



UiT The Arctic University of Norway

Arctic Governance

at the crossroads of sovereignty and the messiness of law

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2002-2016 **From a North Western-Centric Approach to the “Other”**

Law School in Torino

Positivistic Law

Case Law

Harmonization of MS law with EU law

PhD in Heidelberg

EU law and comparative law

Postdoc in Wageningen

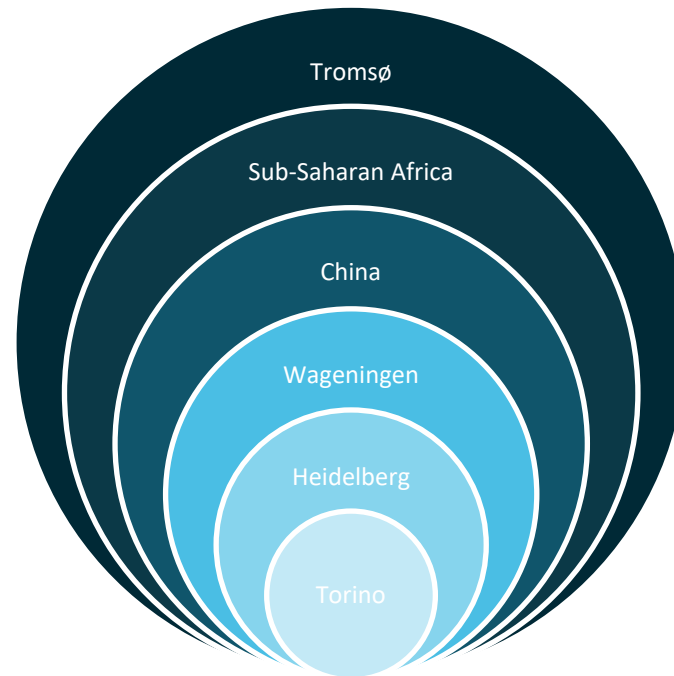
Law and other sciences (life sciences)

Research in China

Food law in cooperation with traditional medicine

Research in Sub-Saharan Africa

Dilemmas of colonialism (Sierra Leone)
Confrontation with local best practices: is this law? (Tanzania, Rwanda)



2016-2022 **My six years of personal decolonization process**

Postdoc at JCLOS/NCLOS 2016

Participation from a research topic to a methodological approach

CAS 2018

Indigenous Law and Methodology Training

Working with stories

New research approaches

Collaboration with indigenous communities from Brazil and Norway

Illustrated storytelling

Research, Education and Outreach: 3 words for one approach

Methodology: Co-creation of knowledge, multisensory approaches to research





Outline

A preliminary reflection: the untidiness of law

1. Past and Present

2. Governance in the Arctic

3. Future: Reconciling Models of Environmental Governance through a different research approach

Closing the circle: your reflections on the untidiness of law in the context of Arctic governance

Starting with a reflection...



«Law is **not tidy**.

*It is **not contained by the boundaries of modern states** nor generated only by the work of public officials ...*

***Nor law is lonely**. It is often found overlapping or interacting with other instances of law.*

*Yet, somehow, despite this **messiness** and **multiplicity**, law still can, or at least claims to be able to, create obligations...Despite its plurality, law still has or at least claims some kind of **authority**.»*

(Val Napoleon, ILRU, Uvic, Canada)



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1. Past and Present

International Law since 1648...

Exclusive sovereignty of each party over its lands, people, and agents abroad was recognized

Westphalia 1648



Going global...1957



1957 the world is in our
homes (McLuhan/Federman)



Going global...



Wisdom from the past (still applicable?)

PACTA SUNT SERVANDA

Compliance with the International treaties

Compliance with customary law:

1. *opinio juris ac necessitatis*

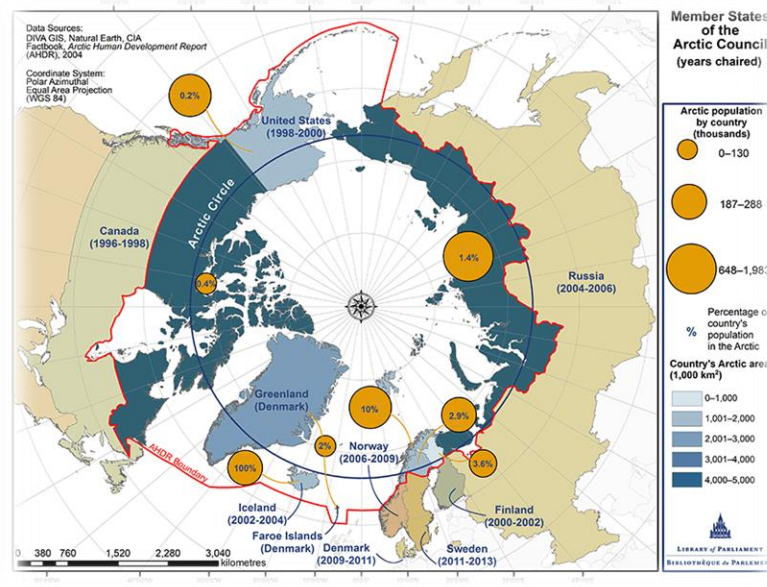
2. *diuturnitas*

Sovereignty?

Cooperation?

Development?

2. Governance in the Arctic

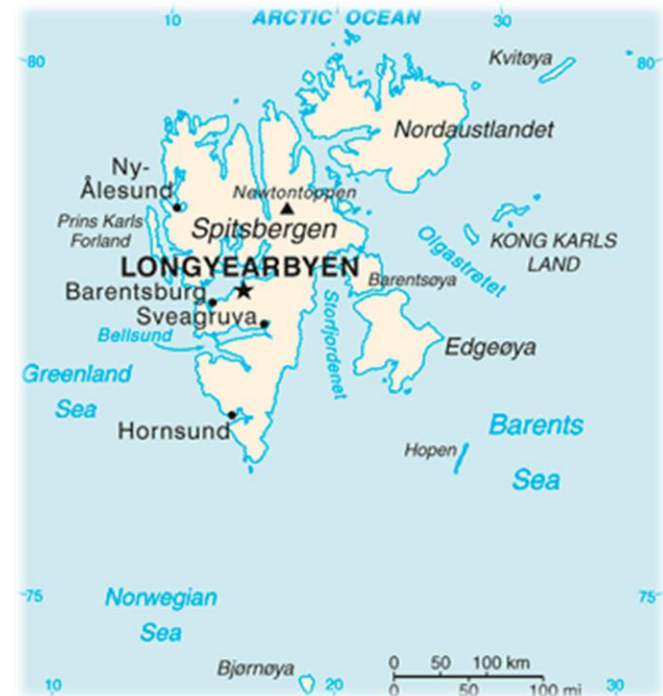


The Arctic Region



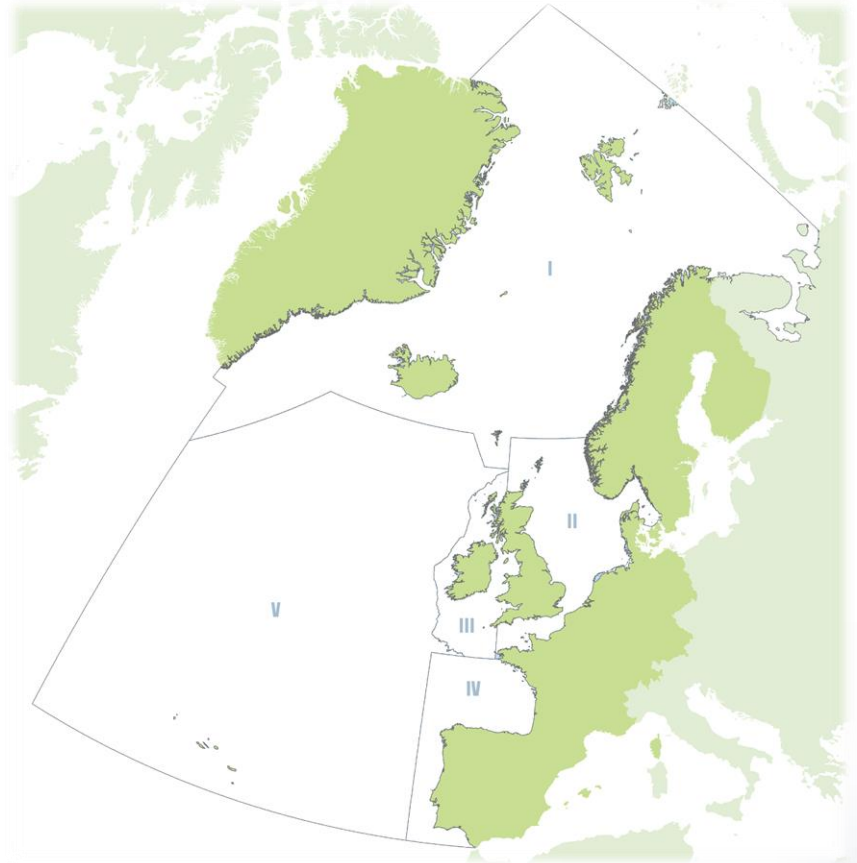
The Svalbard Treaty

- **Who?** 9 contracting parties (US, India, Denmark, France, India, Japan, Norway, NL, Sweden)
- **When?** 1920, as of May 2016 ratified by 43 States
- **What?:** The Svalbard Archipelago is under Norwegian **sovereignty**
- Art. 2 Environmental Provision
Norway shall be free to maintain, take or decree suitable measures to ensure the preservation and, if necessary, the re-constitution of the fauna and flora of the said regions, and their territorial waters



OSPAR Convention

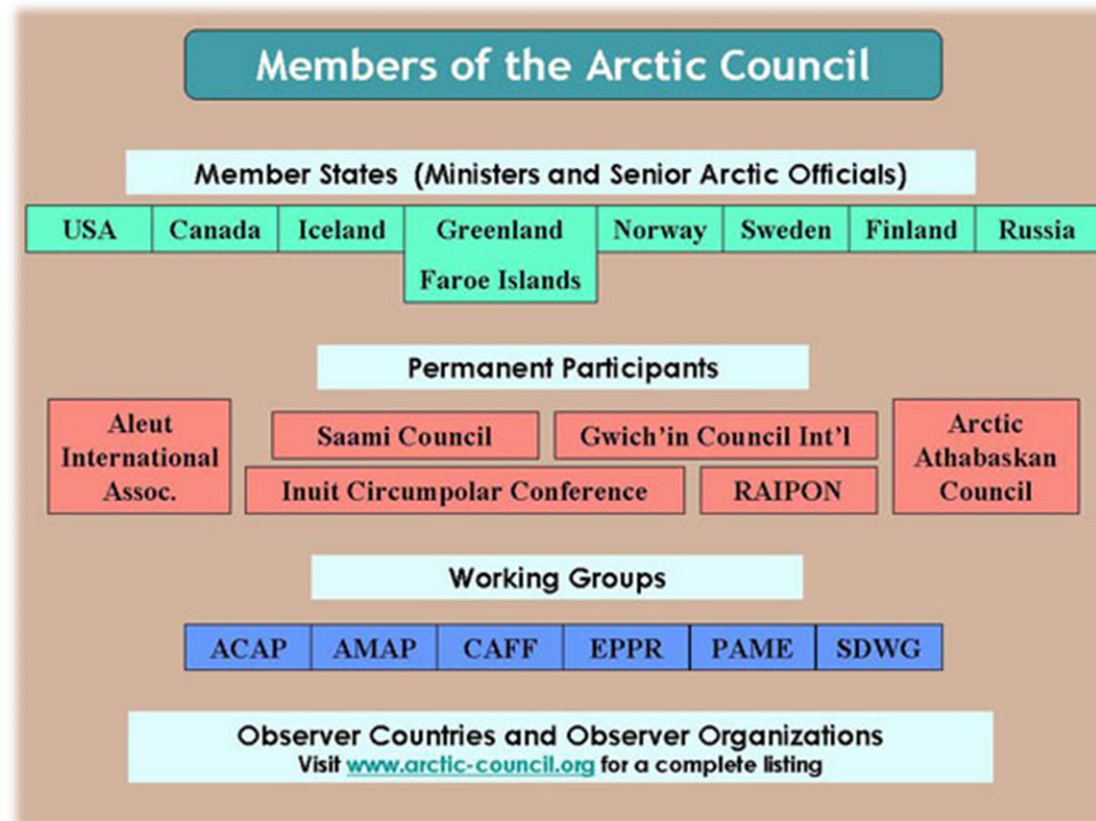
- **Who?** 16 parties (the European Union and 15 countries: Belgium, Denmark, Germany, Finland, France, Great Britain, Ireland, Iceland, Luxemburg, the Netherlands, Norway, Portugal, Spain, Sweden and Switzerland)
- **When?** 1992-1995
- **Where?** Tip of Spain up to the North Pole
- **Strategic areas:**
 1. Biodiversity and ecosystems
 2. Eutrophication
 3. Hazardous substances
 4. Offshore industry
 5. Radioactive substances



The Arctic Council: a zone of peace after the Cold War

- 1955 Rivalry between the Warsaw Pact bloc (Eastern Bloc) and the NATO (Western bloc)
- Murmansk Speech (Gorbachev): late 1980s...towards globalisation NON-STATE ACTORS SHALL BE ENGAGED
- 1991 Arctic Environmental Protection Strategy (AEPS)
- 1998 AEPS incorporated in the Arctic Council...

The Arctic Council: sovereign states and non-states



3. Future: Reconciling Models of Governance by Integrating Western and non-Western approaches



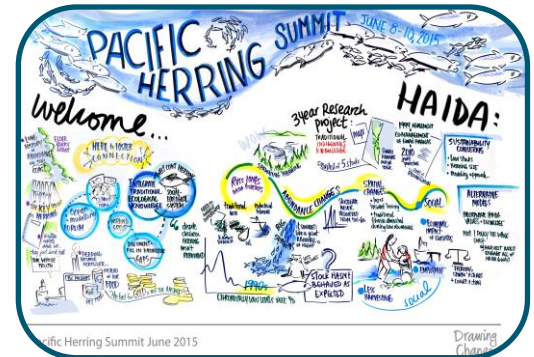
My understanding of Arctic Governance: the core themes



Toolbox for State
and Non-State
Actors



Platform to
Protect
Human and
Environmental Rights



Platform for
Community-Based
Areas

«*Research is a dirty word*» (Linda Tuhiwai Smith)

How do we reconcile Western and non-Western approaches?

New Approach

How?

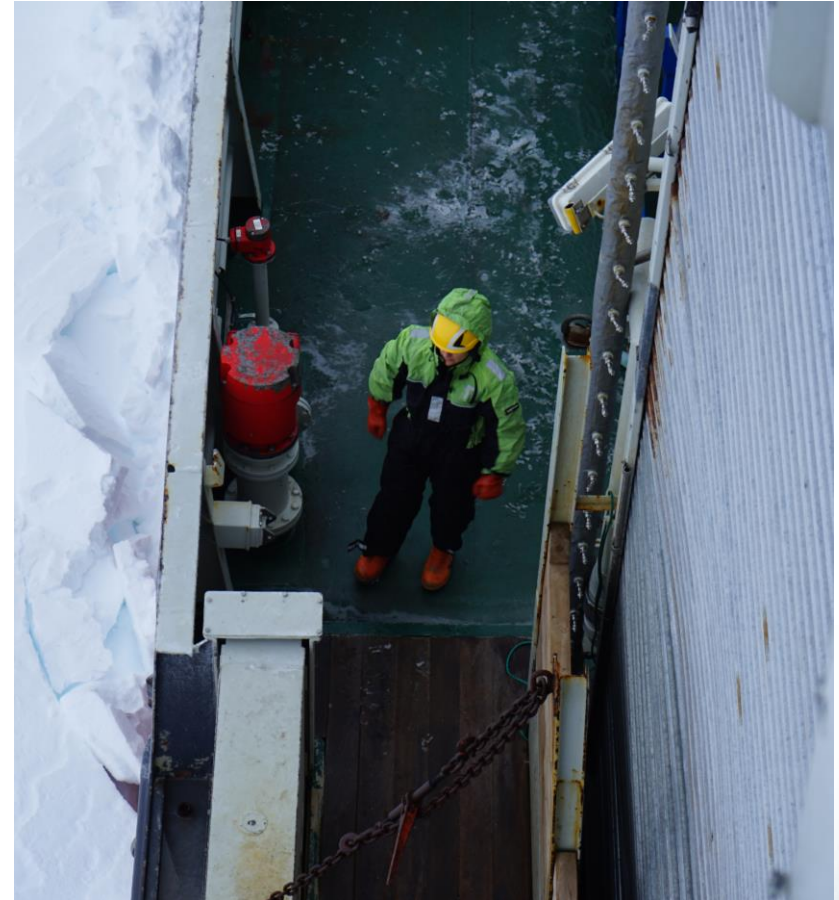
Is it possible to *integrate approaches?*
(*helicopter/rape*)

Collaborative space between participants and researchers

Illustrations

Storytelling

Knowledge co-creation



INDIGENOUS LAW 101

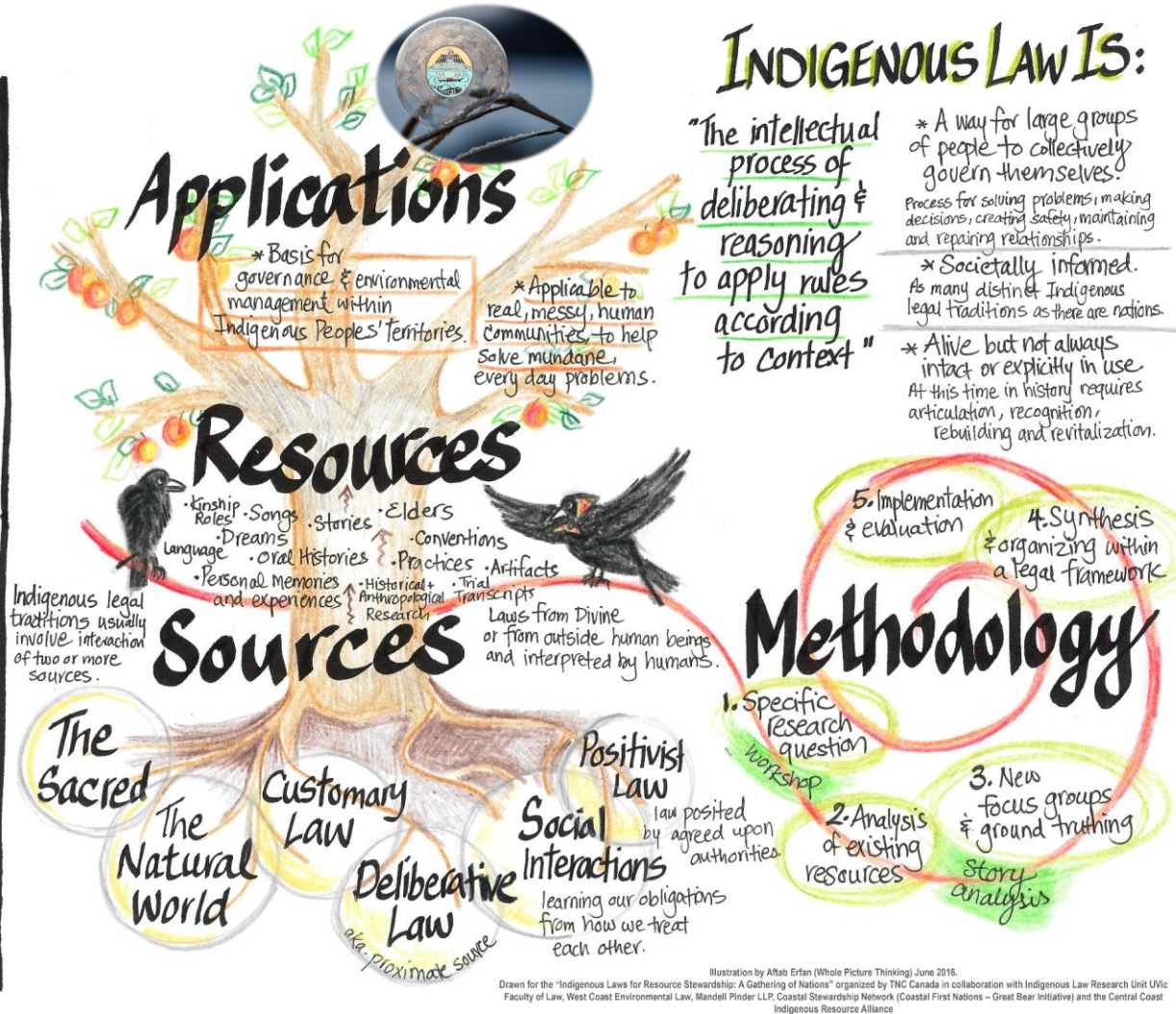


Illustration by Altan Erfan (Whole Picture Thinking) June 2016.

Drawn for the "Indigenous Laws for Resource Stewardship: A Gathering of Nations" organized by TNC Canada in collaboration with Indigenous Law Research Unit UVic Faculty of Law, West Coast Environmental Law, Mandell Pinder LLP, Coastal Stewardship Network (Coastal First Nations - Great Bear Initiative) and the Central Coast Indigenous Resource Alliance

PUBLICATIONS (different outlet and different language)

- Monographs
- Articles
- Co-authored articles
- Co-created books
- Multimedia works

Setting the Scene

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7. Re-positioning Research

My distinct cultural and geographical connection to Western legal orders raises a number of issues in relation to my position as a researcher and the place of this research at the crossroads of Western legal constructs and Indigenous knowledge. For this reason, I think it is relevant to briefly discuss the so-called technique of re-positioning Western research, including its methodology and results, within an Indigenous context. My argument is that the complex grounds of this 'Indigenous-Western' contest make it a difficult task to resolve what is colonial and what is Indigenous, or what ultimately contributes to an integrated body of knowledge that benefits the society at large. I propose to overcome such a dichotomic approach by engaging in open, exploratory, and creative inquiry at this complex intersection while building language and tools for describing and analyzing research questions and perspectives. This ap-

Giulia Parola
Margherita Paola Poto
TARUMÃ, AS ÁGUAS QUE FALAM



UM PROJETO CO-CRIADO
DE LEGAL DESIGN E VISUAL LAW POR ESTUDANTES DE
DIREITO E O POVO CHIQUITANO:
O CASO DA POLUIÇÃO DO RIO TARUMÃ E OS REFLEXOS
NO POVO CHIQUITANO



METHODOLOGY (a more developed consciousness on the tools) and TEACHING

- Case Law Studies
- Empirical Research
- Interviews
- Laboratories on storytelling, legal design and visual law
- Groupwork with students and researchers



Concluding with some questions for you....



«*Law is **not tidy***»

Can you think of an example where you experienced the untidiness of law? How did it make you feel? How did you react to this untidiness?

Concluding with some questions for you....



«Law is *not* contained by *the boundaries of modern states* nor generated only by the work of public officials»

**Can you think of cases where you found law «outside the boundaries»?
Have you ever come across «other» law-makers, different from public officials? Any example?**

Concluding with some questions for you....

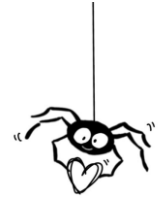


«*Law is **not lonely***»

Can you think of an example from your research or experience where you observed the interaction of different laws?

Concluding with some questions for you....

«**Law *creates obligations***»



Obligation comes from Latin and means «being tied up, bound, linked to». According to you, who is tied up to the law? Everyone that has participated to the lawmaking process?

Concluding with some questions for you....



«*Law claims some kind of authority*»

Can you explain how law claims authority? How do you read this in your research? (law exerting authority)



Concluding with your mindmap...

Try to sketch a mindmap/visual representation/infographics of Val Napoleon's original quote and position yourself and your new vision of Arctic governance



Thank you
Takk
Giitu