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Dewey Section

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. Programs, Law, and Literature Division

From: Michael Panzer, Editor in Chief  
Julianne Beall, Consulting Assistant Editor  
Dewey Decimal Classification  
OCLC Online Computer Library Center, Inc

Re: Law of indigenous peoples: supplemental discussion paper

This exhibit is a supplement to EPC Exhibit 127-16.1 Law of indigenous peoples: discussion paper (sent March 21 with mailing 2). Attached at the end of this exhibit as an appendix is a note sent to EPC-L April 17 with a response to comments sent via EPC-L.

Most of the discussion in the cover memo of the original exhibit is still relevant. However, as indicated in our April 17 message to EPC-L, we have rethought our approach to 340.52. We now believe that we should focus on nondominant legal systems rather than nondominant ethnic groups. Nondominant legal systems are commonly—but not always—associated with indigenous peoples. We have not received suggestions for additional changes to the drafts attached to the April 17 message. We have, however, slightly reworked the first part of the April 17 draft Manual note for ease of reading. We still plan to prepare a proposal to be posted for worldwide review after Meeting 137.

Here are three paragraphs from the original exhibit with questions for EPC; the paragraphs have been revised to emphasize nondominant legal systems (changes in italics).

Where comprehensive works on *nondominant legal systems* 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 *nondominant legal systems* 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. Comprehensive treatises on *nondominant legal systems* 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 *nondominant legal systems* in 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 *nondominant legal systems* be classed in 340.524–340.529, and that only *nondominant legal systems* officially recognized by the dominant legal system and linked to a specific area, such as a United States Indian reservation, be classed in 348–349.

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 *nondominant legal systems* in their country or with which they are familiar. If not, why not, and do you have another suggestion?

As noted in the original exhibit, in the draft schedule, 340.5 is included for context, and the other records are changed to reflect the proposed new caption for 340.52.

Also as noted in the original exhibit, the existing Manual note 340.52 Law and indigenous peoples has been completely rewritten. 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.

- .09 History, geographic treatment, biography of law  
Do not use for history and geographic treatment of nondominant legal systems; 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 Nondominant legal systems associated with specific ethnic groups  
Legal systems that are currently nondominant, even though they may have been dominant in the past  
Class here ethnological jurisprudence; customary law associated with specific ethnic groups when that is not the dominant legal system; law of indigenous peoples when that is not the dominant legal system; law of minority ethnic groups when that is not the dominant legal system  
Class law that is nondominant only because it is law of a subordinate level of government, e.g., provincial law in a country with a federal government, in 342–349; class a nondominant legal system that is primarily religious with the religious law, e.g., Jewish law 340.58; class customary law 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] Ancient world  
Do not use; class in 340.53
- [.520 94–.520 99] Specific continents, countries, localities in modern world  
Do not use; class in 340.524–340.529
- .524–.529 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 when that is not the dominant legal system 340.526

## 340.52

**Nondominant legal systems associated with specific ethnic groups**

In the context of 340.52, a legal system may be nondominant for cultural, economic, demographic, political, or historical reasons—or for any combination of those reasons. 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 nondominant, even after the indigenous people have become politically dominant.

If the nondominant legal system is tied primarily to religious affiliation, then a number for religious law should be used, e.g., 340.59 Islamic law.

The relationship of nondominant and dominant legal systems varies widely.

1. A nondominant legal system may be officially recognized by the dominant legal system and linked to a specific ethnic group.
2. A nondominant legal system may be officially recognized and linked to a specific area, such as a United States Indian reservation, where an indigenous ethnic group and its law are sovereign.
3. A nondominant legal system may not be officially recognized by the dominant legal system.

**Geographic treatment**

For works about a nondominant legal system that is recognized and linked to a specific ethnic group or cluster of related groups, use the area notation for the jurisdiction that recognizes the 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 the nondominant legal system 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 nondominant law, and both jurisdictions are equally relevant to a particular case or issue, use the area notation for the nation.

For works about a nondominant legal system 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 the nondominant legal system 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 a nondominant legal system that is not officially recognized, use the area notation appropriate to the scope of the work, e.g., the area where the 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 340.52 plus notation 089 from Table 1 for comprehensive works on the non-dominant legal system of an ethnic group spread across multiple continents, e.g., law of Romany people 340.5208991497.

Use 340.524–.529 for comprehensive works on historical forms of legal systems that are currently nondominant but may once have been dominant, 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 nondominant legal systems 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 nondominant indigenous law that is recognized but not tied to a specific area where the indigenous law is sovereign, 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 Blackfoot Tribe of the Blackfoot 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.

## **APPENDIX: April 17 Note to EPC-L**

From: Dewey Decimal Editorial Policy Committee (Private) [EPC-L@OCLC.ORG] on behalf of Beall, Julianne [beallj@OCLC.ORG]  
Sent: Thursday, April 17, 2014 5:11 PM  
To: EPC-L  
Subject: Re: EPC 137-16.1  
Attachments: 34052M.pdf; 34052S.pdf

Dear EPC members and observers,

This comment led us to rethink our approach to 340.52:

"'Non-dominant' in relation to ethnic groups might need further thought. It could be interpreted as relating to political influence, lack of dominance in the population demographics or, even, in terms of the historical development of a region."

We now believe that we should focus on nondominant legal systems rather than nondominant ethnic groups. Here is how we now propose to describe 340.52 in the Schedules:

340.52 Nondominant legal systems associated with specific ethnic groups

Legal systems that are currently nondominant, even though they may have been dominant in the past

Class here ethnological jurisprudence; customary law associated with specific ethnic groups when that is not the dominant legal system; law of indigenous peoples when that is not the dominant legal system; law of minority ethnic groups when that is not the dominant legal system

Class law that is nondominant only because it is law of a subordinate level of government, e.g., provincial law in a country with a federal government, in 342–349. Class a nondominant legal system that is primarily religious with the religious law, e.g., Jewish law 340.58; class customary law 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

For a formatted version, see attached file 34052S.pdf.

We have also revised the Manual note for 340.52 to match. We inserted a new first paragraph to make clear that the legal system might be nondominant for a variety of reasons:

"In the context of 340.52, a legal system may be nondominant for cultural, economic, demographic, political, or historical reasons—or for any combination of those reasons. If the nondominant legal system is tied primarily to religious affiliation, then a number for religious law should be used, e.g., 340.59 Islamic law."

The complete revised Manual note is given in the attached file 34052M.pdf.

Please let us know within the next 2 weeks if the revised Schedule and Manual versions are unclear, because we expect to issue a revised version of EPC Exhibit 137-16.1 as part of mailing 4.

In another note to EPC-L, Gert sent a link to this:

The "official" version of customary law vis-a-vis the "living" Hananwa family law Rammutla, Chuene William Thabisha

URI: <http://hdl.handle.net/10500/10614>

Date: 2013

We can use the abstract at that site as an example to show how the proposed new version of 340.52 could apply to Hananwa customary family law. We can consider Hananwa customary law as a nondominant legal system associated with a specific ethnic group. Hananwa customary law is at least partly recognized by (and partly in conflict with) the dominant national legal system of South Africa.

Currently at 340.5 Legal systems is the note: "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." We do not propose to change that note. Hence a discussion of customary family law will be classed in 346.[?][015[?].

The first paragraph of the "Geographic treatment" section of the proposed Manual noted for 340.52 is relevant:

"For works about a nondominant legal system that is recognized and linked to a specific ethnic group or cluster of related groups, use the area notation for the jurisdiction that recognizes the 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 the nondominant legal system 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 nondominant law, and both jurisdictions are equally relevant to a particular case or issue, use the area notation for the nation."

The Constitution, its Bill of Rights, and the Constitutional Court mentioned in the abstract are national (not provincial)—right? The High Court of South Africa (Witwatersrand Local Division) is a national (not provincial) court—right? The specific laws cited in the abstract (Recognition of Customary Marriages Act 120 of 1998, Reform of Customary Laws of Succession and Regulations of Related Matters Act 11 of 2009, Divorce Act of 1979, Children's Act 38 of 2005, and Maintenance Act 99 of 1998) are all national (not provincial)—right? [Note: March 28 Gert wrote: "Yes to the questions about the constitution, courts and laws."]

Then the area notation will be T2—68 for Republic of South Africa, as described in the quoted paragraph of the "Geographic treatment" section of the proposed Manual noted for 340.52. Hence what we have thus far is 346.68015[?].

According to Ethnologue, the Hananwa speak a dialect of Northern Sotho (T6—9639771 Northern Sotho); hence their Table 5 number is T5—9639771. Following the guidance in the proposed Manual note at 340.52, we could add T1—089 + T5—9639771 to build the number 346.680150899639771 for a discussion of Hananwa customary family law and issues arising from differences between Hananwa customary family law and the requirements of current South African law.

Best wishes.

Julianne Beall  
Consulting Assistant Editor

-----Original Message-----

From: Dewey Decimal Editorial Policy Committee (Private) [<mailto:EPC-L@OCLC.ORG>] On Behalf Of De Jager, Gert  
Sent: Friday, March 28, 2014 6:30 AM  
To: EPC-L  
Subject: EPC 137-16.1

This message (and attachments) is subject to restrictions and a disclaimer. Please refer to <http://www.unisa.ac.za/disclaimer> for full details.

Dear EPC Members and Observers

Please see comment below.

Best regards  
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-----Original Message-----

From: Underwood Peter G. [<mailto:pgunderwood@wol.co.za>]

Sent: 28 March 2014 12:19  
To: De Jager, Gert  
Subject: DDC South Africa

'Non-dominant' in relation to ethnic groups might need further thought. It could be interpreted as relating to political influence, lack of dominance in the population demographics or, even, in terms of the historical development of a region.

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APPENDIX