History of the LC Classification in the Context of “Settling the West”

- Jolande Goldberg
- Introduction to the Law Classification (“K”) and its development.
- The role that American Indians and westward expansion played in the development of the Library of Congress Classification System
- Why do we need the “KI” classification for Indigenous Peoples?
Core of Law Classification is the Principle of:

- **Jurisdictionality**
  The term *jurisdiction* as we understand it, signals independence/autonomy of a corporate body. Only if this character is determined for a corporate body, a classification for its law can be considered—since law, by its very nature, is tied to a *jurisdiction*.

- **Regionalism**
  The regionalism principle acknowledges a
  - region as a geographically defined area in which historical, ethnic, and socio-economic similarities are reflected in a wide range of customs and laws found in the area, and
  - where cultural, political, and economic interests of the individual groups have led to formation of inter-governmental organizations.

This concept was introduced the first time in the regional schedules
- KDZ, KG-KH (*Law of the Americas, Latin America, and the West Indies*), and KJ- KKZ (*Law of Europe*).
- It should prove a valid concept schedule KI-KIZ as well.

Both principles dictate the hierarchy.

Proviso: States, Provinces, Departments, etc., are not considered for KI-KIZ.
The LC Cataloging Policy & Support Office (now: Policy, Training, and Cooperative Programs Division) determined that the MARC 21 field for names of tribes in name authority records will be the 151 (geographic name) field instead of the previously used 110 (corporate name) field. This is in keeping with guidance provided in rule 21.35 of the AACR 2: to treat (recognized) tribal entities as sovereign governments.

By authority of the US Government, over 560 tribal entities within the continental US were formally recognized and are acknowledged to have immunities and privileges by virtue of their government-to-government relationship with the US, meaning: they are autonomous political entities with inherent power of self-government, and possess sovereignty.

The authoritative names list (basis for NARs), created, maintained and annually updated by Dept. of Interior/Bureau of Indian Affairs, was published for the first time Dec. 5th 2003 in the Federal Register.

In agreement with LAC/Canada, LC established under the same policy over 630 NARs for Canadian First Nations (Indian), Inuit, and Métis. (Basis for NARs are the names maintained by the Canadian Ministry Crown-Indigenous Relations and Northern Affairs Canada)
Indigenous Peoples Rights:

- No “special rights” but rights of all people - from which Indigenous were excluded by the dominant/colonizing power or nation state.

- Catalogue of recognized individual and collective rights for the Indigenous as well:
  - Indigenous and Tribal Peoples Convention (ILO) 1989
  - UN Declaration on Rights of Indigenous Peoples (UNDRIP) 2007
  - American Declaration on Rights of Indigenous Peoples (ADRIP) 2016

In summary rights are:

- Human rights (as we know them); right to self-determination (right to ethnic identity); to own land communally; right to “free, prior, informed consent”; right to develop & protect cultural heritage including: traditional knowledge (systems) such as environment, medicine/healing & human/genetic resources.

- Right to develop intellectual property rights (copyright) for cultural heritage.
### Public Property

**Land policy. Public restraints on Indian land**

**Duality of Laws: KIE Indian Tribal Law (United States)**

**Public property**

**Land policy. Public restraints on Indian land**

**KIE2350**

**General works**

Land allotments under the **Dawes Act of 1887**

For the General Allotment Act of 1887 (Dawes Act), see KF8440+

For subsequent allotment legislation, see KF8442+

**KIE2358**

**KIE2360**

**General works**

**Fractionated Indian land titles and land consolidation**

For the Indian Land Consolidation Acts (1983-2000) and for the Federal land-buy-back program for Tribal Nations, see KF8450+
# Indigenous Law: Region Latin America

## Sub-Regions

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<thead>
<tr>
<th>Code</th>
<th>Sub-Region</th>
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<td>KIV</td>
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Indigeneity = Quality of being *Indigenous*

Indigenous = *Not* legal concept. *But fact* with legal implications

Definitions a mix of anthropological and political/current and historic interpretations:

*originating from, born-into, a place;*

*belonging to, or specific to, a particular place/territory*

*“living within one’s roots” (Ethymology)*

**with focus on:**

- descent (US blood quantum; Saami descent model),
- original *occupancy* and descent (Canada/Inuit; Latin America model)

- **Definition of ILO 169 Convention (1989)**
- **Definition of the UN Declaration (UNDRIP 2007)**
- **Definition of American Declaration (ADRIP 2016)**
- **Definition of Indigenous & Northern Affairs Canada (INAC)**
- **Librarian’s Definitions of ALA TCE Task Force (2010)**
- **From Original Documents**
Arriving at an acceptable Working Definition of Indigenous

- Indigenous peoples are not just populations of individuals,
- They are in many countries distinct political or social entities with active cultures and social and political institutions. In most cases, they have a long history of independent self-government.
- They are bound together by kinship, spiritual traditions, language and unique relationship to their lands.
- Indigenous peoples and nations are those which, having historical continuity with <pre-invasion> or <PRE-CONTACT> (i.e., pre-colonial) society, form currently non-dominant sectors of contemporary society;
- Are determined to preserve, develop and transmit for next generations
  - Ancestral territories
  - Ethnic identities (as basis of their continued existence as peoples)
  - Cultural heritage
Indigenous *Cultural Heritage* *(Human rights or Copyright)*

- Language. Linguistic rights
- Material (tangible) *cultural property* (defined by UNESCO conventions)
  - All artifacts
  - Human remains
- Intellectual (intangible) *cultural property*
  - Indigenous *knowledge (systems)* held and used by the Indigenous:
    - Traditional cultural expressions (TCE). Expressions of folklore (art, music, literature, etc.);
    - Scientific and technical knowledge;
    - Medicinal knowledge (medicines and (spiritual) healing practices);
    - Agricultural,
    - Ecological, and
    - Biodiversity-related knowledge
New LC KI Classifications


- Library of Congress Releases New Indigenous Law of Costa Rica, Guatemala, and South America (General) in Subclasses KIM, KIN, and KIQ
- June 2, 2020
- New Subclasses in KIM, KIN, and KIQ
- The classification ranges of KIM3101-6000, KIN1-5000, and KIQ1-250, Indigenous Law of Costa Rica, Guatemala, and South America (General) respectively, are new ranges in Subclasses of Law, KIM, KIN, and KIQ, which have been developed at the Library of Congress. The new ranges appear in Classification Web and are approved for use.
- Revision Procedures
- Proposals for additions and changes to the subclasses KIM-KIQ are now being accepted through the proposal system in Classification Web following normal procedures.
- Questions or comments about subclasses KIM-KIQ should be directed to Libby Dechman (edec@loc.gov) in the Policy, Training, and Cooperative Programs division (PTCP).
2020 Third Quarter Cataloging Discussion

- **Time:** 1:00-3:00 pm (EDT), Wednesday, September 16
- **Location:** fully online via WebEx
- Please follow these instructions to access the meeting online or by phone:
  - **JOIN WEBEX MEETING:**
    - locgov.webex.com/locgov/...
    - Meeting number (access code): 199 098 7403
    - If asked, the meeting password is: h8qhHSG@345
  - **JOIN BY PHONE:**
    - +1-510-210-8882 USA toll
    - Global call-in numbers:
      - locgov.webex.com/locgov/...
  - If neither option gets you into the meeting, contact WebEx tech support here: locgov.webex.com/locgov/mc
  - If you have other questions about the event please contact Heather Kiger (hkig@loc.gov) or Tania Diaz Marrero (tdia@loc.gov). Thanks, and we look forward to getting in touch with you at the meeting.
McGirt v. Oklahoma
July 9, 2020


- JUSTICE GORSUCH delivered the opinion of the Court.

- On the far end of the Trail of Tears was a promise. Forced to leave their ancestral lands in Georgia and Alabama, the Creek Nation received assurances that their new lands in the West would be secure forever. In exchange for ceding “all their land, East of the Mississippi river,” the U. S. government agreed by treaty that “[t]he Creek country west of the Mississippi shall be solemnly guarantied to the Creek Indians.” Treaty With the Creeks, Arts. I, XIV, Mar. 24, 1832, 7 Stat. 366, 368 (1832 Treaty). Both parties settled on boundary lines for a new and “permanent home to the whole Creek nation,” located in what is now Oklahoma. Treaty With the Creeks, preamble, Feb. 14, 1833, 7 Stat. 418 (1833 Treaty). The government further promised that “[no] State or Territory [shall] ever have a right to pass laws for the government of such Indians, but they shall be allowed to govern themselves.” 1832 Treaty, Art. XIV, 7 Stat. 368. Today we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law. Because Congress has not said otherwise, we hold the government to its word.
Supreme Court Decisions re Disestablishment

Allotment does NOT Diminish or Disestablish a Reservation
- Seymour v. Superintendent (1962) - Indian Country
- Mattz v. Amet (1975) - Indian Country
- DeCoteau v. District Court (1975) - Disestablished
- Rosebud Sioux v. Kneip (1977) - Disestablished
- *Solem V. Bartlett (1984) - Indian Country - set out the test
- Hagen v. Utah (1994) - Diminished
- South Dakota v. Yankton Sioux (1998) - Diminished
- Nebraska v. Yankton Sioux (2016) - Indian Country
Related to McGirt

- **General Allotment Act of 1887 (Dawes Act)** [https://iltf.org/land-issues/history/](https://iltf.org/land-issues/history/)
  - 90 million acres lost; 48 million remained, of which 28 million were desert

- **The Major Crimes Act (1885)** discussed in the *New York Times*


- **Treaty Law – Article VI, U.S. Constitution** – Treaties are supreme law of the land, BUT Congress can unilaterally abrogate foreign and Indian Treaties -
  [https://constitutioncenter.org/interactive-constitution/article/article-vi#:~:text=This%20Constitution%2C%20and%20the%20Laws%2C%20Constitution%20or%20Laws%20of%20any](https://constitutioncenter.org/interactive-constitution/article/article-vi#:~:text=This%20Constitution%2C%20and%20the%20Laws%2C%20Constitution%20or%20Laws%20of%20any)

- **Suit launched State jurisdiction** [https://turtletalk.files.wordpress.com/2020/07/2-complaint.pdf](https://turtletalk.files.wordpress.com/2020/07/2-complaint.pdf)

  “This lawsuit has been brought by the Plaintiffs [6 Cherokee Plaintiffs] on their own behalf, and all others similarly situated, to disgorge the State and its political subdivisions of their ill-gotten Case 4:20-cv-00346-JED-FHM Document 2 Filed in USDC ND/OK on 07/20/20 Page 3 of 22 4 gains and to recover the monies paid to the Courts, District Attorneys, and political subdivisions that were paid as fines and costs, and levied without jurisdiction to do so.”

Good-bye, Columbus Day

- Colorado repealed the Columbus Day holiday (March 2020)
  - [https://leg.colorado.gov/bills/hb20-1031](https://leg.colorado.gov/bills/hb20-1031)

- Boston, Minnesota, Virginia - Statues
Pipelines

- Dakota Access Pipeline
  - From EnergyWire
  - Judge James Boasberg for the U.S. District Court for the District of Columbia ruled Monday that the 1,172-mile crude oil pipeline had to be shut down and emptied of oil by Aug. 5.
  - At the heart of the decision was the Army Corps of Engineers' failure to comply with requirements under the National Environmental Policy Act, prompting the judge to scrap the federal agency's approval for the project as he called for further environmental analysis.

- From NCAI
  - Great Plains Tribes Win Important Legal Fight to Protect Tribal Water and Treaty Resources
  - The Great Plains Tribal Chairmen's Association (GPTCA), the Native American Rights Fund (NARF), and the National Congress of American Indians Fund (NCAI Fund) applaud the D.C. District Court's decision today to vacate the U.S. Army Corps of Engineers' Lake Oahe easement for the Dakota Access Pipeline, and to require the removal of all oil flowing through the pipeline by August 5, 2020. This decision ensures that the treaty-reserved rights of the plaintiff tribes -- the Standing Rock Sioux Tribe, the Cheyenne River Sioux Tribe, the Yankton Sioux Tribe, and the Oglala Sioux Tribe -- are adequately addressed, along with any other land and natural resource considerations, in a full-fledged and well-documented environmental review process.
  - GPTCA, NARF, and NCAI Fund participated in a coalition of Native organizations submitting an amicus brief in support of the plaintiff tribes during the latest proceedings in the D.C. District Court and are encouraged by this outcome. We hope that this decision helps pave the way for full and proper environmental impact studies as well as meaningful consultation with tribal nations that have direct or indirect stewardship over the lands under review. Our organizations will continue to work to ensure that every time tribal lands and resources are at stake, the environmental review processes meet all legal standards and respect the federal government's trust obligations to tribes set forth in federal laws.
Racism

- Human rights
- Civil rights
- Indigenous Peoples
- Canadian Chief beaten by police is Longtime fighter for Indigenous Rights

- As our tribe debates Cherokee history and identity, Cherokee citizens with white privilege carry the most responsibility to move our tribe forward.

  Washington SCT Vacates 105-Year Old Opinion Rejecting Treaty Rights Defense for Yakama Fisher
Mascots

- The Washington NFL Team drops its name... finally!
- MBL – Cleveland, Atlanta, etc., still to go...
COVID-19 and Indigenous Peoples

- **Borders** – South Dakota / Blackfeet
  - Blackfeet [https://blackfeetnation.com/covid](https://blackfeetnation.com/covid)
- **In America**
  - Navajo Reservation
- **In Latin America**
  - National Geographic – Disaster looms for indigenous Amazon tribes as COVID-19 cases multiply: Indigenous communities in Brazil suffer from the virus on one hand and “genocidal” interlopers on the other, rights groups say.
2020 Census


- Voting Rights Report – NARF [https://secure-web.cisco.com/100_Y3OoSnmdJiubi4yp7g0th-DS1Bs0FzQAS7OJBSLKeK5wOCr4D8Y8PXI8eEBwxRpMxslUcNRybce-dxfKuGSi5_RKO9sAMw7VMZMi0kEV6_gb7eDWZkPC1mpkHTWzpA58DG332Raga24NG2k- KQ20RbQARmtJ удwоV2P7pnNM7m1lctkiitzNaa2Vf03C3RjVMx5xWSDbUVsh1aXoYTJlwgh74BYQPQNgwWtk7KiriKyzNVWlvBk0IhpksW5G5O1vH6IDg8xdB7XnbB0RQ0O2xboP_QmWT3JJSFbhAkQk3MLJR7IPhmtdlf_W24GuzBn0ewL4MYooU3IAAMgyiYLZIfWIRBOm_QXe7c7jv-OXA6pS1CрHa3ic-umG0DnESjx7BghzHA0bXSwmZ5JLlQtawc7m_iU0lH8iB-u-aKcLiizvrRdv_MoEvhajQGxbIFVhckpYib00WNXV6pCPrAhttps%3A%2F%2Fwww.narf.org%2Fobstacles-at-every-turn%2F#.XuEPkJ1dqYc.email](https://secure-web.cisco.com/100_Y3OoSnmdJiubi4yp7g0th-DS1Bs0FzQAS7OJBSLKeK5wOCr4D8Y8PXI8eEBwxRpMxslUcNRybce-dxfKuGSi5_RKO9sAMw7VMZMi0kEV6_gb7eDWZkPC1mpkHTWzpA58DG332Raga24NG2k-KQ20RbQARmtJ удwоV2P7pnNM7m1lctkiitzNaa2Vf03C3RjVMx5xWSDbUVsh1aXoYTJlwgh74BYQPQNgwWtk7KiriKyzNVWlvBk0IhpksW5G5O1vH6IDg8xdB7XnbB0RQ0O2xboP_QmWT3JJSFbhAkQk3MLJR7IPhmtdlf_W24GuzBn0ewL4MYooU3IAAMgyiYLZIfWIRBOm_QXe7c7jv-OXA6pS1CрHa3ic-umG0DnESjx7BghzHA0bXSwmZ5JLlQtawc7m_iU0lH8iB-u-aKcLiizvrRdv_MoEvhajQGxbIFVhckpYib00WNXV6pCPrAhttps%3A%2F%2Fwww.narf.org%2Fobstacles-at-every-turn%2F#.XuEPkJ1dqYc.email)
The Gap between Indigenous Peoples’ demands and WIPO’s Framework on Traditional Knowledge

“... problems with misappropriation and use of traditional knowledge for commercial (and other) purposes. In particular, the intellectual property system for patents and copyright has served to enable the taking and use of traditional knowledge by trans-national corporations, with little recourse or remedies available to indigenous and other local communities”

Implementing the Declaration – Conference Review Report - A Call to Action for Inspired Advocacy in Indian Country http://lawreview.colorado.edu/undrip/

- Subject 1: Language Rights.
- Subject 2: Business & Human Rights.
- Subject 3: Religious Freedoms.
- Subject 4: Cultural Rights.
- Subject 5: Indian Child Welfare.
- Subject 6: Climate Change & Environmental Policy.
- Subject 7: Technology, Media, & Communications.
Resources

International
- GlobaLex Guide
- Indigenous Law Portal
  http://www.llmc.com/indigenous/home.aspx
- AmazonWatch

United States
- TurtleTalk blog
- Indian Country Today
- Indianz.com
- National Congress of American Indians
- Native American Rights Fund
  - National Indian Law Library
  https://narf.org/nill/
Thank you!

A Small Tribute to Jolande

- 2019 Hall of Fame Induction
  https://www.aallnet.org/inductee/jolandegoldberg/
- 2020 AALL MARIAN GOULD GALLAGHER DISTINGUISHED SERVICE AWARD - AALL’S HIGHEST AWARD
Torpedo Factory Art Center
Our own Artist and Art Advocate

http://torpedofactory.org/profile/goldberg_j/