



Società Italiana di Diritto Internazionale e di  
Diritto dell'Unione Europea

Segreteria SIDI

c/o ISGI Cnr, Via dei Taurini, 19

00185 ROMA ITALIA

Tel 39 06 49937673 fax 39 06 44340025

[www.sidi-isil.org](http://www.sidi-isil.org)

[info@sidi-isil.org](mailto:info@sidi-isil.org)

## **TESI DI DOTTORATO NEI SETTORI DI DIRITTO INTERNAZIONALE, DIRITTO DELL'UNIONE EUROPEA E DIRITTO INTERNAZIONALE PRIVATO**

(da restituire all'indirizzo e-mail: [info@sidi-isil.org](mailto:info@sidi-isil.org))

Il questionario è rivolto ai dottorandi, anche non soci della SIDI, che desiderano fare conoscere l'oggetto del loro lavoro di ricerca, tramite l'apposita sezione presente nel sito della Società.

### **Informazioni generali**

Nome: Federica

Cognome: Cittadino

Indirizzo e-mail: [federica.cittadino@eurac.edu](mailto:federica.cittadino@eurac.edu)

Indirizzo: viale Druso 1, 39100 Bolzano

### **Informazioni sulla tesi**

Titolo della tesi di dottorato: Indigenous Rights and the Protection of Biodiversity: A Study of Conflict and Reconciliation in International Law

Ciclo di dottorato e anno di inizio: XXVIII ciclo, 2012

Sede amministrativa del dottorato (si possono indicare anche le altre sedi consorziate):  
Università degli Studi di Trento, Scuola di studi internazionali

Tutor della tesi di dottorato: Prof. Marco Pertile (Università di Trento) e Prof. Elisa Morgera (Università di Strathclyde)

Anno e mese in cui scadono i tre anni del ciclo di dottorato (o alternativamente anno di discussione della tesi per i neo-dottori di ricerca): ho discusso la tesi il 19 gennaio 2017.

Indigenous ways of living are typically described as being harmonious with—if not instrumental for—the protection of the environment. This dissertation moves from the quite different evidence that the protection of biodiversity may encroach on indigenous rights. More specifically, the legal regime of the Convention on Biological Diversity (CBD) establishes obligations for its Parties, whose interpretation and/or implementation may lead to the violation of indigenous rights.

In this context, the research identifies potential conflicts between the obligations incumbent on CBD Parties, pursuant to the CBD and its Nagoya Protocol on access and benefit-sharing (ABS), and those stemming from human rights treaties, protecting indigenous rights. The thesis also develops an interpretative approach aiming to prevent or solve conflicts, which cannot be resolved through the applicability of hierarchy, *lex specialis*, or *lex posterior* rules, between norms protecting indigenous rights and biodiversity. The dissertation argues that systemic interpretation offers a valuable interpretative tool to incorporate the rights of indigenous peoples into the CBD regime. Another applicable rule between CBD Parties is the principle of self-determination, which this thesis derives from a teleological interpretation of indigenous rights.

The thesis concludes that conflicts between indigenous rights and obligations established in the CBD regime cannot be solved in the abstract, but rather need a case-by-case approach. Evidence from two thematic case studies—one on ABS and the other on conservation—shows that indigenous rights and self-determination allow interpreters both to choose between competing interpretations of the CBD regime and to privilege those interpretations that do not threaten the cultural distinctiveness of indigenous peoples. Successful examples of applying this interpretative approach in the thesis concern issues such as the ownership of genetic resources, the notion of traditional knowledge, and the articulation of concrete forms of participation in the application of CBD-related obligations. These findings have a broader significance for the debate on human rights and the environment, the interplay between self-determination and permanent sovereignty over natural resources, as well as for the harmonization of specialized regimes with the rights of indigenous peoples.