
Centre for International
Governance Innovation



“Strategic Allies”: Knowledge & Data Gaps as Opportunity for Indigenous Source Water Protection

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Law Research Collective

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Overview:

- Knowledge and Data Gaps as Opportunity?
- Example #1: Sustainable Water Governance and Indigenous Law Research Collective
- Example #2: *Columbia River Treaty* Research Project (Centre for International Governance Innovation & Shuswap Nation Tribal Council)
- Conclusion



Thesis:

- **Interdisciplinary indigenous led co-research on water shows how data gaps and knowledge gaps can become leverage points for indigenous participation and engagement with colonial water governance systems.**
- **Therefore...a National Indigenous Water Research Strategy that embraces the potential of interdisciplinary indigenous led co-research might:**
 - **strategically address pervasive indigenous capacity issues.**
 - **Create/expand critical leverage points for indigenous control over water governance and water 'resources'.**



Example #1- Sustainable Water Governance and Indigenous Law Research Collective (www.decolonizingwater.ca)

- What: *Our goal is to create a prototype of an Indigenous-led community-based water monitoring initiative that is rooted in Indigenous laws, and is a practical expression of Indigenous water governance.*
- Who: Currently includes Researchers at 14 Canadian and US Universities, ENGOs, Law Firms, Philanthropic Organizations and Community Partners funded by a \$2.4 Million SSHRC Partnership Grant
- When: 5 more years of research and student support to be completed.
- How: Uses a 'decolonizing' research framework to avoid exploiting indigenous communities, knowledge and leadership and to provide research that is relevant, immediately useful to communities, and has the potential to be strategically useful medium term.

DECOLONIZING
WATER



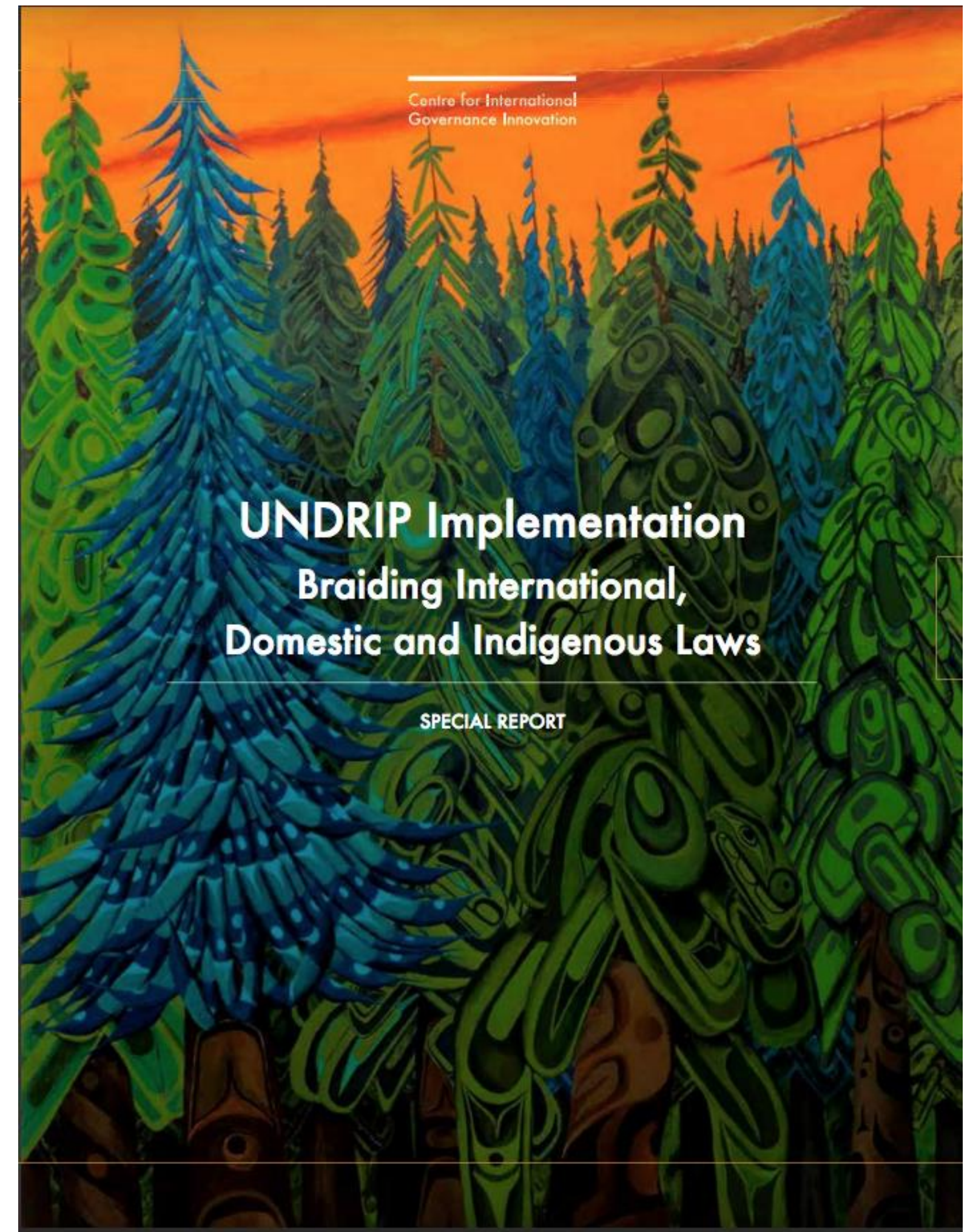


Example #1-Relevant non-exploitive research

- **Strategically engaging pervasive indigenous capacity issues:**
 1. **Water Monitoring engages data gaps and knowledge gaps but is very ‘western’ and inconsistent with indigenous understandings of water...**
 2. **As the ”gaps” are filled indigenous community led initiatives on indigenous water laws/legal orders will have the material data necessary to underpin operational governance function but won’t necessarily lose the role of spirit, art, ceremony, protocol etc. as they regain water sovereignty.**

Example #2- Columbia River Treaty Research Project (CIGI & Shuswap Nation Tribal Council)

- **What: Co-research initiative exploring the international law implications of indigenous participation in the *Columbia River Treaty* re-negotiation.**
- **Who: Shuswap Nation Tribal Council and the Centre for International Governance Innovation.**
- **When: Since 2017.**
- **How: Utilizing the indigenous experience of trying to engage with International Water Law what insights can we gather about how International Water Law should evolve...**



Lessons within the Columbia River Treaty re-negotiation process (2018)

- Existing Indigenous Laws and Legal Orders within the lands impacted by the Columbia River Treaty (“CRT”) already had international territorial, water and resource laws (Buffalo Treaty, Inter-Nation Salmon Treaty).
- Increased participation in the negotiation of international agreements is consistent with international law as well as in line with current international and Canadian domestic policy for Indigenous rights. AJAX Mine review process braids a domestic law issue with an indigenous approach infused with UNDRIP
- Increasing recognition of Indigenous Laws and Legal Orders can be asserted in both domestic and international legal forums as the CRT is renegotiated.
- Consequences of disrupted water rights illustrates connection between cultural, spiritual and economic health. Thus the solution of inclusion might address all three?

Columbia River Treaty: Braiding laws and Indigenous Legal Orders

- Imagining a process of braiding together strands of constitutional, international and Indigenous law allows one to see the possibilities of reconciliation from different angles and perspectives, and thereby to begin to reimagine what a nation-to-nation relationship justly encompassing these different legal traditions might mean.
- CRT re-negotiation with indigenous inclusion could be an example of braiding the three legal orders ‘in action’.
- **Therefore a cohesive Indigenous strategy to ensure participation may leverage the re-negotiation of the CRT to empower and reinvigorate Indigenous Laws and Legal Orders particularly regarding water.**

Conclusion: Knowledge & Data Gaps as Opportunity for Indigenous Source Water Protection

- Source water protection requires us to “go outside the boundaries” to accomplish our stewardship objectives.
- Similarly progressive research on existing knowledge and data gaps afflicting indigenous reality in Canada on water issues requires us to “go outside the boundaries”.
- What if we approached source water protection by partnering with allies who are willing to work with us to explore and understand what the unknown future ‘outside the boundaries’ might be?
- **National Indigenous Water Research Strategy that embraces the potential of interdisciplinary indigenous led co-research...**