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To: Jonathan Furner, Chair  
Decimal Classification Editorial Policy Committee

Cc: Members of the Decimal Classification Editorial Policy Committee  
Karl E. Debus-López, Chief, U.S. General Division

From: Julianne Beall, Assistant Editor  
Dewey Decimal Classification  
Library of Congress

Via: Michael Panzer, Editor in Chief  
Dewey Decimal Classification  
OCLC Online Computer Library Center, Inc

Re: Law of indigenous peoples: discussion paper

In the cover memo to EPC Exhibit 136-14.2 Marriage and partnerships we wrote:

We considered adding customary marriages as a type of marriage, but we found no literary warrant for that category in 306.8+, and in 346.016 we found it only as a marriage defined by legal system—a marriage in accordance with customary law—discussed along with marriages in accordance with other legal systems (e.g., civil law, religious law), in jurisdictions with legal pluralism (also called legal polycentricity). Marriage is not the only topic discussed in this way—family law in general, property law, and less often topics outside 346 Private law. We believe that a broad solution to that issue is needed, beginning at 340.5 Legal systems.

This exhibit attempts to propose a broad solution. The problem is complex, however, and discussion will be needed. After Meeting 137 we will prepare a proposal to be posted for worldwide review.

The current caption at 340.52 Law of traditional societies is too vague to be useful. We believe that is part of the explanation for the many inconsistencies in application. The Manual note 340.52 Law and indigenous peoples makes clear that law of indigenous peoples is a core part of what belongs at 340.52.

But much law of indigenous peoples is called “customary law”; consequently, law of indigenous people is often attracted to 340.5 Legal systems, which has the note: “Class here customary law.” The class-here note is correct, since it has hierarchical force and since customary law is also classed in 340.53 Ancient law, 340.54 Roman law, 340.55 Medieval European law—and discussed as a source of other law, e.g., civil law, Islamic law.

Romany law has also been classed in 340.52, and that seems appropriate, though the topic is usually discussed in the context of Europe, where the Romany people are not indigenous.

What we tentatively propose is to change the caption at 340.52 and add or expand notes:

340.52 Law of indigenous peoples, of other nondominant ethnic groups

Standard subdivisions are added for either or both topics in heading

Class here ethnological jurisprudence; customary law of indigenous peoples, of other nondominant ethnic groups; law of indigenous peoples, of other nondominant ethnic groups based on traditions of the people but drawing in part on other legal systems

Class customary law of indigenous peoples as a source for another system of law with the other system, e.g., ‘ādāt law as a source for Islamic law 340.59135

*See Manual at 340.52*

We propose similar changes to 340.524-340.529:

340.524-.529 Law of indigenous peoples, of other nondominant ethnic groups in specific continents, countries, localities in modern world

Add to base number 340.52 notation 4-9 from Table 2, e.g., customary law of indigenous peoples of Africa 340.526

In the attached draft schedule, 340.5 is included for context, and the other records are changed only to reflect the proposed new caption for 340.52.

The Manual note 340.52 Law and indigenous peoples has been completely rewritten in an attempt to deal with the complexities of the current situation. The examples do not incorporate the special Table 2 notation for United States federally recognized tribes, but the special notation could be substituted if approved.

The current note in the schedule at 340.5, which has hierarchical force, makes clear that laws on a specific subject are classed in 341-347, not 340.5+, even though no example from law of indigenous peoples is included:

Class a specific subject in specific systems of law with the subject in 341-347, e.g., juristic persons in Islamic law 346.167013, in ancient Roman law 346.37013, in Byzantine law 346.495013, in civil law 346.013

Inserting an example from law of indigenous peoples in that class-elsewhere note would be difficult, but the Manual note at 340.52 has several examples.

Where comprehensive works on law of indigenous peoples in specific continents, countries, localities in modern world belong is less clear in the schedules. By the rule of zero, one might expect that 348-349 could be used for comprehensive collections of and treatises on law of indigenous peoples, of other nondominant ethnic groups, in the absence of a note to the contrary. At 349, there is a see reference to 340.53 for law of specific ancient jurisdictions, areas, regions, but no mention of 340.52. Or one might expect that comprehensive collections of and treatises on law of specific jurisdictions and areas would have to cover the dominant legal system or else they would not be comprehensive and would not belong in 348-349. Application has been inconsistent.

Comprehensive works are a particular problem in another way, in that it is difficult to know where they best fit. Comprehensive treatises on law of indigenous peoples in specific continents, countries, localities in modern world—do they all belong in 340.524-340.529, or should some be classed in 349? Comprehensive collections of original materials on laws, regulations, cases of specific jurisdictions in the modern world—do they belong in 340.524-340.529, or should some be classed in 348? We tentatively propose that most comprehensive works on law of indigenous peoples be classed in 340.524-340.529, and that only law of indigenous peoples that is officially recognized by the dominant legal system and that is linked to a specific area, such as a United States Indian reservation, be classed in 348-349. When we have decided how comprehensive works should be handled, we'll need to add notes in the schedule at 340.524-340.529 and at 348-349, but we have not attempted to do that in this exhibit.

We hope that members of EPC and others on the EPC list will carefully consider whether the distinctions made in the draft Manual note would work for the indigenous groups in their country or with which they are familiar. If not, why not, and do you have another suggestion?

Incidentally, while working on this exhibit, we have found inconsistent use of 340.55 Medieval European law with respect to 340.52 and with respect to 348-349. We believe that should be covered in a separate exhibit.

- .09           History, geographic treatment, biography of law  
                   Do not use for history and geographic treatment of law of indigenous peoples, of other nondominant ethnic groups; class in 340.52. Do not use for comprehensive works on law of specific jurisdictions and areas in modern world; class in 349
- .5           Legal systems**  
                   History and theory  
                   Class here customary law  
                   Class conflict of laws on a specific subject in specific systems of law with the subject in 340.9, e.g., conflict of divorce laws in ancient Roman law 340.91660937, conflict of divorce laws in civil law 340.9166; class a specific subject in specific systems of law with the subject in 341–347, e.g., juristic persons in Islamic law 346.167013, in ancient Roman law 346.37013, in Byzantine law 346.495013, in civil law 346.013; class religious and ceremonial laws of a specific religious body with the body, e.g., Christian canon law 262.9
- .52           Law of indigenous peoples, of other nondominant ethnic groups  
                   Standard subdivisions are added for either or both topics in heading  
                   Class here ethnological jurisprudence; customary law of indigenous peoples, of other nondominant ethnic groups; law of indigenous peoples, of other nondominant ethnic groups based on traditions of the people but drawing in part on other legal systems  
                   Class customary law of indigenous peoples as a source for another system of law with the other system, e.g., ‘ādāt law as a source for Islamic law 340.59135  
                   *See Manual at 340.52*
- [.520 93]           Law of indigenous peoples, of other nondominant ethnic groups in ancient world  
                           Do not use; class in 340.53
- [.520 94–.520 99]   Law of indigenous peoples, of other nondominant ethnic groups in specific continents, countries, localities in modern world  
                           Do not use; class in 340.524–340.529
- .524–.529       Law of indigenous peoples, of other nondominant ethnic groups in specific continents, countries, localities in modern world  
                           Add to base number 340.52 notation 4–9 from Table 2, e.g., customary law of indigenous peoples of Africa 340.526

## 340.52

**Law and indigenous peoples**

The relationship of law of indigenous peoples and the dominant system of law varies widely. In former colonies, the dominant legal system may continue to be primarily that of the former colonial powers, and customary law of the indigenous peoples may remain non-dominant, even after the indigenous people have become politically dominant. Law of indigenous peoples may be officially recognized by the dominant legal system and linked to a specific ethnic group. Law of indigenous peoples may be officially recognized and linked to a specific area, such as a United States Indian reservation, where the indigenous ethnic group and its law are sovereign. Law of indigenous peoples may be officially unrecognized by the dominant legal system.

**Geographic treatment**

For works about indigenous law that is recognized and linked to a specific ethnic group or cluster of related groups but not tied to a specific area where the indigenous law is dominant, use the area notation for the jurisdiction that recognizes the indigenous law, plus notation 089 from Table 1, unless it is redundant, e.g., customary marriage law of indigenous African peoples of South Africa 346.6801608996. Use that same approach for issues arising from differences between indigenous law and the dominant legal system, e.g., conflict between constitutional requirements for equality of men and women and customary laws of succession that privilege men in South Africa 346.6805208996. In federal systems, if both a province and the nation recognize the indigenous law, and both jurisdictions are equally relevant to a particular case or issue, use the area notation for the nation.

For works about indigenous law that is officially recognized and linked to a specific area where the indigenous group and its law are sovereign, use the notation for the specific area. Also use notation 089 from Table 1, unless it is redundant. For laws of a specific United States federally recognized (sovereign) tribe, use the area notation for the region or county containing the largest portion of the tribe's reservation or in which the headquarters of the tribe is located, e.g., family law of Navajo Nation, Arizona, New Mexico & Utah 346.79130150899726. Use that same approach for issues arising from differences between indigenous law and the dominant legal system, e.g., dispute about land tenure of Oneida Nation of New York 346.747620432089975543. For laws of the dominant legal system that apply to multiple indigenous groups and their reservations, use the area notation for the jurisdiction issuing the laws, e.g., United States federal Indian law 342.730872.

For indigenous law that is not officially recognized, use the area notation appropriate to the scope of the work, e.g., the area where the indigenous people who observe the law live or the jurisdiction that the author argues ought to recognize it.

**Comprehensive works**

Use 340.52 for comprehensive works on law of indigenous peoples around the world.

Use 340.524–.529 for comprehensive works on law of indigenous peoples in a specific area before the coming of colonial or settler powers, e.g., comprehensive works on law of North American native peoples in what is now the United States before arrival of Europeans 340.5273. Also use 340.524–.529 for comprehensive works on contemporary law of indigenous peoples in multiple countries in the same continent, e.g., African customary law 340.526. Also use 340.524–.529 for comprehensive works on contemporary indigenous law that is recognized but not tied to a specific area where the indigenous law

is dominant, e.g., comprehensive works on customary law of Nigeria 340.52669. Use 340.5266908996333 for comprehensive works on Yoruba customary law of Nigeria.

Use 348–349 for comprehensive collections of and treatises on indigenous law that is officially recognized and linked to a specific area where the indigenous group and its law are sovereign, e.g., collected laws, regulations, cases of Navajo Nation, Arizona, New Mexico & Utah 348.791300899726, comprehensive treatise on law of Blackfeet Tribe of the Blackfeet Indian Reservation of Montana 349.7865208997352.

### **Treaties**

Use 341 for texts of treaties between colonial or settler governments and indigenous peoples and for discussions that focus on the treaties themselves, e.g., Treaty of Waitangi (1840) 341.026641008999442. However, use 342–347 for legal works that discuss early treaties in relation to specific topics of domestic law, e.g., Treaty of Waitangi in relation to Maori land claims 346.93043208999442.