Ethique et mondialisation rev4

La mondialisation, qui a vraiment redémarré après la seconde guerre mondiale, et qui s'accélère depuis une bonne dizaine d'années, a fait éclater les cadres sociaux, juridiques, économiques, culturels, forgés depuis plus de 200 ans dans un cadre national. Ces cadres constituaient le périmètre dans lequel les réflexions éthiques, ou simplement les sensibilités culturelles se développaient. Elles étaient ensuite souvent traduites dans les lois au niveau national. Même si on constate depuis peu, un raidissement d'une partie significative du monde développé pour tenter de freiner sinon d'inverser cette tendance, qui peut s'interpréter comme une angoisse devant la trop grande rapidité des évolutions, la puissance de ce mouvement remet en cause bien des certitudes. En particulier en France, la croyance dans des valeurs universelles « naturelles », à promouvoir partout, sinon à imposer, est troublée par la résistance culturelle du reste du monde à cette idéologie.

On peut donc revisiter en partie de thèmes que nous avions étudiés les années passées, à l'aune de cette mondialisation et en aborder de nouveaux qui n'émergent que par la pression de cette mondialisation.
En voici quelque uns, dans une liste non exhaustive, dont les problématiques se recoupent :

1. Protection des données personnelles et limites de l'espace privé vis-à-vis de règles d'éthique et de justice (Facebook, Google, Amazon….), ou Etats. Débat sur le cadre où des règles doivent s'appliquer (pays, Europe, monde ?)/ Moyens de contrôle et de sanction ?
   1.1. Données bancaires
   1.2. Géolocalisations
   1.3. Reconnaissance faciale
   1.4. Renseignement satellitaire et par drone
   1.5. « Fake news »

2. Actions écologiques (voir annexe 2 extraite du rapport GIEC du 24 septembre 2019)
   2.1. Qui doit agir (individu, nation, groupe de nations, monde)
   2.2. Mode d'action (contrainte ou régulation par le coût) (voir en particulier rapport GIEC du 24 septembre 2019 chapitre 1 section 1.7 Gouvernance and institutions dont un extrait est joint en annexe)
   2.3. Industrie minière locale ou lointaine ?
   2.4. Perception des OGM dans différents pays
   2.5. Sanction (financières et/ou pénales ?)
   2.6. Contradiction entre justice sociale (égalitarisme) et écologie politique

3. Maîtrise des flux financiers (conférences UTB mutiples)
   3.1. Paradis fiscaux
   3.2. Taxation des flux (au lieu des résultats –excédents, profits) (voir G7 de Biarritz)
   3.3. Retard perpétuel entre la réglementation et l'inventivité des « fintech » et GAFA

4. Acceptation de l'impôt (conférence UTB en 2020)
    4.1. Perte de pertinence du caractère territorial du prélèvement de l'impôt
    4.2. Peut-on imaginer un impôt supranational ?
    4.3. Que doit financer l'impôt ? (concurrence fiscale)
    4.4. Répartition entre profits et revenus du travail (la globalisation et la financiarisation de l'économie empêchent de fixer des règles nationales)

5. Rôle des ONG (conférence UTB en 2006)
    5.1. Financement (transparence, gestion, contrôle par les financeurs)
    5.2. Statut juridique (international, lobbying)
    5.3. Actions dans les cadres nationaux ou internationaux

6. Géopolitique

La géopolitique a une dimension éthique, sauf si le cynisme généralisé maintient le rapport de forces comme seul outil des relations internationales

    6.1. Intangibilité des frontières (?)
    6.2. Territorialité du droit
    6.3. Accès à l'espace extraterrestre
    6.4. Accès aux pôles (terrestres)
    6.5. Droit de la mer (conférence UTB en 2020)
    6.6. Liberté de la presse (caricatures)
    6.7. Extradition et bannissement
    6.8. « Valeurs communes » en Europe
    6.9. « Choc des civilisations » (Huntington)

7. Droits de l'homme
    7.1. Universalité ou relativisme (voir genèse déclaration universelle)
    7.2. Perception par les populations dans les différents pays
    7.3. Qui devrait (tenter de) les faire appliquer (état, instance internationale, groupements économiques type UE..)
    7.4. Peine de mort
    7.5. Egalité homme-femme

8. Protection sociale
    8.1. Qui doit l'assurer (famille, autorités locales, étatiques, internationales)
    8.2. Doit-elle être privée ou publique
    8.3. Assurance ou mutualisation ?

9. Bioéthique

Les règles étant définies au niveau national, la facilité de circulation liée à la mondialisation permet de les contourner. Problème de la filiation reconnue de manière sélective

    9.1. IVG
    9.2. FIV

9.3. PMA
9.4. Suicide assisté
9.5. Eugénisme

10. Regard de l'homme sur l'animal
    10.1. Droit de l'animal
    10.2. Protection des espèces
    10.3. Trafic d'animaux

11. Politiques de santé publiques
    11.1. Vaccinations (déplacement des populations)
    11.2. Dangers des produits synthétiques vs. « naturels »
    11.3. Droits de la personne (avortement, contraception, euthanasie…)
    11.4. Tourisme médical
    11.5. Trafic d'organes

12. Valeurs éthiques « universelles ou non ?» (voir Annexe 1 Anthropologie)
    12.1. Liberté vs. égalité
    12.2. Liberté vs. Fraternité
    12.3. Individualisme vs. Communautarisme
    12.4. Démocratie vs. Autoritarisme
    12.5. Règles d'héritage (Johnny Halliday)

13. Théories du complot
    13.1. Facilité de diffusion avec Internet et réseaux sociaux
    13.2. Blocage intellectuel sur son comportement individuel

Yves FOURNIER

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L’éthique à l’épreuve des nouvelles particularités et fonctions des informations personnelles

Articles divers:

- Les risques d’une circulation non maîtrisée des flux financiers et informationnels sur Internet
- Ethique et donnees personelles
- Transition écologique mode d'action individuelle ou collective
- Directive europeenne taxe sur societes numeriques
- Le consentement à l’impôt
- À quoi servent vos impôts
- Ressources publiques : d'où vient l'argent ?
- Quelle est la place des ONG dans la gouvernance mondiale
- La face cachée de Greenpeace
- Frontières terrestres et frontières maritimes
- NORMES NATIONALES ET INTERNATIONALES EN BIOÉTHIQUE
- ÉTHIQUE UNIVERSELLE ET MONDIALISATION
- **Peut-on encore parler de l'universalité des valeurs morales**
- Biographie de Bertrand Badie prof à Sciences Po qui a beaucoup écrit sur les valeurs dites universelles
- Contre le conspirationnisme

ANNEXE 1

Anthropologie : Celle-ci très développée depuis la seconde guerre mondiale, peut donner des clés d'analyses sur ce que l'on nomme éthique, qui a, contrairement à une opinion très répandue, toujours varié en fonction des cultures et qui n'a rien de « naturel »

- Regard sur peuples primitifs
- Racisme
- « Profanation » de tombes
- Egalité homme-femme
- Ethique des comportements (Diamond, Harari et Todd)

Conférence Yves Fournier le 16 mars 2020 qui recouvre de nombreux thèmes évoqués dans ce document. On y fera en particulier un rappel sur la genèse de l'anthropologie historique et quantitative (Ecole des Annales avec Braudel, Structuralisme avec Levi Strauss, Anthropologie historique avec Leroy-Ladurie, Young, Laslett MacFarlane et Todd)

ANNEXE 2

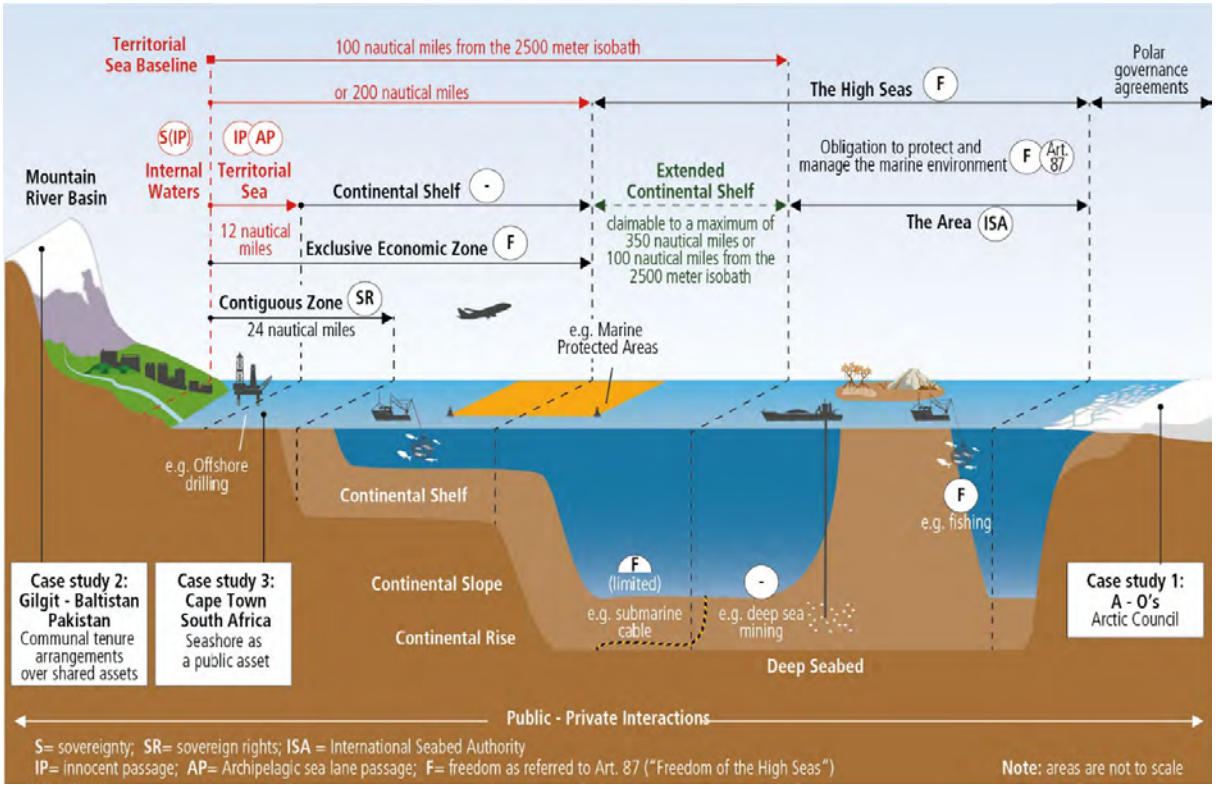
Cross-Chapter Box 3 Governance of the Ocean, Coasts and the Cryosphere under Climate Change

Authors: Anjal Prakash (Nepal/India), Sandra Cassotta (Denmark), Bruce Glavovic (New Zealand/South Africa), Jochen Hinkel (Germany), Elisabeth Holland (Fiji/USA), Md Saiful Karim (Australia/Bangladesh), Ben Orlove (USA), Beate Ratter (Germany), Jake Rice (Canada), Evelia Rivera-Arriaga (Mexico), Catherine Sutherland (South Africa)

This Cross-Chapter Box outlines governance and associated institutional challenges and emerging solutions relevant to the ocean, coasts and cryosphere in a changing climate. It illustrates these through three cases: [1] multi-level interactions in Ocean and Arctic governance; [2] mountain governance; and [3] coastal risk governance. Governance refers to how political, social, economic and environmental systems and their interactions are governed or 'steered' by establishing and modifying institutional and organizational arrangements, which regulate social processes, mitigate conflicts and realise mutual gains (North, 1990; Pierre and Peters, 2000; Paavola, 2007). Institutions are formal and informal rules and norms, constructed and held in common by social actors, that guide, constrain and shape human interactions (North, 1990; Ostrom, 2005). Formal institutions include constitutions, laws, policies and contracts, while informal institutions include customs, social norms and taboos. Both administrative or state government structures, and indigenous or traditional governance structures govern the ocean, coasts and cryosphere.

Understanding governance in a changing climate SROCC, together with SR1.5 (IPCC, 2018), highlights the critical role of governance in implementing effective climate adaptation. Chapter 2 explores local community institutions offering autonomous adaptation in the Alps, Andes, Himalayas and other mountain regions (Section 2.4), focusing on the need for transboundary cooperation to support water governance and mitigate conflict. Chapter 3 explores how polar governance system facilitate building resilient pathways, knowledge co-production, social learning, adaptation, and power-sharing with Indigenous Peoples at the regional level. This would help in increasing international cooperation in multi-level governance arenas to strengthen responses supporting adaptation in socio-ecological systems (Section 3.5.4). Chapter 4 illustrates how sea level rise governance attempts to address conflicting interests in coastal development, risk management and adaptation with a diversity of governance contexts and degrees of community participation, with a focus on equity concerns and inevitable trade-offs (Section 4.4). Chapter 5 includes a review of existing international legal regimes for addressing ocean warming, acidification and deoxygenation impacts on socio-ecological systems and considers ways to facilitate appropriate responses to ocean change (Sections 5.4, 5.5). Chapter 6 explores the issues of credibility, trust, and reliability in government that arise from promoting 'paying the costs of preparedness and prevention' as an alternative to 'bearing the costs of loss and damage' (Section 6.9).

Climate change challenges existing governance arrangements in a variety of ways. First, there are complex interconnections between climate change and other processes that influence the ocean, coasts and cryosphere, making it difficult to untangle climate governance from other governance efforts. Second, the
timeframes of for societal decision-making and government terms are mismatched with the long-term commitment of climate change. Third, governance choices have to be made in the face of uncertainty about the rate and scale of change that will occur in the medium to long-term (Cross-Chapter Box 5 in Chapter 1).
Lastly, climate change progressively alters the environment and hence requires continual innovation and adjustment of governance arrangements (Bisaro and Hinkel, 2016; Roggero et al., 2018). Novel transboundary interactions and conflicts are emerging as well as new multi-level governance structures for international and regional cooperation, strengthening shared decision-making among States and other actors (Case 1). The prospects of "disappearing states", glacier retreat, and increasing water scarcity, are resulting in States redefining complex water-sharing agreements (Case 2). Coastal risk is escalating, which may require participatory governance responses and the co-production of knowledge at the local scale (Case 3; see also Cross-Chapter Box 9).
Governance, exercised through legal, administrative and other social processes, is essential to prevent, mitigate and adapt to the challenges and risks posed by a changing climate. These governance processes determine roles in the exercising of power and hence decision-making (Graham et al., 2003). Governance may be an act of governments (e.g. passing laws, providing incentives or information such that citizens can respond more effectively to climate change); private sector actions (e.g., insurance); a co-operative effort among local actors governing themselves through customary law (e.g., by establishing entitlements or norms regulating the common use of scarce resources); a collaborative multi-level effort involving multiple actors (state, private and civil society; e.g., UNFCCC); or a multi-national effort (e.g., Antarctic Treaty; see Figure CB3.2). The complexities of governance arrangements in the ocean, coasts and cryosphere (Figure CB3.1), and the interactions and emergence of relationships between different governance actors in multiple configurations across various spatial scales (Figure CB3.2) are illustrated below.



Sovereignty, sovereign rights and freedoms in marine zones	Internal Waters	Archipelagic Waters	Territorial Sea	Exclusive Economic Zone	Continental Shelf	High Seas
Navigation	S(IP)	IP(AP)	IP(AP)	F	-	F
Overflight	S	AP	S(AP)	F	-	F
Laying of submarine cable and pipelines	S	S	S	F (limited)	F (limited)	F Art. 87
Constructing artificial islands and other installations	S	S	S	J	J	F
Fishing	S	S	S	SR	SR	F (limited) Art. 116-120
Exploration and exploitation of non-living resources	S	S	S	SR	SR	-
Marine scientific reasearch	S	S	S	J	J	F
Protection of the marine environment	S	S	S	J	J	Obligation

S= sovereignty; SR= sovereign rights; J= Jurisdiction; IP= innocent passage; AP= Archipelagic sea lane passage; F= freedom as referred to Art. 87 ("Freedom of the High Seas")

Figure CB3.1: Spatial distribution of multi-faceted governance arrangements for the ocean, coasts and cryosphere

(Panel A) sovereignty, sovereign rights, jurisdictions and freedoms defined for different ocean zones and sea by UNCLOS (Panel B). Figure CB3.1 is designed to be illustrative and is not comprehensive of all governance arrangements for the ocean, coasts and cryosphere

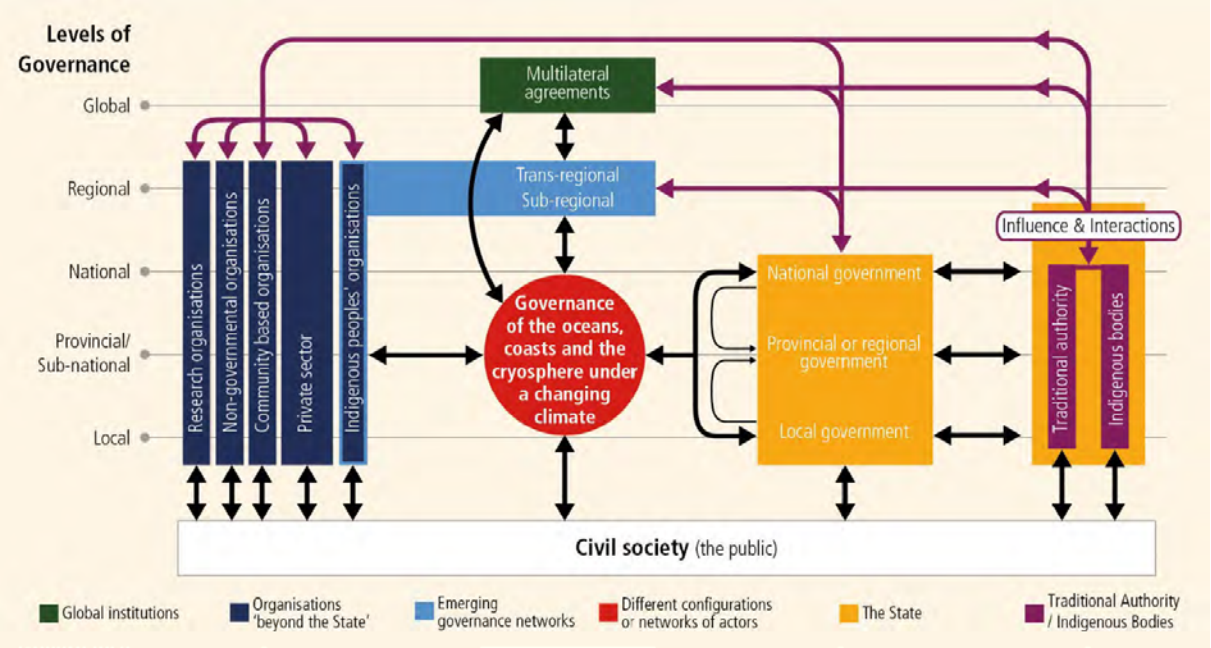


Figure CB3.2: Interactions and emergence of network governance arrangements for the ocean, coasts and cryosphere
across different scales. Adapted from Sommerkorn and Nilsson (2015).

Case Study 1 — Multi-level Interactions and Synergies in Governance. The UN Convention on the Law of the Sea and the changing Arctic: Climate-change induced sea-level rise (Section 4.2), could shift the boundaries and territory of some coastal states, changing the areas where their coastal rights are applied under the United Nations Convention on the Law of the Sea (UNCLOS). In extreme cases, inundation from sea level rise might lead to loss of territory and sovereignty, the disappearance of islands and the loss of international maritime jurisdiction subject to maritime claim. These challenges have limited opportunities for recourse in international law and it remains unclear what adequate responses from an international law perspective would be (Vidas et al., 2015; Andreone, 2017; Mayer and Crépeau, 2017; Chircop et al., 2018).
While specific legal arrangements and instruments of environmental protection are in place at a regional, sub-regional and national level, they are insufficient to address the new challenges sea level rise brings.
Institutional responses to the geopolitical transformation caused by climate change, such as through the Arctic Council (AC) and the 'Law of the Sea' are still evolving. Similar to many international agreements, UNCLOS 'Law of the Sea' provisions for enforcement, compliance, monitoring and dispute settlement mechanisms are not comprehensive, and commonly depend on further, detailed law-making by state parties, acting through competent international organizations (Vidas, 2000; Karim, 2015; De Lucia, 2017; Grip,
2017). Shifts from traditional state-based practices of international law to multi-level and informal governance structures that involve state and non-state actors (including Indigenous Peoples) may address these challenges (medium confidence; Cassotta, 2012; Shadian, 2014; Young, 2016; Andreone, 2017). The

Arctic Council (AC), is a regionally focused governance structure blending new forms of formal and informal multi-level regional cooperation (Young, 2016). The soft law mechanisms employed draw upon best available practice and standards from multiple knowledge systems (Cassotta and Mazza, 2015; Pincus and Ali, 2015) in an attempt to respond to the ocean's global, trans-regional and national climate challenges (Section 3.5.4.2). Reconfiguration and restructuring of the AC has been proposed in order to address emerging trans-regional and global problems (high confidence; Baker and Yeager, 2015; Pincus and Ali, 2015; Young, 2016). Within the existing scope, the AC has amplified the voice of Arctic people affected by the impacts of climate change and mobilized action (Koivurova, 2016). The influence of actors 'beyond the state' is emerging (Figure CB3.2). However, the state retains its importance in tackling the new challenges produced by climate change, as the role of international cooperation in UNCLOS and the Polar Regions demonstrates (Section 3.5.4.2). For example, Article 234 ("Ice-covered areas") and Article 197 of the UNCLOS Convention in protecting the marine environment, states that "States shall cooperate on a global basis and, as appropriate, on a regional basis […] taking into account characteristic regional features".

Case Study 2 — Mountain Governance: Water management in Gilgit-Baltistan, Pakistan. Gilgit-Baltistan is an arid territory in a mountainous region of northern Pakistan. Meltwater-fed streams supply irrigation water for rural livelihoods (Nüsser and Schmidt, 2017). The labour-intensive work of constructing and maintaining gravity-fed irrigation canals is done by jirga, traditional community associations. As glaciers retreat due to climate change, water sources at the edge of glaciers have been impacted, reducing water available for irrigation. In response, villagers constructed new channels accessing more distant water for irrigation needs (Parveen et al., 2015). The Aga Khan Development Network (AKDN) supported this substantial task by providing funding and developing a new kind of cross-scale governance network, drawing on local residents for staff (Walter, 2014), and strengthening community resources, training and networks. Challenges remain, including the potential for increased rainfall causing landslides that could damage new canals, and possible expansion of Pakistan's hydropower infrastructure that would further diminish water resources and displace villages (Shaikh et al., 2015). On a geopolitical scale, decreased water supplies from the glaciers could exacerbate tensions over water resources in the region, impacting water management in many parts of the Indus watershed (Uprety and Salman, 2011; Jamir, 2016; see Section 2.3.1.4 for details).

Case Study 3 — Coastal Governance: Risk management for sea level changes in the City of Cape Town, South Africa. Sea-level rise and coastal flooding are the focus of the City of Cape Town's coastal climate adaptation efforts. The Milnerton coastline High Water Mark, a non-static line marking the high tide, is creating a governance conflict by moving landwards (due to sea level rise) and intersecting with private property boundaries, threatening public beaches and the dune cordon, and placing private property and municipal infrastructure at risk in storm conditions (Sowman et al., 2016). Private property owners are using a mixture of formal, ad hoc, and in some cases illegal, coastal barrier measures to protect their assets from sea level and storm risks, but these are creating additional erosion impacts on the coastline.

Legally, the City of Cape Town is not responsible for remediating private land impacted by coastal erosion (Smith et al., 2016). However, city officials feel compelled to take action for the common good using a progressive, multistakeholder participatory approach. This involves opening up opportunities for dialogue and co-producing knowledge, instead of a purely legalistic and state-centric compliance approach (Colenbrander et al., 2015). The city's actions are both mindful of international frameworks on climate change and responsive to national and provincial legislation and policy. A major challenge that remains is how to navigate the power struggles that will be triggered by this consultative process, as different actors define and negotiate their interests, roles and responsibilities (see Section 4.4.3; Table 4.9).

Conclusions

These cases illustrate four important points.

First, new governance challenges are emerging due to climate change, including: disruptions to long-established cultures, livelihoods and even territorial sovereignty (Case 1); changes in the accessibility and availability of vital resources (Case 2); and the blurring of public and private boundaries of risk and responsibility through accelerated coastal erosion (Case 3; Figure CB3.1).

Second, new governance arrangements are emerging to address these challenges, including participatory and networked structures linking formal and informal networks, and involving state, private sector, indigenous and civil society actors in different configurations (Figure CB3.2).

Third, climate governance is a complex, contested and unfolding process, with governance actors and networks having to learn from experience, to innovate and develop context-relevant arrangements that can be adjusted in the face of ongoing change.

Lastly, there is no single climate governance panacea for the ocean, coasts and cryosphere. Empirical evidence on which governance arrangements work well in which context is still limited, but 'good governance' norms indicate the importance of inclusivity, fairness, deliberation, reflexivity, responsiveness, social learning, the co-production of knowledge, and respect for ethnic and cultural diversity.