



Collaboration, Innovation and Resilience: Championing a Digital Generation

Brisbane, Australia 6-10 April

# Legal Pluralism as a Lens to Understand Legal Frameworks

Jennifer WHITTAL  
Kehinde Hassan BABALOLA

April 2025

No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7



PLATINUM SPONSORS





WORKING  
WEEK 2025

AND

Locate25 | G  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



Geospatial  
Council of Australia

Brisbane, Australia 6–10 April

## What is legal pluralism as a phenomenon?

***Legal pluralism occurs when two or more legal systems coexist***

- Official state legal systems
  - Statutes
  - Common law
  - Case law
- Alternative normative legal systems e.g.
  - Customary law
  - Systems derived from indigenous law
  - Informal
  - Religious
  - ....

No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



Geospatial  
Council of Australia

PLATINUM SPONSORS



Australian Government

CHCN AV



THE SCIENCE OF WHERE™





WORKING  
WEEK 2025

AND

Locate25 | G  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



Geospatial  
Council of Australia

Brisbane, Australia 6–10 April

## What approach is suitable?

- analytical and **empirical** investigations (*what is*)
  - examine reality on its own terms – without bias
  - case study strategy – how, why, what, who, when? (as per author Yin)

preferred over

- normative investigations (*what should be*)
  - goals
  - change management, gap analysis
  - etc.



No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



Geospatial  
Council of Australia

PLATINUM SPONSORS



CHCNAV





## Franz von Benda-Beckmann – problems affecting our understanding of legal frameworks:

- Where **complex relationships** between post-colonial state control and collective property rights exist, legal pluralism is used as a tag-descriptor for complex mixed-law systems without deep understanding
- Political and institutional economics has driven a ‘powerful, nearly hegemonic discourse’ leading to a **normative policy orientation**
- The issues between the institutional frameworks and practices are obscured by the **primary focus on rules and rights** – especially in considering the triad of objects-rights-subjects



**WORKING  
WEEK 2025**

AND

**Locate25** | **G**  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



**Geospatial**  
Council of Australia

Brisbane, Australia 6–10 April

## A legal pluralism lens and empirical approach can help ..

- to **understand the existing legal framework** and address land admin challenges esp. in complex contexts as required in FFPLA, implementing LADM ... etc.
- **avoid bias**
  - western/formal law
  - political and institutional economics
  - ‘ideal’ rules and rights focus
- **shift the discourse**
  - contribute to decolonializing the global legal order with respect to land administration systems

No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



**Geospatial**  
Council of Australia

PLATINUM SPONSORS



CHCNAV





**WORKING  
WEEK 2025**

AND

**Locate25** | **G**  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



**Geospatial**  
Council of Australia

Brisbane, Australia 6–10 April

Let us look at some **key aspects** of a legally pluralist lens ....

No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



**Geospatial**  
Council of Australia

PLATINUM SPONSORS



Australian Government

CHCNAV



THE SCIENCE OF WHERE™

**Leica**  
Geosystems



HD  
Meter



**Surveyors**  
Australia



WORKING  
WEEK 2025

AND

Locate25 | G  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



Geospatial  
Council of Australia

Brisbane, Australia 6–10 April

## 1. Myth of state centrism

- **challenges** view that
  - law and policy are created and managed only by the state
  - the state is crucial to economic growth and social development

### INSTEAD

- source of law and legality is **not limited to the state**
  - state capacity is limited and reduced: austerity & internationalization
  - failed states
  - customary law develops independent of states

No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



Geospatial  
Council of Australia

PLATINUM SPONSORS



CHCNAV

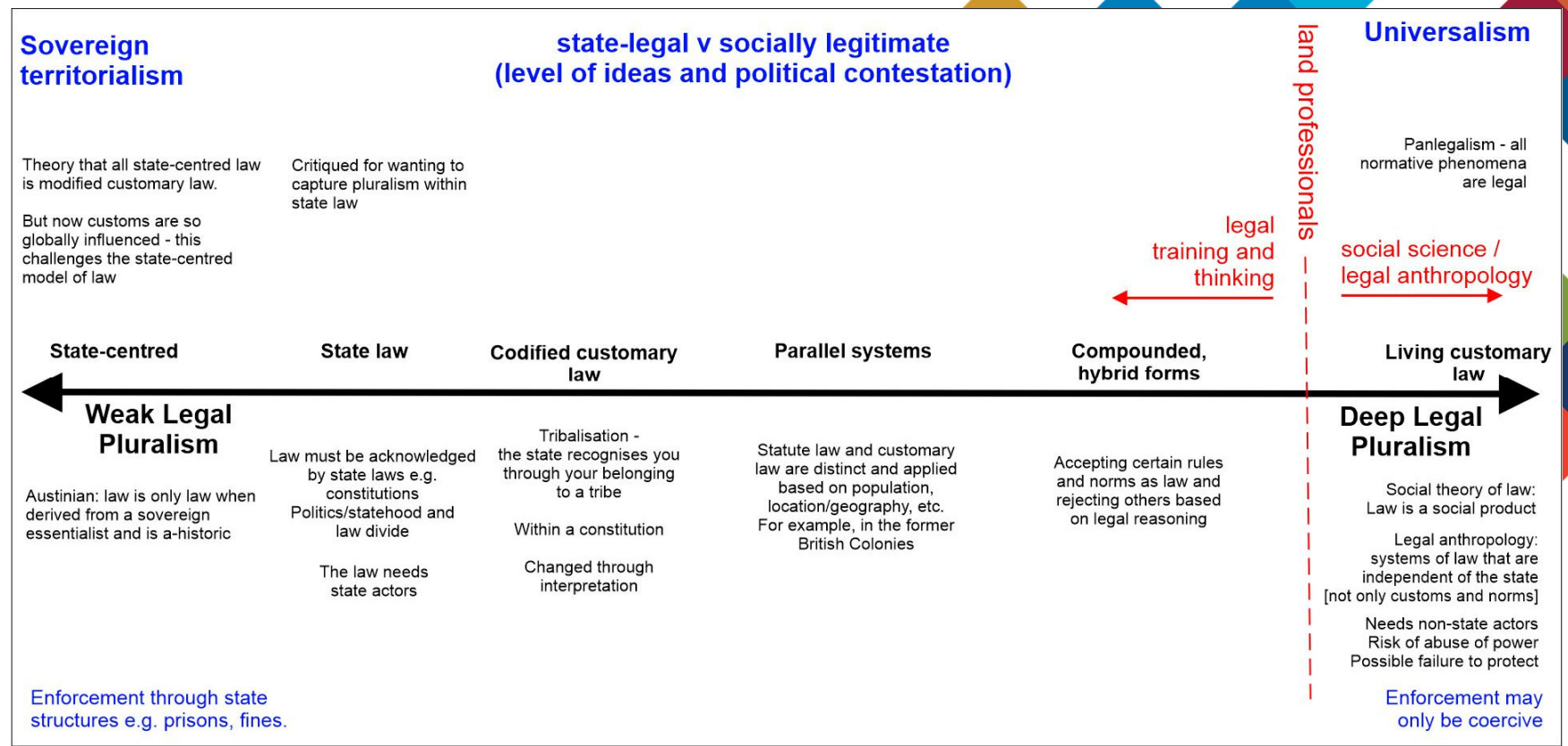




## 2. Binaries should be avoided

- categories vs continuum of legal pluralism
- formal/informal
- uniform / complex legal systems
- aligned law vs conflicting law

## Legal pluralism continuum







WORKING  
WEEK 2025

AND

Locate25 | G  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



Geospatial  
Council of Australia

Brisbane, Australia 6–10 April

### 3. Differential weighting of legal orders

Official **and** alternative normative legal systems

- do not co-exist in parallel – they are not independent but mutually constructive (interlegality) – fuzzy boundaries
- have different relative weight depending on the context
  - official systems do not always hold more weight
  - alternative normative legal systems are not always weak and dependent





**WORKING  
WEEK 2025**

AND

**Locate25** | **G**  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



**Geospatial**  
Council of Australia

Brisbane, Australia 6–10 April

## 4. Knowledge, education and training, practice, & justice differ widely

- official state legal systems
  - legal profession
  - surveying & geospatial profession
  - procedural justice
- alternative normative legal systems
  - traditional/indigenous leaders/authorities and knowledge systems
  - religious leaders
  - community leaders/grassroots organisations/citizen science (e.g. mapping)
  - substantive justice
- needs to be mutual respect and cooperation

No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



**Geospatial**  
Council of Australia

PLATINUM SPONSORS



CHCNAV





**WORKING  
WEEK 2025**

AND

**Locate25** |   
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



**Geospatial**  
Council of Australia

Brisbane, Australia 6–10 April

## 5. Nature of plural legal systems

- derived from the historical context
  - complex and non-uniform
- resilient in the face of pressure (incl from the state) – contributes to their longevity
  - adaptive
  - law is plastic and fluid – changing over time and place/space
- state law and alternative law are nested/overlapping – assumption that official state law is ‘better’
- uncertainty
  - forum shopping – decide which system to use for development and land claims

No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



**Geospatial**  
Council of Australia

PLATINUM SPONSORS



CHCNAV





**WORKING  
WEEK 2025**

AND

**Locate25**   
THE NATIONAL GEOSPATIAL CONFERENCE

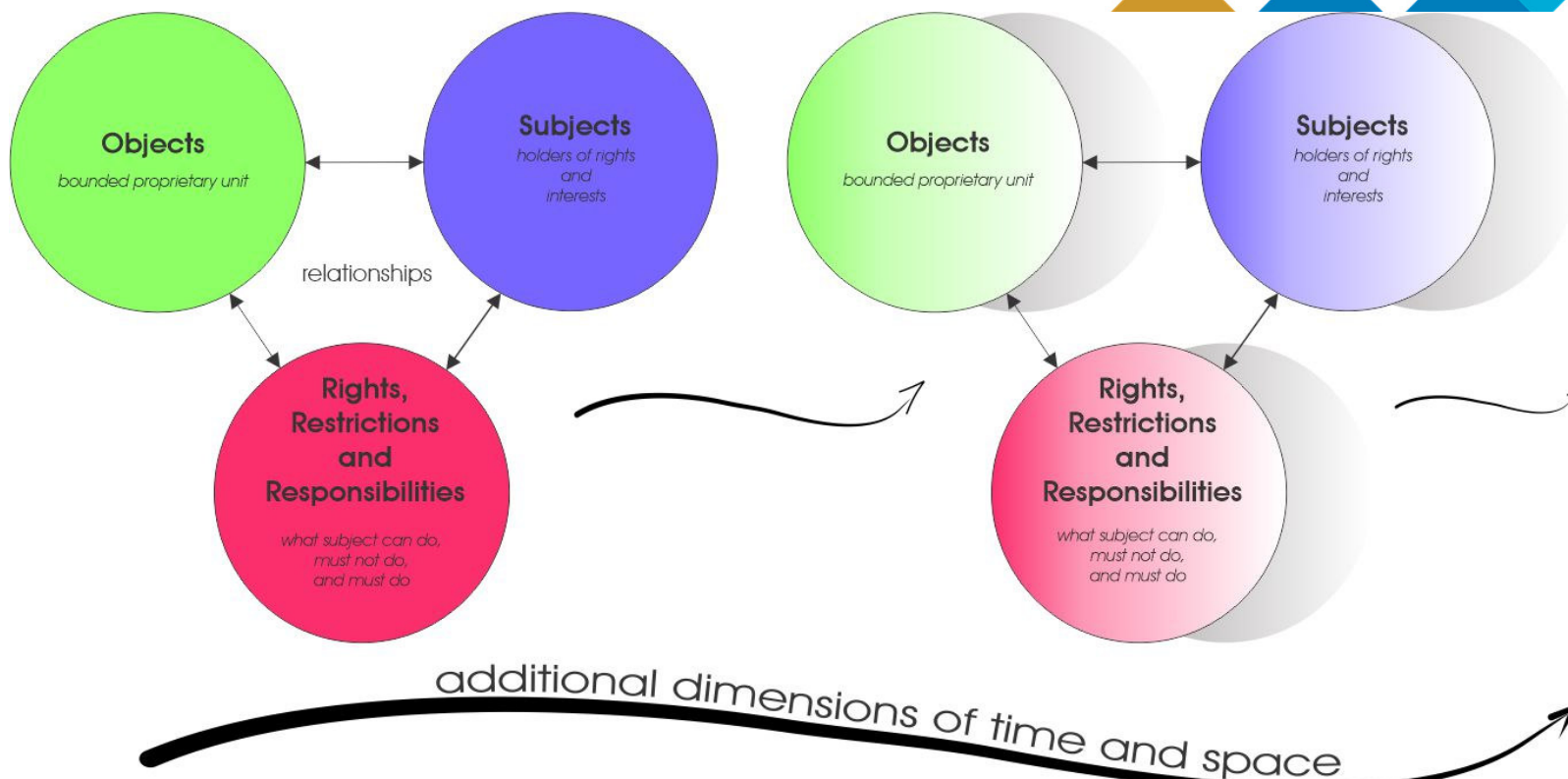
Collaboration, Innovation and Resilience:  
Championing a Digital Generation



**Geospatial**  
Council of Australia

Brisbane, Australia 6–10 April

## 6. Triad of object, subject and RRRs & time and space dimensions



No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



**Geospatial**  
Council of Australia

PLATINUM SPONSORS



Australian Government

CHCNAV



THE SCIENCE OF WHERE™





## CONCLUSIONS – a plural legal lens ...

- may help us to gain a deeper understanding of how alternative normative legal systems **interact** with official state legal systems
- when combined with empirical studies, may help researchers and practitioners in the land administration sector to gain a **deeper understanding of legal systems in plural law contexts**
- may help to **avoid** the western/formal law **bias** that is associated with the dominant normative property law lens
- may assist in **shifting the discourse** and contribute to decolonializing the global legal order with respect to land administration systems



**WORKING  
WEEK 2025**

AND

**Locate25** | **G**  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



**Geospatial**  
Council of Australia

Brisbane, Australia 6–10 April

## The most relevant SDGs related to the presentation and theme of this session

1st relevant  
SDG



2nd relevant  
SDG



3rd relevant  
SDG



**SUSTAINABLE  
DEVELOPMENT GOALS**

International Federation of Surveyors supports the  
Sustainable Development Goals

No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



**Geospatial**  
Council of Australia

PLATINUM SPONSORS



Australian Government

CHCNAV



THE SCIENCE OF WHERE™





**WORKING  
WEEK 2025**

AND

**Locate25** | **G**  
THE NATIONAL GEOSPATIAL CONFERENCE

Collaboration, Innovation and Resilience:  
Championing a Digital Generation



**Geospatial**  
Council of Australia

Brisbane, Australia 6–10 April

STEP 1: SELECT HERE THE THREE MOST RELEVANT SDGs  
STEP 2: COPY THE SDG INTO PREVIOUS SLIDE



No.373 09/04/2025 14:00 - 15:30 Surveying & Geospatial Opportunities with First Nation People: Joint Session AP CDN & C 7

ORGANISED BY



**Geospatial**  
Council of Australia

PLATINUM SPONSORS



CHCNAV

