



# Finding the cracks: How do frontline officials maneuver state institutions to advance Indigenous rights to land and environment?

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## ABSTRACT

This paper challenges the monolithic portrayal of the state as inherently 'bad' when it comes to implementation of Indigenous rights. Offering a comparative analysis of case studies from four continents we demonstrate examples of frontline state officials proactively advancing Indigenous rights to land and environment. Combining distinct literatures on institutional theory, we develop an analytical framework that sheds light on bureaucratic agency within state-Indigenous relations. The findings show how government organizations maintain a broadly colonial agenda, but that officials on the inside sometimes manage to advance decolonizing or otherwise supportive actions. We propose the concept of *institutional braiding* to describe this agency exerted by state officials in collaboration with Indigenous representatives when navigating co-existing normative orders. By examining the fraught institutional constraints faced by frontline actors, we contribute to debates on Indigenous-state relations and the prospects of reaching common ground in the contact zone between divergent ontologies.

## 1. Introduction

Whereas Indigenous Peoples have seen increasing recognition of their rights on paper in recent decades, these rights often remain subordinated to state interests. Participatory spaces tend to be tokenistic and state-led politics of recognition separated from substantive redistributive processes regarding land and territory (e.g., Lawrence and Kløcker Larsen, 2017; Leifsen et al., 2017; Gustafsson and Schilling-Vacaflor, 2022). Even in progressive Latin American countries, such as Bolivia and Ecuador, where Indigenous movements and political parties have prompted the creation of plurinational states and cross-cultural governing institutions, asymmetric constellations of political and economic power undermine the implementation of legally enshrined rights (Wright and Tomaselli, 2019; Radhuber and Radcliffe, 2023).

However, there are also important examples of state officials who engage with Indigenous rights and prompt their agencies to be more

progressive. A few instances have been documented of state officials taking such a proactive role, e.g. in the Sámi homeland, Sápmi (Kløcker Larsen and Raitio, 2022) and in Latin American countries (Vilaça, 2017; Paredes, 2023). Still, research tends to focus on the top-down exclusionary practices of government. As a result, the potentially significant agency of state officials and roles of more progressive state organizations are, we contend, generally overlooked.

One potential explanation is that researchers concerned with Indigenous rights often approach the state as monolithic, focusing on the constraining influence of bureaucratic state practices. There are also theoretical reasons, though. For instance, within political ontology, it is posited that Indigenous peoples and the state cannot reach intersubjective agreements due to, among other issues, fundamentally irreconcilable worldviews or processes of 'worlding' (e.g. Blaser, 2014; Kramm, 2023). From a resurgence perspective, concerned with disengagement from colonial domination, Indigenous scholars reject notions of recognition that rely on the state bestowing (or withholding) approval on the

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validity of Indigenous claims (Simpson, 2017). This is because they see colonial governments' approach to reconciliation simply as a different strategy of securing economic benefit and attaining control over Indigenous lands (Coulthard, 2014; Manuel and Derrickson, 2017; Van Lier, 2021).

Whilst we concur with these accounts, in our view, research must also contribute understanding about the situations in which differences in worldviews and political limitations in state organizations *do* foster negotiated settlements on lands and territories. To be sure, these outcomes will typically reflect 'collaboration with friction at its heart' (Tsing, 2005: 246), i.e., temporary and pragmatically negotiated arrangements between otherwise incompatible cultural traditions. Such pragmatic agreements do not need to erase cultural differences, rather, they can arise when agonistic actors find sufficient common ground to make collaboration meaningful in the hope of mutually acceptable solutions (see also Almeida, 2003: 25). From this view, we aim to contribute to debates on Indigenous-state relations, especially recent work on the role of pluralism and contestation in the contact zone between divergent ontologies (e.g., de la Cadena, 2019; Kløcker Larsen and Raitio, 2022; Horowitz, 2022; Paredes, 2023).

We offer a comparative analysis of findings from four continents that challenge dominant representations of the state as monolithic and always inevitably "bad". Initial inspiration for our inquiry was, as observed in the paper's title, provided by Holloway's (2010) book 'Crack Capitalism'. Whilst focusing on another topic – alternative ways of organizing labor – he helpfully defines a crack as 'the perfectly ordinary creation of a space or moment in which we assert a different type of doing.' (Holloway, 2010: 21). In this view, cracks are the outcomes of interstitial activities, i.e., those generative actions (or refusals) that seem small and mundane but, through their multiplicity and persistence over time, may lead to change.

Thus motivated, in this paper we pose two questions:

1. How do state officials maneuver constrained spaces to create cracks in the state bureaucracy that advance Indigenous rights in land and resource decisions?
2. To what extent can state officials create and sustain cracks that effectively challenge the status quo from within existing institutions?

Below, we first present our theoretical framework (section 2) and then introduce the method and empirical materials from the four cases (section 3). After presenting results from the cases (section 4), we conclude with a discussion seeking answers to our two research questions (sections 5 and 6).

## 2. Theoretical framework: conceptualizing agency in the Indigenous-state contact zone

For our purposes, we adopt a broad view of institutions as social arrangements that shape and regulate human behaviour (Cleaver, 2012). To guide the search for institutional cracks and the agency of state officials in generating them, we combine three bodies of theory into a new theoretical framework (Fig. 1). Below, we introduce each of these three bodies of theory.

*Institutional conditions:* To examine the institutional conditions that state officials must navigate in exerting their agency we find inspiration in theories on the heterogeneous nature of the state (Migdal, 2001) and the strategic ability of weak state agencies (Gustafsson and Scurrah, 2019). State agencies with mandates on environmental protection or Indigenous rights are often relatively weaker than agencies with mandates on economic development and resource extraction. Yet in some situations, officials within these institutions can effectively defend societal interests. Speaking to the work of Bebbington et al. (2018) on extractive industries, this suggests that while incumbent actors have succeeded in controlling the state through political settlements, actors on the 'outside' of this negotiated order can still intervene (Falletti and

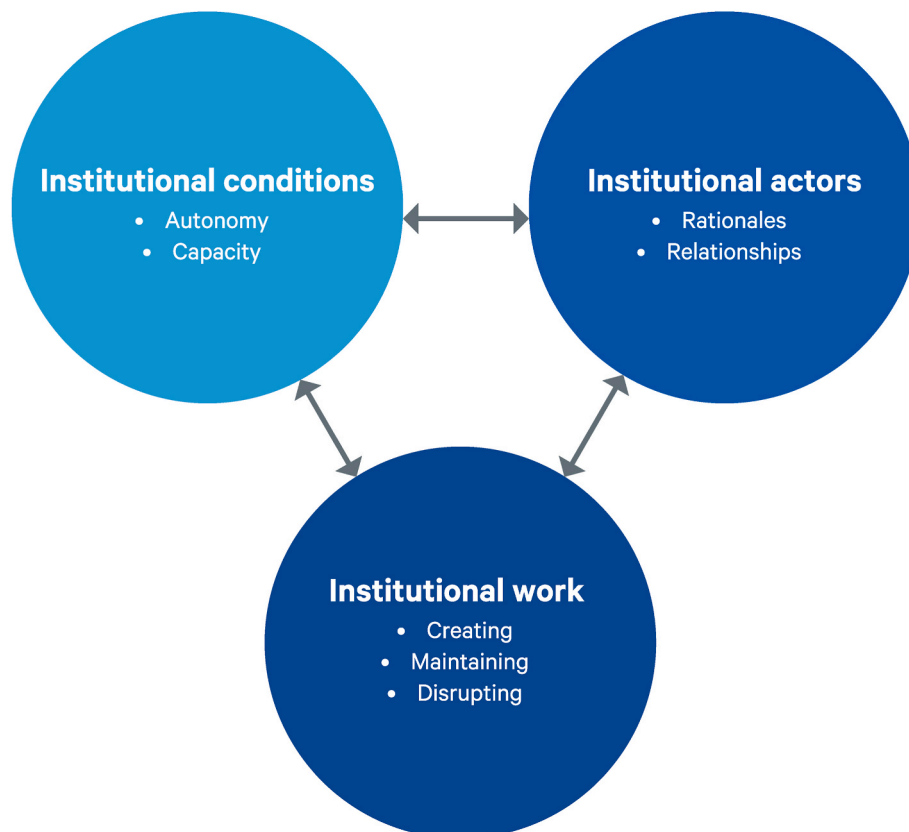


Fig. 1. Finding the cracks. Schematic model of the theoretical framework.

Riofrancos, 2018). We here distinguish two types of conditions, namely i) capacity and ii) autonomy. Adapting categories from Bersch et al. (2017) and Gustafson and Scurrah (2019), we define capacity broadly as the ability of the organization to meaningfully address Indigenous rights and culture in the implementation of pre-defined governing projects, and autonomy as the political discretion of the organization to set its own goals and agendas concerning how to engage with Indigenous rights and culture in the first place.

**Institutional work:** In organisational sociology the literature on 'Institutional Work' has pointed out that while structural analysis is critically important, it does not capture how actors shape and reshape institutions (Lawrence and Suddaby, 2006; Beunen and Patterson; 2019). This literature takes its point of departure in the 'paradox of embedded agency', i.e. that actors are both embedded in institutions and enact them (Battilana and D'Aunno, 2009). Lawrence and Suddaby (2006) thus introduced three main types of institutional work, namely efforts aimed at i) creating, ii) maintaining, and iii) disrupting institutions. Institutional work theory has been applied in several fields, including in examining how public actors shape environmental governance (Montgomery and Dacin, 2020; Das, 2022). Through its emphasis on agency, the approach is useful for exploring the role of normative change agents in organizations (Marti and Mair, 2009; Funder et al., 2021). Yet it should not be taken to indicate voluntarism, i.e. that organisational actors are entirely free in their agency (Beunen and Patterson, 2019). Moreover, institutional work can be conducted as much to preserve institutions as to transform them (Das, 2022). Efforts to change institutions may be driven by transformative intentions, but they may also simply aim to adapt institutions to a changing context, thereby fundamentally preserving them (Smets and Jarzabkowski, 2013).

**Institutional actors:** The work of institutional actors is shaped not only by institutional conditions but also by their rationales and the relationships in which they are embedded – in particular when seeking to navigate cultural and political difference. Meanwhile, the theorizing on institutional conditions and institutional work cited above shows little awareness of this concern. To rectify, as the third dimension of our framework, we draw on Indigenous planning theory to help consider how people engaged in institutional work inside state agencies act in intercultural contact zones: 'space[s] of interaction between groups marked by difference ... deeply constructed through and by historical asymmetrical relations of power' (Porter and Barry, 2015:23). Indigenous planning theory owes much to mobilization among North American Indigenous communities and scholars during the 1980s–90s, formulating Indigenous-led approaches to community planning, based on own governance norms and connection to land (Jojola, 2008). In a recent application, Turriff and Barry (2023:65) connect Indigenous planning theory with Indigenous law (e.g., Borrows, 2002). Acknowledgement of legal pluralism as a foundational principle for governance further enhances attention to the co-existence of Indigenous and non-Indigenous normative orderings in the workings of institutions. Based on this view, we are for this study interested in two things, namely i) The rationales that drive state officials to engage in the contact zone and its normative pluralism, and ii) the processes by which they facilitate relationships with Indigenous representatives [insert Fig. 1 here].

Part of the intended contribution of the paper lies in enabling a dialogue between these three theoretical lenses that have hitherto developed largely in separation, but also in making some contributions to each of these literatures: We advance debates on institutional conditions of progressive state agencies (Walter and Urkidi, 2017; Paredes, 2023) with theorizing of the role of individual officials; contribute insights on how institutional work theory can be applied to understand the contingency of human agency on underlying rationales (as part of wider subjectivities) (Beunen and Patterson, 2019; Holstead et al., 2021); and contribute to debates on how institutional and organizational studies can engage more with, and learn from, Indigenous scholarship (Love, 2020; Cutcher and Dale, 2022), such as found in Indigenous planning

theory.

### 3. Material and method

This paper is the result of over two years of dialogue between seven researchers working in different geographic and cultural settings. The four cases involve different cultural and socio-political contexts as well as maneuvering spaces for state officials (Fig. 2). They also differ in the nature of the Indigenous-state relationships, ranging from more or less overt settler colonialism in Canada and Sweden to different manifestations of post-colonial independence in Kenya and Brazil. Yet, what they have in common is the strong imprint of both colonial and extractive ideology in the state apparatus. The cases all satisfy a set of selection criteria that enable meaningful comparison, that is, they concern the following:

- Contested relations between state actors and Indigenous Peoples.
- Land and environmental governance with significance for Indigenous rights claims.
- Proactive agency of embedded state officials on the topic of Indigenous rights.

Moreover, the cases are all about the everyday enactment of rights (in contrast to major institutional reforms). That is, they focus on the Indigenous-state interactions involved in implementation of Indigenous rights norms within existing regimes (see also Falletti and Riofrancos, 2018; Horowitz, 2022).

Data generation comprised a mixture of key informant interviews and document review, with cross-validation of insights (Table 1). Interviews were conducted both with state officials and Indigenous representatives. Interview questions explored three themes, roughly corresponding to the dimensions in our framework: i) What institutional conditions promote or restrict opportunities for agency?, ii) What practices are exerted by state officials to enhance the organization's engagement with Indigenous Peoples?, and iii) What rationales drive state officials and how do they facilitate relationships with Indigenous representatives? The research had ethical approvals and followed protocols appropriate for each study context.<sup>1</sup>

A defining principle for selecting these cases was the identification of a key event and/or outcome that suggested that something was happening that deviated from what one would expect based on the existing literature on the limitations of the state bureaucracy. In Flyvbjerg's (2006) terms, these, hence, are extreme or anomalous cases, which tend to be particularly useful for explorative research such as pursued in this paper. Furthermore, the research reflects a qualitative and small-sample approach (Crouch and McKenzie, 2006), which improved the possibilities for the researchers to ensure respectful research praxis via longer-term relationships as well as enhancing validity, e.g., via in-depth interviews and repeated contacts, including re-interviews and comments on draft results.

### 4. Four paths towards the creation of cracks

In this section we present the results from the four cases in turn, conveyed as rich narratives guided by our theoretical framework. In synthesising the empirical insights, we have centred key findings, but as part thereof emphasized when people diverged in perspective. Each case is given a heuristic label that speaks to its key features. In the next sections we undertake comparative analysis.

<sup>1</sup> Ethical clearances for the research were provided by: The Swedish Ethical Review Authority (Dnr. 2021-01179 and Dnr. 2022-00425-01), National Commission for Science, Technology & Innovation, Kenya (Research Permit: P/21/13132), and The Non-Medical Research Ethics Board at Western University (Project ID: 123859).

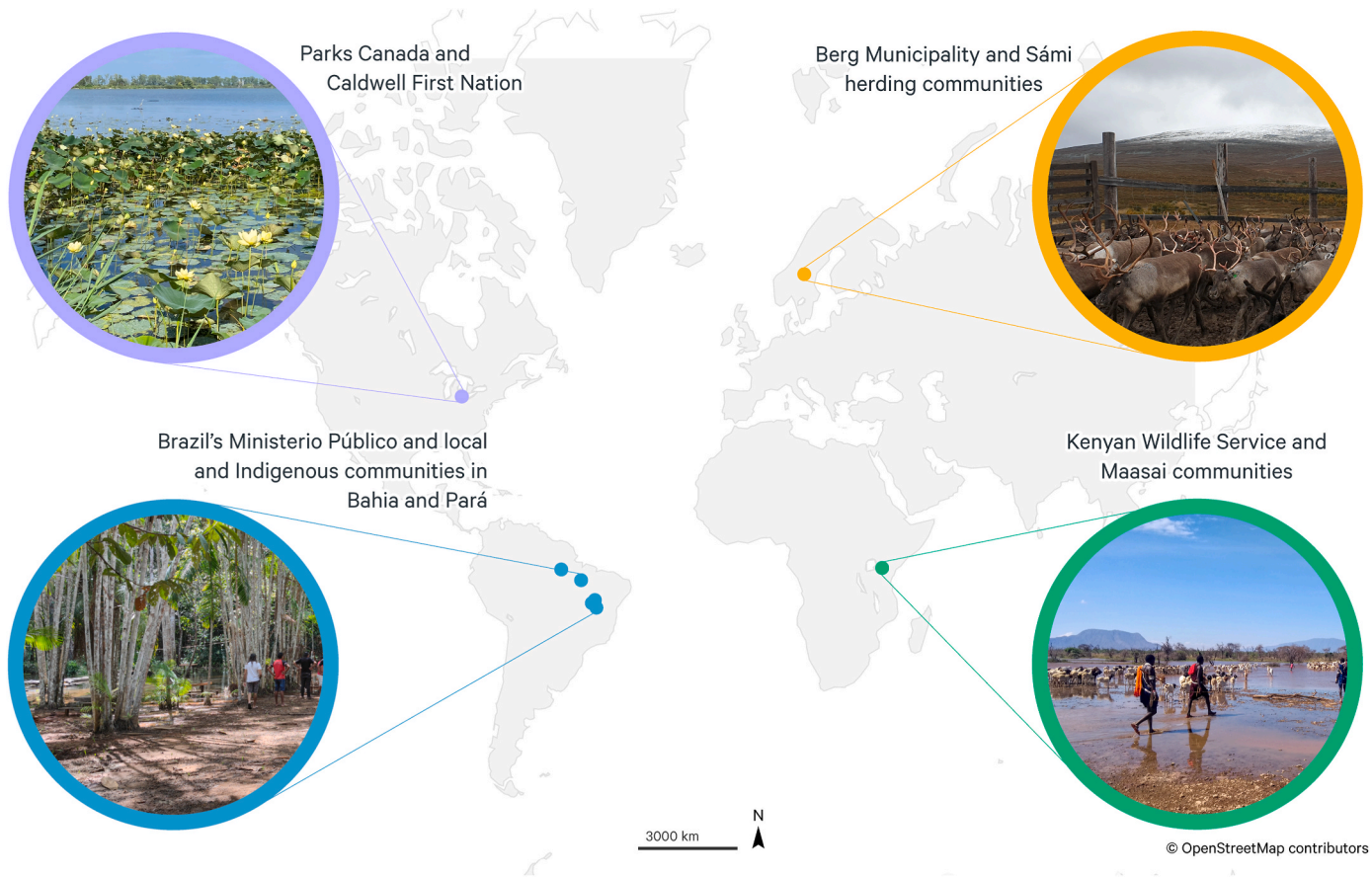


Fig. 2. The four cases. Approximate geographical location and visual from each case.

Table 1  
Summary of primary data generation for the four cases.

Case	Time period	Activities	Contributors	Further notes
Berg Municipality and Sámi herding communities	Autumn 2023	6 key informant interviews + feedback on draft results.	Municipal officials, politicians, and reindeer herders from Tåssåsen herding community.	Part of long-term research in Sápmi, incl. an earlier study on land use planning in the area.
Kenyan Wildlife Service and Maasai communities	2018–2023	10 interviews +3 focus groups	Kenya Wildlife Service staff and Maasai community members.	Explored within a wider research project on rights and resilience in the area.
Brazil's Ministerio Público and local and Indigenous communities in Bahia and Pará	2020–2022	45 interviews +1 stakeholder workshop	Public prosecutor staff, staff at other state agencies, civil society organizations and members of local and Indigenous communities.	Based on material collected as part of a larger program, during five months of multi-sited field research.
Parks Canada and Caldwell First Nation	May–September 2024	8 key informant interviews and feedback sessions with Caldwell First Nation.	Caldwell First Nation community members, band employees, and government and park officials.	Part of an ongoing Traditional Land Use study in Caldwell First Nation's ancestral territory.

4.1. ‘The diplomat’: municipal planning on traditional Sámi lands in Sweden

Berg Municipality, located in the Swedish county of Jämtland, is one of the least populated parts of the country, with just below 8000 inhabitants on about 6000 square kilometers. The territory of the municipality overlaps with customary pastures of four Sámi reindeer herding communities, Tåssåsen, Handölsdalen, Mittådalen and Njarke. Municipalities in Sweden are bound by the government’s obligations towards the Sámi People, with the Constitution (Ch. 1 §2 constitution act 2010:1408) recognizing the duty to promote opportunities for the Sámi to maintain and develop their culture. Under the national law on ethnic minorities (law 2009:724), municipalities in Sápmi can make a special commitment to promote Sámi culture as a so-called Sámi Administration (*samisk förvaltningskommun*). This generates ear-marked funding to the

municipality but also obligations to ensure a minimum level of service provision, appoint a Sámi Coordinator, and enable participation of the Sámi population.

Under the Planning and Building act (2010:900), municipalities are responsible for strategic land use plans (*översiktsplan*) and detailed spatial plans (*detaljplan*) regulating actual areal use. Land use conflicts between outdoor tourism and Sámi traditional livelihoods, including fishing, hunting and reindeer herding, is a long-standing concern. However, recent years have seen escalating tensions with growing influx of visitors to the Swedish mountains. Municipal planning canhere potentially play a vital role in mediating between competing rights and interests. Municipalities tend, though, to make limited use of their planning tools in this regard (Thellbro et al., 2022), with several observations of municipalities actively ignoring Sámi land use (Bjärstig et al., 2020; Åhrén, 2022).



At the time of study, the municipality was developing a thematic energy plan, designating lands for energy production (the draft plan is at time of writing out for public consultation, ref no. KS, 2023/67). Whilst seeing the need to designate areas for wind power and other industries, the municipal leadership sought close dialogue with the herding communities to minimize impacts: ‘An ambition ... is that when we send the plan on referral then the herding communities should already, like, be satisfied with the material’. Recognizing that current plans were outdated, the municipal council had, meanwhile, placed a moratorium on the development of all new wind power operations (in contrast to many other municipalities and the national government). Meanwhile, as is clear, this municipal approach did not disrupt, let alone challenge, environmental laws or governmental planning regulations.

When it comes to everyday routines, officials described how they proactively informed and requested inputs from herding communities on key issues and did thorough evaluations of developer proposals and impact assessments. They highlighted an important role for collegial support, e.g. in the form of regular group meetings and teamwork – especially if their work resulted in rejections of applications from industry, who might submit complaints over individual officials. As above, whilst doing their utmost to ensure recognition of Sámi land rights, the municipal officials still accepted the legitimacy of industry-led initiatives and central government policy to expand developments on traditional Sámi lands.

Following several interviewees, an important trigger for the present awareness of the need to proactively work on Sámi rights was the experience of a mistake, namely a 2018 proposal by the municipal administration to promote construction of tourist accommodation in one area, Gräftåvallen. Whilst the municipal leadership was unaware, this area is of high importance to Tåssåsen herding community. Interviewees explained how community protests (e.g., expressed in a letter dated 2018-11-10) caused the municipality to abandon the plan. Committed officials, including the Sámi Coordinator and a senior land use planning official, then proposed a pilot project for Gräftåvallen to the municipal politicians, who supported the idea and provided funding. This project facilitated meetings between herders, tourism entrepreneurs and the municipality and produced a different strategy for the area, now with recognition of herding priorities. Since then, the municipality has gradually institutionalized new measures to promote Sámi culture, including school visits to herding activities, language camps for Sámi preschool children, and training on Sámi culture for the municipal leadership. It also has taken initiative – with the County Administrative Board (regional line agency) – to convene neighboring municipalities, herding communities, and private sector to a dialogue aimed at reducing land use conflicts.

Several people, both officials and politicians, described personal values prompting them to engage with Sámi rights, although always staying within formal mandates. They had become aware of the importance of proactively working with herding communities due to experiences of marginalization in other lines of work, e.g. gender equality or environmental protection. In contrast, others did not perceive they did anything unusual on the topic of Sámi rights. Rather, as one official stated, what might be somewhat exceptional in a Swedish context was that they ‘choose *not* to ignore’ reindeer herding (e.g., when needing to make professional judgments in assessing the significance of impacts from proposed developments). Overall, several people made references to the benefit of a diplomatic approach to promoting Sámi rights in the municipality. Representatives from Tåssåsen were credited with strong social skills, including an ability to put forward Sámi views in a constructive manner. One person summarized what seems to be an attitude of several municipal officials: ‘It doesn’t have to be battle and strife all the time – you can do it in a friendly way and bring people along ....’.

#### 4.2. ‘The pragmatist’: convenience relationships in community-based conservation

Nature conservation is a long-standing point of contention (or collaboration) between states and Indigenous Peoples. The designation of land for state-controlled protected areas such as National Parks has often clashed with Indigenous Peoples’ rights, livelihoods and relations with nature. This is also evident in Kenya, where hardline state policies to protect wildlife and forests have included forceful eviction of Indigenous communities from conservation areas (Claridge and Kobei, 2023; de Jong and Butt, 2023).

Alongside these approaches there has, globally, been a growing discourse on the role of Indigenous communities as ‘custodians’ of nature. In Kenya, this has meant that traditional top-down approaches to conservation are now complemented by more inclusive policies that seek to involve communities in conservation. This has taken on different forms, including so-called “conservancies” where communities collaborate with the state and other actors in wildlife- and ecosystem management. In some areas, state authorities, white landowners and international NGOs have dominated implementation of conservancies, leading to conflicts and concerns that Indigenous Peoples are being lured into neocolonial “green grabbing” agendas (Mbaria and Ogada, 2016; Bersaglio and Cleaver, 2018).

However, in the Olkiramatian and Shompole community conservancies in the southern rangelands of Kenya the situation is different. Here, conservancy land is owned by Indigenous Maasai communities, and conservation activities are based on customary pastoral resource management practices and knowledge. Conservation activities are largely driven by and anchored in Maasai community institutions, and the supporting NGO is led by Maasai individuals. The area has been highlighted as a success story in community-led conservation (Nganga et al., 2019; Western and Russell, 2020).

Staff in the local branch of the state’s main wildlife management department – the Kenya Wildlife Service (KWS) – are supportive of the Olkiramatian and Shompole conservancies and go beyond their mandate to support them in a collaborative arrangement. Although KWS staff are legally entitled to intervene in the conservancy’s wildlife management, they rarely do so. They do not interfere with the community’s decision-making, whether on use of land and natural resources or seasonal live-stock movements, even when it competes with wildlife populations. The KWS staff also help the Maasai community protect communal land from external actors, e.g., by reporting potential land grabbers and cattle thieves to Maasai leaders. Communities call upon the KWS to act as local police officers, even though this is well beyond their mandate. The KWS staff further liaise with external actors to help secure funding for community development activities, though they are not required to.

These actions are not driven by mere altruism. Being at the frontline of the African state, the local KWS staff are characterized by (i) a severe lack of resources in carrying out their mandate, but also (ii) a certain everyday room for maneuver in interpreting and enacting their mandate in practice (Bierschenk and Olivier de Sardan, 2014; Funder and Marani, 2015; Olivier de Sardan, 2015). On this basis, the local KWS staff have elected to engage in a pragmatic working relationship with Maasai communities. During interviews, they expressed their rationales.

Firstly, through past field experience KWS staff have seen conventional authoritarian conservation efforts fail in large parts of the country, as human-wildlife conflicts grow. As one staff member said: ‘We have tried and tried with the traditional approach. It isn’t working!’. Community approaches provide an alternative option, which also requires fewer financial resources. Secondly, though not Maasai themselves, KWS staff consider the Maasai particularly knowledgeable of wildlife, and feel that pastoralism provides better opportunities for conservation than other forms of land use. Thirdly, current resources do not allow KWS staff to regulate and protect wildlife in the area, whereas if Maasai community members do it themselves, the task becomes manageable. Lastly, by giving Maasai community members more control

and influence on conservation, KWS staff must deal with fewer conflicts. This makes their tasks easier and avoids questions from headquarters.

These rationales suggest a pragmatic approach to achieving a goal of conservation, rather than idealistic support for Indigenous People's rights. It can also be seen as a classic technocratic rationale, i.e. how an intended aim can most effectively be achieved. The approach means that KWS staff relinquish some control over land use decisions, but this is deemed an acceptable trade-off. One staff member put it thus: '[W]hen you work with people there are always compromises'. This pragmatism does have limitations. Actions that directly undermine the legitimacy and mandate of the KWS staff – such as poaching of wildlife – are not left to communities but acted upon by the staff themselves.

The response from Maasai community members has been equally strategic. Conflicts do exist between pastoralists and wildlife conservation in the area, and community members are quick to take grievances over human/wildlife conflicts to the KWS staff. However, these conflicts are less pronounced and violent than elsewhere in Kenya. During interviews, Maasai community members explained that the conservancy and associated collaboration with KWS staff was a means for their community to maintain control over communal land and natural resources in a context of increasing land privatization, land grabs and environmental change. As one community leader said: 'We disagree with KWS sometimes but right now we are looking to keep our land intact and our livestock healthy [...] so they are useful for us to work with.'

Community members further explained that collaborating with KWS staff provided access to services and support for pastoral practices in a situation where other state agencies – e.g. agricultural departments – showed disinterest in pastoralism. Moreover, aligning with the armed KWS staff helped ensure security in the area. This relationship between KWS staff and community members can thus be seen as a 'convenience relationship' where both parties pragmatically engage each other to achieve their respective aims – conservation and livelihoods.

#### 4.3. 'The hero': Brazil's public prosecutor

National human rights institutions (NHRIs) often work closely with rightsholders and can, therefore, be considered as potential 'natural allies' of Indigenous peoples. These institutions typically monitor state and business compliance, investigate violations, and offer recommendations to ensure that human rights are respected (White, 2020). However, institutional design, autonomy from other state agencies, capacity, and competencies vary significantly across these bodies in different countries (Linós and Pegram, 2017).

The Brazilian *Ministerio Público Federal* (federal public prosecutor, abbreviated as MPF) is a prominent NHRI with significant capacity and autonomy (Arantes, 2002; Coslovsky, 2011). The MPF has significant power to denounce wrongdoings and enforce rights, but not to manage budgets, nor to adopt or implement policies. While its mandate covers various issues, this case focuses on a small group of prosecutors that have proactively aimed to protect ethnic minorities, Indigenous Peoples, and environmental conservation, thereby demonstrating exceptionally strong state activism. Situated within a broader state apparatus that privileges agroindustrial and extractivist development over Indigenous rights, these prosecutors face significant constraints on their agency.

The MPF has been a key ally for social movements and Indigenous organizations in addressing the severe impacts associated with agribusiness and large-scale infrastructure, including deforestation, land grabbing, pesticide use, and overexploitation of water resources. Interviewees explained how, even under Jair Bolsonaro's authoritarian government (2019–2022), MPF prosecutors publicly denounced human rights violations and filed hundreds of cases against other state agencies that neglected their protective duties. As one community representative exclaimed: 'We are so grateful that you are here with us ... You are our hero!'

The MPF has an array of instruments at its disposal (Coslovsky, 2011), with judicial action being the most visible. For instance, MPF

officials filed 25 judicial cases between 2001 and 2016 on the negative impacts of the large Belo Monte dam in the state of Pará. Similarly, in the state of Bahia, particularly proactive MPF staff several judicial cases against environmental agencies over the past few years, questioning the legality of granted forestry licenses and the use of water for large-scale irrigation. These lawsuits have been a powerful tool to defend Indigenous People's rights and to support local communities advocating for better protection of water resources (Gustafsson et al., 2024). However, judicial actions are time-consuming and are not always successful. Therefore, the prosecutors that we interviewed highlighted that they also use diverse extra-judicial means, such as the negotiation and monitoring of agreements with slaughterhouses to prevent sourcing from farms involved in illegal deforestation or land-rights violations.

MPF staff also use information requests as a key tool. For example, during the Belo Monte dam conflict, public prosecutors requested information from the hydroelectric company, supporting the local anti-dam movement. MPF staff also explained to us that having access to confidential data, enables them to trace beef supply chains. Moreover, in Pará and Bahia, public prosecutors conducted unannounced inspections of large farms, leading to penalizing numerous farms for using banned pesticides and withdrawal of water without the required licenses (Khoury, 2018).

As a third tool, public prosecutors act as intermediaries between the state and society by organizing public audiences that connect civil society with state agencies. In these settings, bureaucrats must listen to and address the claims of rightsholders. For example, in response to conflicts over water rights in Bahia in 2017, a public prosecutor arranged an audience, leading to the creation of water use plans by newly formed river basin committees (Gustafsson et al., 2024). These plans, influenced by civil society demands for stronger water source protection, were a long-standing goal of local communities, and according to interviewees this outcome would not have been achieved without the intervention of a highly committed public prosecutor.

Public prosecutors working on Indigenous peoples' rights often have strong expertise on these matters, as well as access to important financial and human resources for doing their job, such as advisors, technicians, and trainees to support them (Vilaça, 2017). Furthermore, the MPF does not only have autonomy from other state institutions, but individuals within this agency also rather freely select cases and decide upon adequate strategies. Some prosecutors have become highly engaged and committed defenders of the environment, human rights, and Indigenous peoples' rights, while others have acted more cautiously. Reflecting this heterogeneity within the public prosecutor's office, several interviewees both from the agency and civil society organizations have described some prosecutors as being their 'heroes', while criticizing others for being less proactive. As a social movement representative stated: 'The Public Prosecutor's Office has always been a partner in terms of opening investigations. [One of the prosecutors] was very active, all the communities love her, precisely because she really works hard'.

Some prosecutors enter office with strong expertise on human rights and Indigenous peoples' rights – likely reflecting a preexisting personal commitment. However, several interviewees highlighted that the nature of the work itself inevitably leads to close interactions with civil society actors and Indigenous groups, providing first-hand experience of many injustices on the ground. Particularly when gathering data on the negative impacts of business activities to pursue judicial and extra-judicial action, they often rely on information provided by NGOs and local communities. In their work, they depend on gaining trust and developing close ties with grassroots organizations, which, in turn, may make them more accountable to these groups.

Although there is no pressure within the MPF to become a 'hero' for social and Indigenous movements, as outlined above, the agency certainly fosters an environment that deepens such personal commitments and supports the development of active and influential defenders of human rights and environmental standards. Nonetheless, prosecutors remain embedded in the broader judicial and political system in Brazil,

which often legitimizes state and industry practices antagonistic to Indigenous Peoples. As a result, even committed prosecutorial actions frequently lead to only temporary or fragile outcomes, particularly when confronting powerful economic interests entrenched within state structures, highlighting the structural limits of transforming the state from within.

#### 4.4. *'The ancestors': Parks planning and land reclamation in Caldwell First Nation*

Caldwell First Nation (Zaaga'iganiniwag or 'the People of the Lake') is an Anishinaabeg community whose traditional territory stretches along the north shore of Lake Erie. Based out of Leamington, Ontario, the heart of Caldwell First Nation's ancestral territory is Point Pelee and Pelee Island. Settler encroachment began in the 1850s. After Point Pelee National Park was established in 1918, the police forced community members from their homes in the 1920s. For more than 230 years, Caldwell was the only federally recognized First Nation in southern Ontario without a reserve land base (Conley, 2006). After decades of struggle, Caldwell successfully reached a land claim settlement (2010) and attained land and reserve status (2020), special usage rights for hunting (2015) and ceremony (2020) in Point Pelee National Park, and a Memorandum of Understanding with Parks Canada to pursue shared governance of the proposed Ojibway National Urban Park (2024).

Canada's Constitution Act (1982) gives the federal government a duty to consult Indigenous nations when a decision could impact their rights (Borrows and Coyle, 2017), while the Canada National Parks Act (2000) requires Parks Canada to consult Indigenous nations during park management planning. More broadly, the UNDRIP Act (2021) mandates the government, in cooperation with Indigenous Peoples, to take all measures necessary to adhere to UNDRIP, including preparing and implementing an action plan, and submitting annual progress reports.

While this legal foundation for protecting Indigenous rights looks strong, several issues limit its effectiveness. One weakness is that the laws requiring consultation are undermined by other provisions (e.g. the 1997 Delgamuukw Supreme Court decision) allowing the 'infringement' of Indigenous rights for various purposes, including agriculture and forestry (Borrows, 1999). In other words, the government is only 'obligated to consult about how its visions of land use will be implemented', not about Indigenous visions of how people might relate to the land (Christie, 2005:42). While Canadian Constitutional law is founded on treaty agreements that portrayed colonial and Indigenous nations as equals (Borrows and Coyle, 2017), Canadian law subordinates rich Indigenous legal systems that long predated Canadian law and continue to exist alongside colonial legal systems, including Anishinaabe Chi Inaakonigewin (Natural law).

Despite these limitations, Caldwell First Nation and Parks Canada have made progress toward land reclamation and shared governance in two sites. At Point Pelee National Park, accomplishments include establishing special usage rights for hunting and ceremonial space, negotiating a co-management plan (now being revisited), and creating trilingual signage that asserts Indigenous presence. Ongoing efforts are focused on establishing harvesting permits and reseeding manoomin (wild rice), an important traditional food, within the park. For Ojibway National Urban Park – a proposed new park in Windsor, Ontario – planning is underway to establish a shared governance framework.

Several factors have affected these outcomes. First, a 'thick' relationship (Ferguson, 2006: 35–36) between Caldwell First Nation and Parks officials was built and maintained by going well beyond work correspondence. A Parks official regularly attends community events, including ceremony, enabling useful unofficial conversations. At a public meeting, Caldwell First Nation Chief Mary Duckworth emphasized, 'Nothing could have happened until we had that relationship ... and it has to be built on trust and understanding' (CBC, 2024).

Second, Park superintendents have considerable power under the Canada National Parks Act – a double-edged sword that can, in the right

hands, be used to advance Indigenous rights. The government's vague policy to 'do reconciliation' lacks detail, and sometimes conflicts with the more conservative Parks Act, but an official described how this gave them latitude to creatively interpret their mandate – even bending rules, when necessary – to pursue the goal of reconciliation. For example, when higher-ups said it was not possible to add an Indigenous language to park signage, an official did so anyway, reflecting: 'If you're not breaking the law, then you can do it .... And in fact, you often end up getting celebrated for it.' Using the power of Parks officials to achieve shared goals is a pragmatic strategy, a 'crack' that leaves the structure intact. Officials in other times or places may still decide to use the same power for different ends and means.

Parks officials have found ways to use the tools available to return land to Indigenous communities – not ideal solutions, but ways to make progress faster than trying to reform or replace existing laws or institutions. For example, the creation of Ojibway National Urban Park has provided an opportunity to connect discussions about how to manage a new park, for which there is funding and momentum, with discussions about the management model for Point Pelee – an old park involving the same communities. Because Point Pelee predated the laws requiring Indigenous consultation, early decisions about the park's governance formed patterns that had otherwise proved hard to change. Renegotiating Point Pelee's management plan took determination and sustained commitment from both officials and community members, as well as the opening created by a nearby new park. Grasping such opportunities reflects creativity and nimble responsiveness rather than a systemic shift.

Last, and most crucially, Caldwell's ancestors and descendants' deep, reciprocal attachment to place has profoundly motivated their inter-generational struggle to reclaim a land base and rebuild their community. Several community members described how 'the ancestors were with us' and 'happy' at the signing of an agreement to explore co-management of Point Pelee. A Parks official also attributed importance to ancestral Indigenous knowledge about conservation and sustainability, saying: 'We have an ecosystem that's developed over millennia in harmony with the people who were stewarding it. You remove those people from the ecosystem, the ecosystem is damaged .... the right thing to do ... is to bring that balance back.'

## 5. Maneuvering constrained spaces

As we have seen, cracks may be the result of deliberate efforts to transform organizations, or a show of pragmatism borne from necessity. They may also be the result of the unintended outcomes of interactions between multiple actors or intentional actions to foster specific changes – with our focus being mainly on the latter. To synthesize the four cases, we now condense key insights based on the case narratives above, working through the dimensions of the theoretical framework (see summary in Table 2). We start, in this section, by addressing our first research question, namely how state officials maneuver, and create cracks in, the state bureaucracy.

### 5.1. Institutional conditions

As regards institutional conditions, the Kenyan and Brazilian cases can arguably be read to represent the two extremes in our sample. Brazilian prosecutors benefit from a comparatively favorable institutional environment, with a formalized mandate to protect rights and significant operational capacity. The KWS, in contrast, works from a limited conservation mandate and with severe capacity constraints. In between, lacking strong formal mandates on Indigenous rights but with some implementing capacity, officials within Parks Canada and Berg Municipality created cracks via rule-bending and/or proactive interpretation of more openly formulated laws and policies.

As could be expected, hence, financial and human resources comprise important preconditions for officials to create cracks.

Table 2

**Summary of findings.** Key themes in the cases, guided by the theoretical framework.

		Berg Municipality, Sweden	Wildlife Service, Kenya	Public Prosecutor, Brazil	Parks Canada, Canada
<b>Institutional conditions</b>	<i>Capacity</i> The ability of the organization to integrate Indigenous rights and culture in the implementation of pre-defined governing projects.	<ul style="list-style-type: none"> <li>• Sámi Administration providing duties, mandate and funding</li> <li>• Internal peer support and teamwork (e.g., when challenging industry interests)</li> </ul>	<ul style="list-style-type: none"> <li>• Ambivalent policy support for community-led conservation</li> <li>• Limited resources and “reach” of local state branches</li> </ul>	<ul style="list-style-type: none"> <li>• Highly motivated and skilled employees with well-developed routines</li> <li>• Formal mandate to protect human rights and enforce environmental standards</li> </ul>	<ul style="list-style-type: none"> <li>• Funding provisions for new national park</li> <li>• High-level but vague policy mandate to ‘do reconciliation’</li> </ul>
	<i>Autonomy</i> The political discretion of the organization to set own goals and agendas concerning how to engage with Indigenous rights and culture.	<ul style="list-style-type: none"> <li>• Relative independence of local government and municipal planning monopoly</li> <li>• Supportive political leadership</li> </ul>	<ul style="list-style-type: none"> <li>• Room to maneuver in interpretation of policy and mandate</li> </ul>	<ul style="list-style-type: none"> <li>• Independence vis-à-vis other state agencies</li> <li>• Much freedom for individuals within the agency to pursue cases.</li> </ul>	<ul style="list-style-type: none"> <li>• Policy initiative on new park creates opportunity to review and enhance management of old one</li> <li>• Park officials vested with considerable power to interpret the national parks law</li> </ul>
<b>Institutional work</b>	<i>Maintaining</i> Practices of state officials that serve to reinforce and legitimize official state institutions that typically work against Indigenous rights.	<ul style="list-style-type: none"> <li>• Adherence to Swedish environmental laws and planning regulations</li> <li>• Implementing industry proposals and central government policy.</li> </ul>	<ul style="list-style-type: none"> <li>• Reproducing state as legitimate authority in wildlife management on community lands</li> </ul>	<ul style="list-style-type: none"> <li>• Forms part of, and reproduces, Brazil’s judicial system, which by and large legitimizes industry and state practices unfavorable for Indigenous Peoples.</li> </ul>	<ul style="list-style-type: none"> <li>• Using, not challenging, the power of park officials which could as easily be wielded to suppress Indigenous rights</li> </ul>
	<i>Disrupting</i> Practices of state officials that challenge, undermine or entirely block the workings of those norms and routines that contradict Indigenous rights	<ul style="list-style-type: none"> <li>• Placing moratorium on wind power developments, against national government objectives</li> <li>• Professional interpretation of legal planning norms to ‘not ignore’ reindeer herding communities</li> </ul>	<ul style="list-style-type: none"> <li>• Relinquishing some control over wildlife decision-making and management to Maasai community</li> <li>• Informally accepting trade-offs between community welfare and wildlife conservation</li> </ul>	<ul style="list-style-type: none"> <li>• Challenging the noncompliance of other state agencies with the protection of Indigenous peoples’ rights</li> <li>• Contesting and sometimes halting illegal business practices</li> <li>• Addressing systemic problems such as pollution, water scarcity due to over-exploitation by the agribusiness and land rights violations</li> </ul>	<ul style="list-style-type: none"> <li>• Bending rules and opposing higher-ups’ instructions on signposting</li> <li>• Creatively interpreting competing mandates</li> </ul>
	<i>Creating</i> Practices that develop new norms or procedures to advance protection of Indigenous rights by the state organizations.	<ul style="list-style-type: none"> <li>• Gräfsåvallen pilot project on land use planning</li> <li>• Launching new municipal plan on energy production</li> <li>• Instituting trainings, school visits, language camps</li> </ul>	<ul style="list-style-type: none"> <li>• Communities lead and manage conservation area based on pastoral land use practices</li> <li>• KWS staff support protection of community lands against external actors, facilitate fund-raising for pastoralism</li> </ul>	<ul style="list-style-type: none"> <li>• Generating new data on human rights violations and illegalities for negotiations and lawsuits</li> <li>• Proposing new legal frameworks more in line with the perspectives and rights of Indigenous Peoples</li> </ul>	<ul style="list-style-type: none"> <li>• Issuing special usage rights for hunting, ceremony</li> <li>• Revisiting co-management agreements</li> <li>• Developing trilingual signage</li> <li>• Planning new urban park</li> </ul>
<b>Institutional actors</b>	<i>Rationale</i> The reasoning that drives state officials to engage in the contact zone and respect the presence of pluralism in institutional norms.	<ul style="list-style-type: none"> <li>• Recognition of past failures</li> <li>• Commitments to equity, justice and anti-discrimination</li> <li>• Virtues of diplomacy and incrementalism: seeking stepwise improvements</li> </ul>	<p>Technocratic/efficiency rationale, including:</p> <ul style="list-style-type: none"> <li>• Wildlife conservation more efficient/less costly when led by communities</li> <li>• Maasai pastoralism seen as conducive for wildlife conservation (unlike other land uses)</li> </ul>	<ul style="list-style-type: none"> <li>• Some individuals with strong prior expertise in and commitment to human rights and environment</li> <li>• Direct experiences of injustices</li> <li>• Interactions with Indigenous groups that deepen commitments.</li> </ul>	<ul style="list-style-type: none"> <li>• Recognition that conservation depends on Indigenous presence</li> <li>• Sense of moral imperative (‘It’s just the right thing to do’)</li> <li>• Using available tools even if imperfect</li> </ul>
	<i>Relationship</i> The relationships between state officials and Indigenous representatives.	<ul style="list-style-type: none"> <li>• Proactive communication with herding communities on planning cases</li> <li>• Convening regional dialogue on land use conflicts</li> </ul>	<ul style="list-style-type: none"> <li>• “Convenience relationships” (pragmatic alignment of joint interests)</li> </ul>	<ul style="list-style-type: none"> <li>• Acting as broker between local communities and diverse state agencies.</li> <li>• Active nurturing of ties with grassroots and civil society organizations.</li> </ul>	<ul style="list-style-type: none"> <li>• Listening; following the community’s lead</li> <li>• “Thick” relationship with community</li> </ul>

However, lack of resources did not always hold back agency. For the KWS, inadequate resources and inability to enact espoused mandate, became a key driver for the collaborations with the Maasai and the emergence of Indigenous-led conservation. Resource constraints, thus, can also *promote* the enactment of autonomy in the periphery of the state, with KWS staff seizing the space to interpret laws creatively.

From a view of institutional resilience, it is here worth dwelling briefly on the design of the MPF. Beyond its significant institutional capacity and autonomy, a notable benefit from a rights perspective is its relatively durable construction that means that it cannot be easily changed due to political interests. This is, arguably, a rather unique

construction, with the MPF also being one of the better equipped human rights institutions, globally. It deviates from many other state organizations with mandate on rights or the environment (Bersch et al., 2017; Gustafsson and Scurrah, 2019). Yet, as noted above, it is important to acknowledge that the MPF is embedded within a state structure that often limits what it can achieve, especially when trying to challenge more influential interests within the state.

It is also worth considering the experiences from Berg municipality in an international perspective. As local government in the state’s periphery, with distinct political leadership and a high degree of planning autonomy, municipalities are, arguably, places where we should expect



to find conditions for the creation of cracks. Globally, it is known how municipalities – whilst often siding with ruling elites – can also become sites of resistance against national political agendas on land use and resource extraction. Several such examples have, for instance, been reported from Latin American countries, with municipalities organizing referendums about mining projects, taking charge over territorial planning, and seeking recognition as Indigenous municipalities (Postero, 2017; Walter and Urkidi, 2017).

### 5.2. Institutional work

Across the cases we saw examples of practices that served to maintain, create, and disrupt institutions. In the social movement literature and studies on Indigenous resistance, a common observation is about the ‘repertoires of contention’, i.e. the importance of employing a wide set of practices for dissent and influence (e.g., Hanna et al., 2016). In our cases, the diversity of maintaining, disrupting and creating practices supports such arguments. Importantly, though, and in contrast to the earlier literature, what we found were practices adopted not for the purpose of influence from the outside, but for creative navigation of institutions from the inside of the state.

Admittedly, though, when taken together a key finding is that whereas new institutions were indeed created, the existing – and often problematic – ones were only disrupted in minor ways and, in fact, also actively maintained by acts of compliance and role performance. This begs the question of whether the cracks observed in the cases will remain just cracks or help transform the governance regimes more systematically – a question we return to below (section 6). Notably, we saw several instances of what Martí and Mair (2009:101) have termed non-aggressive practices for institutional work, fostering structural changes through small incremental steps.

There can be varied reasons for people to opt for this strategy, but repeated concern appears to be about career risk or other types of retaliation. In Berg, people mentioned experiences of pushback against officials perceived to make decisions in favor of herding communities as well as exposure to anti-Sámi racism and discrimination (for recent statistics see Swedish National Council for Crime Prevention, 2024). In the MPF, prosecutors talked about experiences with repercussions due to active engagement on Indigenous rights, some being sued and others being re-transferred to other positions within the agency.

One question inviting reflection is whether an incrementalist approach is, in fact, co-dependent on more confrontational strategies, e.g., via litigation and protest? The MPF combined own litigation with dialogue-based approaches, Parks Canada was helped to act by Caldwell band leadership rejecting the co-management agreement previously negotiated, and in Berg municipality the protests in response to a municipal plan prompted policy change. Even in the Kenyan ‘convenience relationship’, communities did not hesitate to express grievances to the KWS. Falleti and Riofrancos (2018) have, for Bolivia and Ecuador, earlier discussed how initial conflict and mobilization can help promote more collaborative Indigenous-state relations. With regards to institutional work theory, Battilana and D’Aunno (2009) have similarly suggested that incompatibilities in an organizational field are likely to trigger people’s reflective capacity and react critically to institutional arrangements. Different forms of Indigenous protests are, we suggest, an important mechanism to prompt critical reflection inside the state (and create policy change that in turn enables widening of maneuvering space).

### 5.3. Institutional actors

The heuristic labels given to the four cases speak to the diverse rationales of state officials and their approaches to facilitating relationships across the state-Indigenous contact zone: diplomacy and incrementalism in Berg municipality, pragmatism and instrumentalism in the KWS, state activism in the MPF and the effort of Parks Canada

officials to take guidance from Caldwell First Nation and its law and customs. This rich picture complements earlier research on Indigenous-state relations that has tended to adopt a more singular focus on the activist nature of state officials’ agency (e.g., Paredes, 2023). Similarly, the findings speak to earlier work (e.g., Horowitz, 2022) that highlight how state actors may sympathize with Indigenous rights without necessarily doing anything about it – whether for fear of risking their careers or because they perceive the barriers to change as insurmountable. Such observations are also important since the institutional work literature may erroneously convey a presumption that people are invariably prone to pursue institutional change (e.g., Maynard-Moody and Musheno, 2000; Funder and Marani, 2015).

In several of the cases, individual state officials motivated their agency with reference to a sense of moral commitment to the rights and equality of Indigenous counterparts. What motivated these commitments? Many referred to the importance of personal relationships developed with Indigenous representatives, wherein state officials could first-hand experience the detrimental impact of state institutions and learn about the visions and norms of Indigenous societies. Related observations about the central importance of these personal relationships, across the contact zone, have been made by Vilaça (2017), for public prosecutors in Brazil, and Horowitz (2022), for US state employees in a case study on the Dakota Access Pipeline. The agency may here have a self-reinforcing effect: Institutional work at the margin of the state will, by its very nature, typically expose state officials to community experiences, enable learning, and allow for further developing the sensitivity to Indigenous priorities and rights.

The relationships with Indigenous representatives were critical also to enable the creative and disruptive practices of state officials. Berg officials actively communicated with herders about proposed industry developments and the draft energy plan, the prosecutors in the MPF developed intervention strategies together with Indigenous groups, KWS staff engaged in collaborations with the Maasai to make everyday life manageable, and Parks Canada staff fostered a ‘thick’ (Ferguson, 2006) relationship with Caldwell First Nation. To be sure, social movement theory has earlier highlighted the importance of such relationship-building between social groups and reform-oriented actors within the state. As a case in point, Paredes (2023) offers an examination of consultation reform in Peru, including the co-production of institutional change between Indigenous movement leaders and state actors. In relation to the literature on institutional work this insight is important, too, since dialogical practices from the outset received limited attention (Lawrence and Suddaby, 2006).

## 6. Do the cracks challenge the status quo?

The second question we posed in this study was about whether the cracks effectively challenge the status quo or merely reinforce problematic systems of power. The findings discussed above, when taken together, indicate that an answer is negative. Arguably, all the organizations studied in this paper are at the margin of the state (sometimes even in geographical terms) and the cracks emerging are small, precarious and oftentimes transient. They also arise in a context of broader structural dynamics that substantially shape relations between states and peoples, such as global and national inequalities and marginalization of certain identities and knowledges. Moreover, we have observed how practices maintained preexisting top-down institutional patterns and that – when found to challenge political and economic elites – proactive officials might be punished and repressed. All of this demonstrates the severe limitations placed on the agency of state officials and the vulnerability of the cracks they manage to produce. In many instances, agency was possible, and autonomy could be exercised, only insofar as it went under the radar of, or was tolerated by, more influential actors, including other state agents.

The follow-up with one of our cases after the interviews were conducted provided a testimony to this vulnerability. In Berg, the municipal

leadership was – as other government organizations and municipalities in Sweden – asked to comment on draft results from a government committee tasked to propose legislative revisions on the rights of herding communities (the Committee on reindeer herding lands, established in the wake of the 2020 Supreme Court ruling in the Girjas case about fishing and hunting rights). In its submission, the municipal political leadership was anxious to be perceived as neutral and, despite repeated Sámi pleas, refrained from commenting on critical Indigenous issues. This experience left the Sámi representatives feeling ignored and doubting the depth of the leadership's commitment to Sámi rights (copies of statements are on file with the first author).

Yet, neither should we dismiss the significance of the commitments and actions of state officials within their fraught institutional environments. In the cases, some goals were achieved that were, arguably, of utmost importance for the Indigenous Peoples and communities involved. We saw how the government organizations, as whole, maintained a broadly colonial agenda, but that groups of officials on the inside *did* manage, intentionally and successfully, to advance decolonizing or otherwise supportive actions. The implementation processes showcased innovation in finding ways to use imperfect tools and unclear rules to get unexpected things done. While some of the practices described might seem limited from an academic viewpoint, for Indigenous nations and marginalized communities, such concrete steps for protecting lands, waters and territories can be fundamental.

How should we, then, make sense of the ambivalent nature of this agency of embedded state officials? The observed actions and rationales were those of specific individuals and should not be conflated with larger arms of the state. On the one hand, the cracks show the state's internal contradictions and the possibility for committed people to breathe fresh air into outdated, century-old colonial and/or top-down state structures. On the other hand, the fact that these openings remain just cracks also re-confirm the state's antagonism toward Indigenous Peoples in the first place and the fact that relationship remains, at its core, oppositional. Marisol De la Cadena (2023: 57) helpfully reminds that the contact zone is shaped by a 'permanent condition of conflict' ... [that] embody divergent modes of existence, a condition irreducible to no other possibility than acknowledgement by all its participants'.

Indigenous scholarship has helpfully given us the idea of 'braiding' or 'interweaving' Indigenous and settler legal orders (Borrows, 2002; Kimmerer, 2013). Building on this line of thought, we propose to conceptualize the agency we have observed in the state-Indigenous interface with the related notion of *institutional braiding*. This seeks to capture the agency exerted by both Indigenous representatives and frontline state officials to navigate the co-existence of normative orders within their crammed spaces, fraught institutional conditions and inherent conditions of conflict. In this view, it would be a fallacy to suggest that cracks could be 'upscaled' or otherwise formalized within existing state structures – given the power asymmetries and contested authorities inherent in the interaction between Indigenous governance systems and state institutions. As Borrows (2002) has argued, Indigenous governance that long pre-exist settler institutions can legitimately demand substantial protection from conflicting non-Indigenous laws. The emergence of cracks validates a central challenge posed to decision makers in state institutions: if, and when, they can accept that Indigenous institutional norms and practices can prevail when found to be incompatible with traditional top-down state structures (Ugarte Urzua, 2019; Livesey, 2019; Turriff and Barry, 2023).

In sum, the institutional braiding exerted by Indigenous representatives and state officials reconfirms how genuine state engagement with Indigenous self-determination requires a fundamental reworking of state institutions altogether. The cracks reflect the best outcomes that Indigenous parties and sympathetic frontline state officials could obtain at any specific time and place, driven by a variety of rationales. They are reflective of creative and at times even courageous agency in crammed spaces well worth celebrating. It is agency that, thus, tells us something

important about the desire for change, (limited) possibilities for achieving it, and inherent constraints that testify to the need for broader political reform.

### CRediT authorship contribution statement

**Rasmus Kløcker Larsen:** Writing – review & editing, Writing – original draft, Validation, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Mikkel Funder:** Writing – review & editing, Writing – original draft, Validation, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Cortney Golar-Dakin:** Writing – review & editing, Writing – original draft, Validation, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Maria-Therese Gustafsson:** Writing – review & editing, Writing – original draft, Validation, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Carol Hunsberger:** Writing – review & editing, Writing – original draft, Validation, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Martin Marani:** Writing – review & editing, Writing – original draft, Validation, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization. **Almut Schilling-Vacaflor:** Writing – review & editing, Writing – original draft, Validation, Methodology, Investigation, Funding acquisition, Formal analysis, Data curation, Conceptualization.

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The data that has been used is confidential.

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