition dynamics that led to the new Brazilian Biodiversity Law of 2015 (section 2.3) and the 2021 delayed ratification of the NP.

Building the Developmental State: Brazilian Biodiversity Policies Until the Early 2010s

In the colonial era, European natural scientists had already become fascinated by the abundance of biodiversity in the newly discovered territories ([Lowenhaupt Tsing, 2005](#)). In this time, researchers felt no obligation to compensate indigenous groups for their contributions to the scientific progress of the (European) modern ages ([Engle, 2010](#), p. 21–29). Their legal impunity was defended by the ‘common heritage of mankind’ doctrine. GR&TK were generally pictured as a public good free to be accessed without further obligations ([Shiva, 2001](#), p. 49–50).

This perspective started to change in the 1980s when biotechnological research was spurred by a decision made by the U.S. Supreme Court to grant patents on biological material. Brazil, as well as many other developing countries, began to demand financial compensations for the use of the ‘green gold’ of their hinterlands ([Raustiala & Victor, 2004](#), p. 289). Their claims were supported by many indigenous groups, whose insistence

Table 2. Brazilian Political and GR&TK Regime Milestones.

Year	Brazilian political milestones	Access to genetic resources and benefit sharing regime milestones (national and international)
1995	Beginning of Fernando Henrique Cardoso's presidential mandate (Jan 1995–Dec 2002)	First proposal of ABS Brazilian regulation by the Senate
1998		Second and third proposals of Brazilian ABS regulations by the Senate and first proposal by the executive government
2000		'Novartis Scandal' and first Provisional Measure
2001		Second Provisional Measure (2.186) and creation of Cgen
2003	Beginning of Lula da Silva's presidential mandate (Jan 2003–Dec 2010)	
2008	Resignation of Marina Silva as Minister of Environment (2003–2008)	
2010		First fines are issued by IBAMA against researchers and bio-industry Nagoya Protocol is adopted
2011	Beginning of Dilma Rousseff's presidential mandate (Jan 2011–Aug 2016)	
2014		Nagoya Protocol enters in force
2015		The new ABS Law (13.123/2015) is published
2016	Beginning of Michel Temer's interim presidential mandate after Dilma Rousseff's impeachment (Aug 2016–Dec 2018)	
2019	Beginning of Jair Bolsonaro's presidential mandate (Jan 2019–now)	
2021		Nagoya Protocol is ratified in Brazil

Source: originally produced.

on self-determination was strongly supported by leading ethno-biologists. From an indigenous perspective, GR&TK have a cultural and often spiritual value. That is why they demanded the right not to disclose their knowledge if exposure to outsiders would violate their customary values (Posey & Dutfield, 1996).

At the beginning of the 1990s, the alliance of southern countries won, at least, a symbolic victory, when major industrialized countries (excepting the U.S.) signed the Convention on Biodiversity (CBD) after the 1992 'Earth Summit' in Rio de Janeiro (Bernstein, 2000). The CBD stipulates that biological resources fall under the sovereign rights of the states of origin (Rafols, 2021). Moreover, the CBD vaguely mentions that

the ‘holders’ of GR&TK – usually indigenous and traditional communities – should be given a say in the use of their resources. However, critical scholars characterized the CBD as a ‘Christmas tree treaty’, which hardly addressed the practical coordination of partially contradictory interests’ (Raustiala & Victor, 2004, p. 290). Moreover, the evolving debates and technologies on the issue keep raising new challenges and disputes, such as the recent discussions around Digital Sequence Information (DSI) of genetic resources and whether it is already included or should be included on the scope of CBD (Aubry, 2019; Cabrera Medaglia, 2020).

The implementation of the convention in Brazil suggests that the critics had a point. While Brazil was the first country to ratify the CBD, it took another 10 years for the legal implementation of its major provisions. Most notably, left-wing law-makers introduced numerous proposals in the Brazilian Congress, but legislators were not able to agree on the balance of rights between the holders of traditional knowledge and the potential users of genetic resources (Bucher, 2007, p. 201–207). Eventually, President Cardoso cut the Gordian knot with a presidential decree in 2001 (Azevedo, 2005). The president regulated the access to GR&TK through a Provisional Measure, a presidential legal act with immediate effect (Bastos, 2009, p. 55). However, the initial presidential decree became judicially contested by the Communist Party of Brazil and the Workers Party in partnership with the National Confederation of Agricultural Workers (Machado & Godinho, 2011). Left-wing parties and the association of small farmers attempted to improve the legal position of original knowledge holders, particularly regarding their self-determination on the disclosure of their knowledge (Bucher, 2007, p. 201–207).

Against the resistance of the Cardoso government, the emerging ‘developmentalist front’ (Boito & Berringer, 2013) and the already well-established socio-environmentalists (Inoue & Franchini, 2020) succeeded in promoting a rigorous authorization procedure, which made it possible for indigenous groups to uphold the use of their resources or traditional knowledge. The Brazilian government also established the National Council on Genetic Heritage (NCGH). While this institution was supposed to promote the utilization of GR&TK by public and private research institutions, it also was mandated to ensure the right of indigenous groups to deny the access to their resources (Bucher, 2007, p. 201–208).

Under the newly elected Lula government, Marina Silva, a former activist of the Brazilian democratization and collaborator of the rubber tappers’ movement, became minister of environment in 2003. Silva strengthened the bureaucratic apparatus of the NCGH and increased the self-determination rights of indigenous communities (Hochstetler, 2017; Kishi, 2009). She succeeded in connecting biodiversity regulations with intellectual property law, thus bolstering enforcement capacities for the new rules. The grant of a patent in the field of biotechnology was made conditional upon documented evidence that the underlying GR&TK were explored with due diligence and in compliance with the requirements of the (amended) presidential decree. With this regulation, Brazil extended the rights of its indigenous communities far beyond its international obligations and was considered a world pioneer in the regulation of GR&TK (Bucher, 2007, p. 223). At this point, there was a clear predominance of

democratic developmental state narratives in the debate which is reflected in the policy characteristics.

The Brazilian approach to biodiversity related matters and other issues in the early 2000s incrementally assumed the form of a democratic developmental state, which reached its completion on the domestic level under the first Lula government (Coutinho, 2010). The state apparatus, represented by the NCGH took up a proactive coordinating role. It supported and actively promoted research activities while at the same time protecting the self-determination of indigenous groups. This compromise mirrored a coalition of the 'developmental front' of the Workers Party as well as of the socio-environmentalist group, mainly represented by non-governmental organizations and the representatives of marginalized parts of the society such as rubber tappers and indigenous people who were closely aligned with Marina Silva (Boito & Berringer, 2013).

Brazil and the NP: A Pyrrhic Victory for Economic Diplomacy?

Shortly after his first election, President Lula announced at the World Social Forum in Porto Alegre that his government would attempt to upload the developmentalist/socio-environmentalism compromise to the international level. Both the protection of the agroindustry and biodiversity policies became focal points of the country's diplomatic efforts (Eimer & Schüren, 2013; Hopewell, 2016). Brazilian decision-makers were well aware that the comparatively high standards of protection for indigenous groups put the country at a disadvantage with other biodiversity-rich countries. Additionally, the Brazilian use of patent regulation as an enforcement tool did not work because multinational corporations could still apply for intellectual property titles in industrialized countries (Interview 2). At the same time, the domestic regulations restricted the research activities of Brazilian firms and public research institutes (Interview 1).

Within the Brazilian administration, a consensus emerged that the adversary international legal and economic context would prevent the country from benefiting from its affluent natural resources. Under the lead of the Ministry of Foreign Affairs, Brazil established an inter-ministerial working group to develop a common position. By and large, the various ministries achieved a consensus at least on their international priorities (Interview 8). Although the rival perspectives of economic and scientific exploitation and indigenous self-determination were not completely resolved (Interviews 13; 9), the Ministry of Foreign Affairs was mandated to demand for renewed international negotiations. At least in the early phase of these negotiations, the ministry held close contacts with the environmental caucus of the Brazilian Congress, who strongly supported their international efforts (Moreira, 2016, p. 114–115).

On the international level, Brazilian diplomats forged an alliance with other developing countries to build pressure for an amendment of international intellectual property law by the World Intellectual Property Organization (WIPO). They demanded an internationally binding amendment of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPs). It was envisaged that the disclosure of the use¹ of GR&TK should become a prerequisite for the grant of a patent in the jurisdictions of all WTO member states. However, the self-proclaimed 'Friends of

Development' were not able to overcome the resistance of industrialized countries (most notably, the United States (U.S.) and most European Union (EU) countries). From the perspective of the user countries, the mandatory disclosure requirement would decrease the legal certainty of intellectual property titles and therefore endanger the investments of their life science corporations (Eimer & Schüren, 2013).

In view of the stalemate in the WIPO and the WTO, the Brazilian government decided to redirect its diplomatic efforts towards the CBD. It joined the Group of 'Like Minded Mega-Diverse Countries' (LMMC) and succeeded in building an international alliance of emerging and developing countries (May, 2006). Together, they demanded a concretization of the material benefits that had already been promised in the CBD. Industrialized countries realized that they would have to make substantial concessions in order to avoid access barriers for their corporations in the donor states of GR&TK. At the 10th conference of parties in Nagoya (2010), the European Union agreed to establish internal check points to ensure that companies would pay a fair remuneration for the exploration of GR&TK (Rosendal & Andresen, 2014). Even more importantly, industrialized countries conceded that the donor countries of GR&TK would already be entitled to benefit-sharing when multinational corporations used these resources for further research on new products (so-called derivatives; see Santilli, 2015, p. 36–37).

In doing so, the NP for the first time in history created a workable legal framework for market transactions in the field of genetic resources. But the NP also strengthens the legal position of indigenous communities (Suiseeya, 2014, p. 103). It explicitly addresses their importance as 'knowledge holders' and stipulates that any access to their resources shall be subjected to formalized procedures of informed consent. However, industrialized countries successfully rejected any legally enforceable co-responsibility for the observation of indigenous rights within their own jurisdictions (Oberthür & Pożarowska, 2013, p. 111).

From Development to Competition: Towards a New Legislation in Brazil

The partial success of Brazil's green diplomacy first remained largely ignored on the domestic level because the environmental front had been significantly weakened in the Congress elections of 2011 and could not push for internal reforms (Moreira, 2016, p. 114–115). However, the changes of the international legal context coincided with domestic events that aroused and strengthened the power of the Brazilian life science industries that ignited the formation of a new coalition. In 2010, the Brazilian environmental agency (IBAMA) fined several firms that had allegedly accessed the GR&TK of indigenous communities without the formally prescribed authorization. This motivated the association of the pharmaceutical industry (Grupo FarmaBrasil) to approach the Ministry of Environment (MMA) demanding regulatory changes. For over 2 years, representatives of the Brazilian industry, transnational corporations and bureaucrats of the ministry met regularly to discuss a new legislative proposal (Interviews 14; 16). The cooperation between industry representatives and bureaucrats was facilitated by a more distant relationship between the Worker's Party and indigenous movements after the renunciation of Marina Silva in 2008.

Whereas the MMA had previously unilaterally supported the self-determination rights of indigenous communities, many officials had changed their minds over the years. Most of them still believed that indigenous groups should be entitled to benefit from the disclosure of their knowledge and have a fair share of the accruing benefits. At the same time, however, many bureaucrats realized that the emphasis on indigenous self-determination would decrease Brazil's competitive position *vis-à-vis* other donor states of GR&TK (Interview 6). At the same time, many civil society representatives, who had defended indigenous rights during the 1990s, had become employees of the ministry itself. Their own professional aspirations significantly softened their tone (Interview 11). Moreover, public officials seem to have understood that the ratification of the NP would require some compromises with a broader range of stakeholders on the domestic level, especially with the pharmaceutical industry and the increasingly powerful agribusiness sector (Interview 19).

The ministry's change of heart (when Izabella Teixeira was appointed as Minister of Environment) facilitated the formation of a new coalition. Apart from the cooperation with the pharmaceutical industry, bureaucrats from the MMA also intensified their contacts with the Ministry of Science, Technology and Innovation (MCTI). During their debates, various participants denounced the existing legislation as an 'excessive command and control' structure and a serious 'disincentive to the scientific and industrial use of Brazilian biodiversity' (Interview 7). Despite the emerging consensus, the new alliance between the MMA, the MCTI and the Brazilian pharmaceutical industry faced the resistance of the powerful agribusiness (*agronegócio*), whose interests were advocated by the Ministry of Agriculture (MAPA). Although they had been consulted before and during the international negotiations, bureaucrats from this ministry considered their position to be inadequately represented (Interview 7). Many MAPA officials were afraid that the ratification of the NP would negatively affect the country's large agribusiness sectors (Interview 15). Affiliated research institutes issued reports, which drew attention to the possibility that Brazilian soy exporters might be compelled to pay several millions of US dollars as royalties for the use of genetic resources from abroad (e.g. IPEA, 2011) if the NP were to be ratified without internal legislative changes and protections.

Although such an interpretation of the NP appears legally questionable, it created a stir within the country's agricultural sector. The political representatives of the large landowners in the Congress, which had been strengthened by the elections of 2011, intensified their contacts with the MAPA in order to prevent any legal change that might endanger their exportations (Interviews 5; 18). At the same time, members of the rural caucus also made use of their contacts to the mass media spreading their distrust against the economic consequences of an adoption of the NP (Moreira, 2016, p. 121–122).

Eventually, the President's office intervened in the boiling conflict between the interests of the pharmaceutical industry (represented by the MMA and its allies) and the agribusiness (represented by the MAPA and the rural caucus in the Congress). The president made it clear that the MMA and the MAPA had to develop a common legislative proposal (Interview 17). Its intervention complicated the balance of power between the industrial and the agrarian elites. On the one hand, it weakened the position

of the agribusiness and MAPA because it made it mandatory to find a compromise with the pharmaceutical industry for a comprehensive new law. On the other hand, it signalled to the pharmaceutical industry and its allies in the MMA that the ratification of the NP would only be possible, if the interests of the agribusiness were acknowledged.

The contestations between these initially rival coalitions increased the opacity of the negotiations. MAPA officials pressured their colleagues from the MMA not to communicate preliminary points of agreement to potentially critical civil society actors (Interview 17). Bureaucrats of the environmental ministry bowed to the pressure because they did not want to endanger their cooperation with the pharmaceutical industry. Although the MMA held some consultations with handpicked civil society actors, many representatives from Brazilian non-governmental organizations and indigenous groups were only informed about the ongoing debates when the proposal was already underway to the deliberations in the Congress (Interview 11). Some public officials apologized for neglecting critical voices, but their apology came too late to have any meaningful input during the preparatory phase of the new law (Interview 10).

Due to the pressure of the executive, the lower chamber of the Congress appointed a rapporteur from the rural caucus for the new biodiversity law. In doing so, it deliberately bypassed the official responsible deputy who was known for her close contacts with the *Quilombolas* and other traditional communities (Moreira, 2016, p. 145). In line with the interests of the rural caucus, the appointed rapporteur announced from the outset that the lower chamber of the Congress would never approve the ratification of the NP if the new biodiversity law did not fully reflect the priorities of the agribusiness. At the same time, he made clear that he wanted to divest the proposed biodiversity law of ‘all kinds of social romanticism’, that is, its clauses on indigenous self-determination (Interview 20). The rising protests by indigenous actors, the landless movement and other minority groups found some support among left-wing deputies, but they remained largely ignored by the majority of Congress, who defended either the agribusiness or the pharmaceutical industry’s views. It was only in the Senate that critical voices found the support of some law-makers. However, because the leading senators were mainly concerned with the interests of the rubber-tapper movement (Interviews 3; 4), they paid less attention to the more radical perspective of indigenous groups who insisted on self-determination rights regarding access to TK&GR (Interview 12).

The senate reinserted some restrictions for transnational companies and stipulated a mandatory cooperation with Brazilian indigenous institutions and strengthened the role of the Brazilian Environmental Agency (IBAMA). Although the rural caucus in the lower chamber opposed the latter amendments, it accepted these changes because they were backed by the threat of a selective presidential veto. The resulting outcome being that the deputies did not want to endanger the legislative project as a whole (Interview 3). The new biodiversity law was finally adopted in May 2015 as one of the last legislative acts before Dilma Rousseff’s impeachment. The ratification of the NP, however, only occurred 6 years later, in March 2021. The network of officials from MAPA, the agribusiness caucus in the Brazilian Congress and the big landowners themselves first wanted to ensure that the regulatory enforcement of the new

biodiversity law did not negatively affect the exportation of agricultural products, if Brazil ratified the international agreement (Interview 20). In practice, the issue of genetic access and benefit-sharing remained in a regulatory limbo during these 6 years (2015–2021) losing priority overall and abandoning previous authorization requirements of informed indigenous consent. Only partially regulated by a generic biodiversity regulation that was not followed up by specific implementation-type regulations, the practical implications of the 2015 law were detrimental to indigenous and other traditional communities' rights. Previous requirements of direct indigenous informed consent before access have been waived, as well as other pre-acquired protections and participation rights.

In summary, the analysis of the events and coalition dynamics that led to the 2015 law reveals, at least three active coalitions that were later merged in two very discernible groups, the first adept to a 'competition state' narrative and the second more akin to the premises of the 'democratic developmental state'. The Ministry of the Environment (MMA), the Ministry of Industry and Foreign Trade (MDIC), the Ministry of Science, Technology and Innovation (MCTI) and representatives of the bio-industry (Grupo FarmaBrasil) were the initial motivators of legal reforms, after bio-industry's discontentment with IBAMA fines. The main narrative unifying this coalition was one of 'excessive bureaucracy curtailing economic and scientific progress'. It attributed delays in the approval of new biodiversity research and products to the previous legislation and urged the government to allow for the manifestation of Brazilian potential in terms of genetic resources' use. The second coalition identified during the analysis was constituted by the Ministry of Agriculture (MAPA) representatives of the agribusiness sector and members of the Congress supportive of their interests. This group was afraid that altering Brazilian GR&TK legislation and adhering to the NP would result in costs to the agribusiness sector (i.e. royalties having to be paid to countries from where crucial agricultural species such as soy and sugar cane were sourced). The main narrative unifying this second coalition was one of 'agribusiness is a sector to be protected by legal security'. After extensive negotiations, presidential office intervention, and the assurance that no economic effects would result from the new law to the agribusiness sector these two coalitions merged into one prevailing coalition and adopted a typical 'competition state' narrative, according to which the government should protect its main economic sectors from global competition. The third coalition, which lost most of its power, included traditional and indigenous communities; groups that were supportive of their demands (such as NGOs and some members of the Congress); family farmers and parts of the scientific community (mainly anthropologists and social scientists). Their main criticism and unifying narrative was not against the alteration of the law as such but about the non-inclusive process that led to it. As observed by one of the members of this coalition during an interview 'what happened is that the bill was totally based on the demands of the industry, it had incorporated nothing of what we had suggested. Instead, traditional peoples and communities lost very important rights which they had conquered through CBD. The bill itself goes against the CBD, which is absurd' (Interview 21). This emphasis on participation of less favoured groups finds resonance with the democratic



Figure 1. Main coalitions and their unifying narratives. Source: originally produced.

developmental state ideas and discourses. [Figure 1](#) provides an overview of the main stakeholders in each coalition and their unifying narratives, categorized according to the state transformations literature.

The Contours of the Brazilian Environmental Competition State

The course of decision-making post-2015 makes it possible to carve out the essentials of the emerging Brazilian environmental competition state in the field of biological resources. This section discusses its most prominent features.

Brazilian ‘biodiplomacy’ ([Dutfield, 2001](#), p. 260) clearly illustrates that the state is not a mere victim of globalization. To the contrary, Brazilian diplomatic efforts have been crucial for the adoption of the NP. However, while Brazilian diplomats were able to facilitate the commercialization of GR&TK, they could not achieve any commitment from the side of industrialized countries for the protection of indigenous rights. To defend the domestic neo-developmental compromise, the Brazilian government could have decided to continue its diplomatic efforts after the adoption of the NP and address alternative forums within the U.N. system that are usually more responsive to indigenous claims,² but it failed to do so in a marked turn from its original international leadership role in this area.

The passivity of the Brazilian diplomacy may be interpreted as an indication of the already weakening neo-developmental coalition in the last years of Dilma Rousseff’s presidency, especially after the Congress elections in 2011, which marked a stark increase in the power of the agrobusiness caucus. At the same time, the potential consequences of the NP triggered the emergence of the previously described new alliance between industrial and agricultural elites. Against the background of the new international framework conditions, the adoption of a new domestic biodiversity law reduced internal requirements to access GR&TK, and ‘protected’ national interest groups from any potentially harmful economic effects from the NP. To reach this goal, however, the pharmaceutical industry first had to find a compromise with the elite of large landowners in the Brazilian Congress.

The emergence of the new coalition between industrial and agrarian elites was representative of broader changes in the political decision-making processes towards the characteristics of a competition state. Whereas the discussions about biodiversity regulations in the 1990s were led along party lines (section 2.1), the adoption of the new biodiversity law of 2015 results from strategic power games among different interest groups (section 2.3). Despite the overall dissatisfaction of several social actors (scientists, businesses and indigenous communities) with both the previous and current regulations, the relatively broad and inclusive debates in the late 1990s early 2000s have been replaced by negotiations within rather closed circles.

The new biodiversity law, however, also displays the characteristics of a competition state in terms of its instruments. The research activities of both public and private institutions are facilitated by the replacement of the former authorization requirements through a new self-reporting system, which allows research projects to start without any

preliminary approval by the government (Biodiversity Law, Art. 3). At the same time, the new regulations put increasing pressure on indigenous communities to disclose their knowledge (Interview 12). Under the new law, the consent of a single community is considered to be sufficient for the legality of the access to GR&TK, even if other groups which hold the same knowledge are not consulted (Biodiversity Law, Art. 10 § 1). Although the new law brings some clear gains in terms of efficiency that might have also favoured researchers and some specific indigenous communities, this is a textbook example of ‘regulation-for-competition’ because all indigenous groups become motivated to disclose their knowledge in order to avoid a situation in which only their neighbours will profit from the remunerations of the resulting benefit-sharing agreements.

The new legislation, therefore, undermines the customary rules of and the solidarity among indigenous communities, which frequently limit the disclosure of GR&TK because of their cosmological and ethical beliefs (Santilli, 2015). But the new law also implies authoritarian measures, if indigenous communities reject cooperation. According to the legislation, the consent of the indigenous communities, a cornerstone of the neo-developmental regulation, can be substituted by governmental approval without any local consultation (Biodiversity Law, Art 9, § 1, III). The weakening of indigenous self-determination in the new biodiversity law goes hand in hand with the gradual demolition of other political institutions of the Lula era, which attempted to strengthen the political participation of indigenous and local communities (Memorial Chico Mendes, 2018). A seminal example is the drastic reduction of budgetary allocations to indigenous, *quilombolas* and other traditional communities’ social programmes in 2021. According to data from the Brazilian Public Prosecution Office, an already compromised budget was further reduced by 47.6% for indigenous programmes and 89.9% for *quilombolas* in comparison to 2020 (Public Prosecution Office, 2021).

Despite the pro-business regulation of the new law, the state has not completely withdrawn from the oversight on commercial and scientific bio-diversity explorations. In contrary, the new regulations extensively deal with the reforms of the supervisory body at the federal level. The revamped institution will be governed by representatives from various ministries. Despite newly introduced voting rights for societal actors (Biodiversity Law, Art. 10, IV), indigenous and traditional communities remain under-represented. Within the newly founded committee for indigenous and traditional communities, the most prominent organizations of these groups are not even formally represented (NCGH, 2018). Under the new Bolsonaro government, this situation is very unlikely to change. Additionally, with the extreme fragilization of indigenous groups by COVID-19, which has disproportionately affected and decimated this group of the Brazilian population, mobilization capacity and focus on this specific agenda may also have been reduced.

On the other hand, the new law still makes it mandatory to disclose the use of GR&TK in patent applications, state authorities maintain the right to impose substantial sanctions for illegal bio-explorations and may forbid the sale of the derived product (Biodiversity Law, Ch. VI), if this is demanded by the domestic pharmaceutical

industry. Against this background, it is more likely that the rudimentary participation of indigenous actors will still be instrumental for the state apparatus to remain in control of the liberalized research activities. This, once again, illustrates how the emerging Brazilian competition state promotes market mechanisms in favour of its elites while retaining its authority vis-à-vis foreign competitors. Similarly, it shows the prevalence of an administrative rationalist perspective according to which governments are supportive of private sector's aspirations but still retain control of main decisions.

The given justifications for the ratification of the NP in March 2021 are also confirmatory of Brazilian state and ideological transformations, as they are mostly based on a rhetoric of protecting agribusiness exports from environmentally justified bans and restrictions. According to the leader of the Agribusiness caucus, who led and supported the ratification process in the Deputies' Chamber, the ratification means Brazil can have international voice and influence in future decisions around genetic resources 'either to veto or agree with decisions' ([Camara Legislativa, 2020](#)). Similarly, it is seen to improve Brazilian chances to be heard in international environmental negotiations and to avoid increasingly negative international perceptions around the sustainability of agricultural exports.

Conclusion

In our article, we have attempted to explain why Brazil first pushed hard for the adoption of the NP but has taken 11 years to ratify it while also reforming domestic laws against the letter and spirit of the new international wording. In our view, the double paradox can only be solved if international and domestic coalition dynamics are simultaneously taken into consideration.

Brazil started the negotiations on the NP in an attempt to entrench its democratic developmental state model and its socio-environmentalist views on the international level. Its economic diplomacy partially failed because of the resistance of industrialized countries and simultaneously triggered the attention of the previously disinterested agribusiness. The subsequent discussions on the ratification of the NP already took place under the conditions of domestically changing state–society relationships.

Although undeniable that social consensus is costly, that Brazil is at the forefront of regulating GR&TK in the world, and that it has designed a system that has, at least, provided answers to users and providers of GR&TK, this paper has also demonstrated that some important limitations remain in the Brazilian legislation, particularly in relation to indigenous rights. Ultimately, both the delayed ratification and the parallel legal reforms can be explained by Brazil's predominant coalition changes which demonstrate a transition from a democratic developmental or socio-environmentalist perspectives towards a competition and administrative rationalist state which balances the interests of different rival capitalist elites but ignores or suppresses the demands of more vulnerable (indigenous) groups.

While it is logically impossible to generalize from a single-case study, our findings corroborate research about more recent environmental policies in Brazil (e.g.

environmental licensing, pesticides and forestry; see Donadelli, 2016; Hochstetler, 2017). We can, thus, empirically confirm and exemplify the basic intuition of both the new developmental and the competition state literatures, as well as of previous environmental narrative and coalition analyses in Brazil.

Our article holds some important theoretical implications for the study of the nature of the state in a globalizing world. How can we explain a state's orientation towards a new democratic developmental or a competition state model? Our findings suggest that the former depends on the consolidated efforts of left-wing politicians, civil society actors and the active participation of marginalized groups. Such an alliance, however, appears particularly challenged by the interplay of an international (essentially neoliberal) order and domestic capitalist elites. Brazil is a pertinent example for the inherent fragility of the democratic developmental state coalition (Boito, 2017). More research would be needed to assess whether, and to what extent, the crisis of the Brazilian democratic developmental state can be compared to the decline of social-democracy, the withdrawal of the state apparatus from its coordinating functions, and the dismantlement of de-commodifying welfare policies in other regions of the world.

A final question relates to the sustainability of the competition state and administrative rationalist model. As the literature already indicates, the balance between the state and economic elites is necessarily fragile and precarious (Cerny, 1999). Especially if we are talking about environmental policies, there is always a risk that both industrial and agrarian elites push for an over-exploitation of the country's natural assets, which may eventually lead to the depletion of its resources.³ Far more research is thus needed to assess if, and under which conditions, the natural resource-based competition state can prevent the erosion of its own fundamentals.

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ORCID iD

Flavia Donadelli  <https://orcid.org/0000-0003-2842-7244>

Notes

1. The disclosure requirement would make it possible to challenge patents if the application has not sufficiently documented the use of GR&TK. Legal scholars consider the disclosure requirement to be instrumental for the prosecution of biopiracy and the violation of indigenous rights (Dutfield, 2009).

2. In fact, the UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) has already extensively dealt with this issue.
3. In our specific case, there is even the risk of cultural depletion: The enforced integration of indigenous communities into a money-based economy is likely to alienate them from their natural environment, which may motivate them to disregard or at least not to further improve their traditional knowledge on biological resources.

References

- Aubry, S. (2019) The future of digital sequence information for plant genetic resources for food and agriculture. *Frontiers in Plant Science*, 10, 1046. <https://doi.org/10.3389/fpls.2019.01046>
- Azevedo, C. M. d. A. (2005). Regulation to access to genetic resources and associated traditional knowledge in Brazil. *Biota Neotropica*, 5(1), 1–9. <https://doi.org/10.1590/S1676-06032005000100002>.
- Bastos, R. Z. (2009). *Rivalités géopolitiques sur la biodiversité, enjeu de régulation de l'accès aux ressources génétiques au Brésil*. [PhD dissertation, Université de Paris VIII]. <http://www.bibliotheque-numerique-paris8.fr/eng/notices/103798-Rivalit%C3%A9-s-g%C3%A9-opolitiques-sur-la-biodiversit%C3%A9-l-enjeu-de-r%C3%A9-gulation-de-l-acc%C3%A8-s-aux-ressources-g%C3%A9-n%C3%A9-tiq...html> (accessed May 13, 2012).
- Behuria, P. (2018). Learning from role models in Rwanda: Incoherent emulation in the construction of a neoliberal developmental state. *New Political Economy*, 23(4), 422–440. <https://doi.org/10.1080/13563467.2017.1371123>
- Bernstein, S. (2000). Ideas, social structure and the compromise of liberal environmentalism. *European Journal of International Relations*, 6(4), 464–512. <https://doi.org/10.1177/1354066100006004002>
- Boito, Jr, A., (2017). A crise política do neodesenvolvimentismo e a instabilidade da democracia. *Revista Lumen*, 2(3). <https://doi.org/10.32459/revistalumen.v2i3.45>
- Boito, Jr, A., & Berringer, T. (2013). Brasil: Classes sociais, neodesenvolvimentismo e política externa nos governos Lula e Dilma. *Revista de Sociologia e Política*, 21(47), 31–38. <https://doi.org/10.1590/s0104-44782013000300004>
- Bresser-Pereira, L. C. (2009). *From old to new developmentalism in Latin America*, FGV Disussion Paper No. 193.
- Bresser-Pereira, L. C. (2011). An account of new developmentalism and its structuralist macroeconomics. *Revista de Economia Política*, 31(3), 493–502. <https://doi.org/10.1590/s0101-31572011000300010>
- Bucher, S. (2007). *Der Schutz von genetischen Ressourcen und indigenem Wissen in Lateinamerika*. Nomos.
- Cabrera Medaglia, J. (2020) Digital sequence information (DSI) and benefit-sharing arising from its use: An unfinished discussion. *GRUR International*, 69(6), 565–566. <https://doi.org/10.1093/grurint/ikaa057>
- Camara Legislativa (2020). <https://www.camara.leg.br/noticias/675061-frente-da-agropecuaria-diz-que-protocolo-de-nagoia-da-voz-ao-brasil-em-negociacoes-internacionais/> (accessed June 2021).
- Cerny, P. G. (1999). Globalization and the erosion of democracy. *European Journal of Political Research*, 36(1), 1–26. <https://doi.org/10.1023/A:1007099906532>
- Cerny, P. G. (2010). The competition state today: From raison d'État to raison du Monde. *Policy Studies*, 31(1), 5–21. <https://doi.org/10.1080/01442870903052801>.

- Coutinho, D. R. (2010). Linking promises to policies: Law and development in an unequal Brazil. *The Law and Development Review*, 3(2), 3–40. <https://doi.org/10.2202/1943-3867.1055>
- Dagnino, E. (2016). State-society relations and the dilemmas of the new developmentalist state. *IDS Bulletin*, 47(2A). <http://dx.doi.org/10.19088/1968-2016.190>
- Donadelli, F. (2016) *Reaping the seeds of discord: Advocacy coalitions and changes in Brazilian environmental regulation*. Doctoral thesis submitted to The London School of Economics and Political Science (LSE). <http://etheses.lse.ac.uk/3500/> Access: Set 2021
- Dutfield, G. (2001). TRIPS-related aspects of traditional knowledge. *Case Western Reserve Journal of International Law*, 33(2), 233–275.
- Dutfield, G. (2009). Protecting the rights of indigenous peoples: Can prior informed consent help? In R. Wynberg, D. Schroeder, & R. Chennels (Eds.), *Indigenous peoples, consent and benefit sharing* (pp. 53–67). Springer.
- Eimer, T. R., & Bartels, T. (2020) From consent to consultation: Indigenous rights and the new environmental constitutionalism. *Environmental Politics*, 29(2), 235–256. <https://doi.org/10.1080/09644016.2019.1595884>
- Eimer, T. R., & Schüren, V. (2013). Convenient stalemates: Why international patent law negotiations continue despite deadlock. *New Political Economy*, 18(4), 533–554. <https://doi.org/10.1080/13563467.2013.742882>
- Engle, K. (2010). *The elusive promise of indigenous development*. Duke University Press.
- Evans, P. (1995). *Embedded autonomy: States and industrial transformation*. Princeton University Press.
- Fougner, T. (2006). The state, international competitiveness and neoliberal globalisation: Is there a future beyond the competition state? *Review of International Studies*, 32(1), 165–185. <https://doi.org/10.1017/s0260210506006978>
- Gezmiş, H. (2018). From neoliberalism to neo-developmentalism? The political economy of post-crisis Argentina (2002–2015). *New Political Economy*, 23(1), 66–87. <https://doi.org/10.1080/13563467.2017.1330877>
- Goodwin, G. (2018). Rethinking the double movement: Expanding the frontiers of Polanyian analysis in the Global South. *Development and Change*, 49(5), 1268–1290. <https://doi.org/10.1111/dech.12419>
- Gourevitch, P. (2002). Domestic politics and international relations. In W. Carlsnaes, T. Risse, & B. A. Simmons, *Handbook of international relations* (pp. 309–328). SAGE Publications.
- Grugel, J. & Riggirozzi P. (2012). Post-neoliberalism in Latin America: Rebuilding and reclaiming the State after crisis. *Development and Change*, 43(1), 1–21. <https://doi.org/10.1111/j.1467-7660.2011.01746.x>
- Hann, A. (1995). Sharpening up sabatier: Belief systems and public policies. *Politics*, 15(1), 19–26. <https://doi.org/10.1111/j.1467-9256.1995.tb00016.x>
- Henne, K. (2017). Multi-sited fieldwork in regulatory studies. In P. Drahos (Ed.), *Regulatory theory* (pp. 97–114). ANU Press.
- Herrlein Júnior, R. (2014). *A construção de um estado democrático para o desenvolvimento no século XXI*, IPEA Working Paper No. 1935.
- Higgott, R. (2000). Contested globalization: The changing context and normative challenges. *Review of International Studies Quarterly*, 26(5), 131–153. <https://doi.org/10.1017/s0260210500008883>
- Hochstetler, K. (2017). Tracking presidents and policies: Environmental politics from Lula to Dilma. *Policy Studies*, 38(3), 262–276. <https://doi.org/10.1080/01442872.2017.1290229>

- Hopewell, K. (2016). The accidental agro-power: Constructing comparative advantage in Brazil. *New Political Economy*, 21(6), 536–554. <https://doi.org/10.1080/13563467.2016.1161014>
- Hsu, J. (2018). The developmental state of the twenty-first century: Accounting for state and society. *Third World Quarterly*, 39(6), 1098–1114. <https://doi.org/10.1080/01436597.2017.1357115>
- Inoue, C., & Franchini (2020). Socio-environmentalism. In K. Smith & A. B. Tickner (Eds.), *International relations from the Global South: Worlds of difference*. Routledge.
- IPEA (2011). Desafios da bioprocpeção no Brasil. http://repositorio.ipea.gov.br/bitstream/11058/1568/1/TD_1569.pdf (accessed August 1, 2017).
- Jenkins-Smith, H., Nohrstedt, D., Weible, C., & Sabatier, P. (2014). The advocacy coalition framework: Foundations, evolution, and ongoing research. In P. Sabatier & C. Weible (Eds.), *Theories of the policy process*. Westview Press.
- Jones, M. D., McBeth, M. K., & Shanahan, E. A. (2014). Introducing the narrative policy framework. In M. D. Jones, E. A. Shanahan, & M. K. McBeth (Eds.), *The science of stories: Applications of the narrative policy framework in public policy analysis* (pp. 1–25). Palgrave Macmillan.
- Kaitila, J. (2019). From innovation to labour costs: Change of emphasis in Finnish competitiveness policy ideas after the Eurocrisis. *Competition & Change*, 23(1), 47–70. <https://doi.org/10.1177/1024529418802457>
- Kishi, S. A. S (2009). PIC in access to TK in Brazil. In E. Kamau & G. Winter (Eds.), *Genetic resources, traditional knowledge and the law* (pp. 311–326). Earthscan.
- Kütting, G. & Cerny, P. G. (2015). Rethinking global environmental policy: From global governance to transnational neopluralism. *Public Administration*, 93(4), 907–921. <https://doi.org/10.1111/padm.12189>
- Levi-Faur, D. (1998). The competition state as a neomercantilist state: Understanding the restructuring of national and global telecommunications. *Journal of Socio-Economics*, 27(6), 665–685. [https://doi.org/10.1016/S1053-5357\(99\)80002-X](https://doi.org/10.1016/S1053-5357(99)80002-X)
- Lowenhaupt Tsing, A. (2005). *Friction. An ethnography of global connection*. Princeton University Press.
- Machado, C. J. S., & Godinho, R.S. (2011). Dinâmica e características do processo brasileiro de regulação do acesso à diversidade biológica e aos conhecimentos tradicionais associados. *Revista de Informação Legislativa*, 48(191), 97–125. <http://www2.senado.leg.br/bdsf/handle/id/242911>.
- Marcus, G. E. (1995) Ethnography in/of the world system: the emergence of multi-sited ethnography. *Annual Review of Anthropology*, Vol. 24, pp. 95–117.
- Massi, E., & Singh, J. (2018). Industrial policy and state-making: Brazils attempt at oil-based industrial development. *Third World Quarterly*, 39(6), 1133–1150. <https://doi.org/10.1080/01436597.2018.1455144>
- Mavelli, L. (2018) Citizenship for sale and the neoliberal political economy of belonging. *International Studies Quarterly*, 62(3), 482–493. <https://doi.org/10.1093/isq/sqy004>
- May, C. (2006). The world intellectual property organization. *New Political Economy*, 11(3), 435–445. <https://doi.org/10.1080/13563460600841140>.
- Memorial Chico Mendes (2018) <http://www.memorialchicomendes.org/2018/> (accessed June 2021).
- Morais, L., & Saad-Filho, A. (2011). Brazil beyond Lula: Forging ahead or pausing for breath? *Latin American Perspectives*, 38(2), 31–44. <https://doi.org/10.1177/0094582X10395890>.

- Moreira, R. Z. (2016). *Congresso e política externa: a influência do legislativo brasileiro na tramitação do Protocolo de Nagoya à Convenção da Diversidade Biológica*. [PhD thesis, Universidade Federal de Santa Catarina]. <https://repositorio.ufsc.br/handle/123456789/167776>.
- NCGH (2018). *Website of the National Council on Genetic Heritage*. <http://www.mma.gov.br/patrimonio-genetico/conselho-de-gestao-do-patrimonio-genetico>
- Neto, A. F. C., & Vernengo M. (2002). Globalization, a dangerous obsession: Latin America in the post-Washington Consensus era. *International Journal of Political Economy*, 32(4), 4–21. <https://doi.org/10.1080/08911916.2002.11042883>
- Oberthür, S., & Pożarowska J. (2013). Managing institutional complexity and fragmentation: The Nagoya protocol and the global governance of genetic resources. *Global Environmental Politics*, 13(3), 100–118. https://doi.org/10.1162/glep_a_00185
- Posey, D. A., & Dutfield G. (1996). *Beyond intellectual property - Towards traditional resource rights for indigenous peoples and local communities*. International Development Research Centre.
- Public Prosecution Office (2021). <http://www.mpf.mp.br/pgr/noticias-pgr/mpf-aponta-reducao-no-orcamento-para-indigenas-e-quilombolas-em-2021-e-mobiliza-congresso-para-garantir-mais-recursos> (accessed May 2021).
- Putnam, R. D. (1988). Diplomacy and domestic politics: The logic of two-level games. *International Organization*, 42(3), 427–460. <https://doi.org/10.1017/s0020818300027697>
- Rafols, P. X. (2021) Access to and benefit-sharing of genetic resources: Rationale, review and prospects. In M. Campins Eritja & T. Fajardo del Castillo (Eds.), *Biological diversity and international law*. Springer.
- Raustiala, K., & Victor, D. G. (2004). The regime complex for plant genetic resources. *International Organization*, 58(2), 277–309. <https://doi.org/10.1017/S0020818304582036>.
- Robinson, M., & White, G. (1998). Introduction. In M. Robinson & G. White (Eds.), *The democratic developmental state. Politics and institutional design* (pp. 1–16). Oxford University Press.
- Rosendal, G. K., & Andresen, S. (2014). Realizing access and benefit sharing from use of genetic resources between diverging international regimes: the scope for leadership. *International Environmental Agreements: Politics, Law and Economics*, 16(4), 579–596. Published Online: 9 December 2014 <https://doi.org/10.1007/s10784-014-9271-4>.
- Sabatier, P. (1988). An advocacy coalition framework of policy change and the role of policy-oriented learning therein. *Policy Sciences*, 21(2/3), 129–168. <https://doi.org/10.1007/BF00136406>
- Santilli, J. (2015). Biodiversidade e conhecimentos tradicionais associados: o novo regime jurídico de proteção. *Revista do Ministério Público do Distrito Federal e Territórios*, (9), 21–73. DOI:10.5930/issn.2237-9770. https://www.mpdft.mp.br/portal/pdf/comunicacao/site/Revista_MPdFT_9.pdf.
- Schlager, E. (1995). Policy making and collective action: Defining coalitions within the advocacy coalition framework. *Policy Sciences*, 28(3), 243–270. <https://doi.org/10.1007/BF01000289>.
- Shiva, V. (2001). *Protect or plunder? Understanding intellectual property rights*. Zed Books.
- Spann, M. (2017) Politics of poverty: The post-2015 sustainable development goals and the business of agriculture. *Globalizations*, 14(3), 360–378. <https://doi.org/10.1080/14747731.2017.1286169>
- Stiglitz, J. E. (1999). *More instruments and broader goals: moving toward the post-Washington consensus*. G. F. f. I. Development: UNU/WIDER Helsinki.

- Suiseeya, K. R. M. (2014). Negotiating the Nagoya protocol: Indigenous demands for justice. *Global Environmental Politics*, 14(3), 102–124. https://doi.org/10.1162/GLEP_a_00241
- Taylor, M. (2010). Evolutions of the competition state in Latin America: power, contestation and neo-liberal populism. *Policy Studies*, 31(1), 39–56. <https://doi.org/10.1080/01442870903395614>
- Vermeulen, S. (2013). The Nagoya protocol and customary law: The paradox of narratives in the law. *Law, Environment and Development Journal*, 9(2), 185–201. <http://dx.doi.org/10.5930/issn.1746-5893>.
- Wade, R. H. (2018). The developmental state: Dead or alive? *Review of Development and Change*, 49(2), 518–546. <https://doi.org/10.1111/dech.12381>
- Weible, C. M., Pattison, A., & Sabatier, P. A. (2010). Harnessing expert-based information for learning and the sustainable management of complex socio-ecological systems. *Environmental Science & Policy*, 13(6), 522–534. <https://doi.org/10.1016/j.envsci.2010.05.005>
- Wyde, C. (2016). Post-neoliberal developmental regimes in Latin America: Argentina under Cristina Fernandez de Kirchner. *New Political Economy*, 21(3), 322–341. <https://doi.org/10.1080/13563467.2016.1113949>

Appendix

List of interviews

- Interview 1, Brazilian business representative, August 28, 2011, São Paulo.
- Interview 2, CEO of a Brazilian pharmaceutical company, August 29, 2011, São Paulo.
- Interview 3, deputy of the Brazilian Lower Chamber, August 6, 2015, Brasília.
- Interview 4, Member of the Brazilian Senate, August 6, 2015, Brasília.
- Interview 5, official from the Brazilian Ministry of Agriculture, August 8, 2011, Brasília.
- Interview 6, official from the Brazilian Ministry of Environment, July 28, 2015, Brasília.
- Interview 7, official from the Brazilian Ministry of Environment, December 3, 2014, Brasília.
- Interview 8, official from the Brazilian Ministry of Foreign Affairs, August 3, 2011, Brasília.
- Interview 9, official from the Brazilian Ministry of Foreign Affairs, August 4, 2011, Telephone Interview.
- Interview 10, official from the Brazilian Office for Indigenous Affairs (FUNAI), July 31, 2015, Brasília.
- Interview 11, representative of a Brazilian non-governmental organization, July 30, 2015, São Paulo.
- Interview 12, representative of a Brazilian non-governmental organization, July 23, 2015, Brasília.
- Interview 13, representative of a local community, August 3, 2011, Brasília.
- Interview 14, representative of an indigenous community, August 18, 2011, Brasília.
- Interview 15, representative of the Brazilian Alliance of the Pharmaceutical Industry (Grupo FarmaBrasil), July 28, 2015, Brasília.

Interview 16, representative of the Brazilian pharmaceutical industry, July 28, 2015, Brasília.

Interview 17, researcher at a public research institute, former official of the Ministry of Environment, July 22, 2015, Brasília.

Interview 18, researcher at the Brazilian Institute of Applied Economics (IPEA), July 22, 2015, Brasília.

Interview 19, public official at the ministry of environment, August 10, 2011, Brasília.

Interview 20, Congress member from the rural caucus, August 6, 2015, Brasília.

Interview 21, September 19, 2014, Consultant for an NGO focused on Amazonian indigenous groups, São Paulo.