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Abstract:
A new classification schedule is being written, Law of the Indigenous Peoples in the Americas (Class KI-KIX), providing subject access to indigenous peoples, councils, legal documents, and organizations. In 2014, the Library of Congress launched the Indigenous Law Portal, an open-access platform extending subject access to online users around the world. To date, North and Central America are complete. The challenges are myriad: multilingual names with many variations, large communities living in one or more countries, councils that are difficult to identify if not externally recognized, the absence of primary source documents online, as well as research and advocacy organizations that may support or operate in place of externally-recognized governments. Though not without limitations, the schedule and Portal are providing subject access to hundreds of indigenous communities and their legal materials.

Keywords: indigenous peoples, law, open access, online research

1 INTRODUCTION

The Law Librarian of Congress Jane Sanchez stated that the global collections and legal analyses of the Law Library of Congress promote peace and democracy. Both ancient and vibrant, indigenous legal systems have functioned continuously for centuries though frequently overlooked. Situating indigenous law in relation to yet apart from the national law of nation states is the concern of Dr. Jolande Goldberg of the Library of Congress’ Policy and Standards Division. Her new classification system, Law of the Indigenous Peoples in the Americas Classes KIA-KIX, parallels Western legal classification. The Law Library of Congress hosts the Indigenous Law Portal, an open access website that amplifies the subject access provided by the classification.¹ This multi-faceted, collaborative work demonstrates democratic solidarity, or support, by creating space for indigenous law alongside other legal systems.

This paper covers how the indigenous law classification provides subject access to four areas:

1. Indigenous peoples
2. Indigenous councils or governments
3. Primary documents such as treaties and codes
4. Research institutes and advocacy organizations

Researchers investigate indigenous communities in each region, how they govern themselves, and what organizations are providing legal aid and training in support of indigenous rights. Complex histories create myriad challenges for subject access.

2 MULTILINGUAL NAMES

History, politics, and language are intertwined in the names of indigenous peoples, their territories, and their councils. By default, access is multilingual including numerous European and indigenous words that are often mixed in a single name. A brief list shows the diverse entities that now have name authority records and a place in the indigenous law classification.

- **Bande des Innus de Pessamit** also called **Betsiamites First Nation**—Canada, community and territory
- **Sault Ste. Marie Tribe of Chippewa Indians of Michigan**—United States, community and territory
- **San Pedro Town (Indigenous community)**—Belize
- **Boqol Q'esal Tenam de Naab'a**—Guatemala, council
- **Alcaldía Comunal de Izalco**—El Salvador, council
- **Consejo de Ancianos Laka Iwi Indianka Nani Asla Takanka LAINASTA**—Honduras, territorial council
- **Doce Comunidades Indígenas y Afrodescendientes de La Cuenca de Laguna de Perlas (Indigenous territory)**—Nicaragua

The first example from Canada has French and English versions of its name and shown above is the tribal website in French with Innu words sprinkled throughout. The second tribe lives in the United States with a French reservation place name and an English website shown below. The next is a Garifuna community with a mixed location name in Spanish and

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English in a predominantly English-speaking country. The subsequent council sometimes uses its Maya Ixil name and sometimes the Spanish translation, Alcaldía Indígena de Nebaj, with a Hispanicized form of the community name. Mixing Spanish and Miskitu in the official name, LAINASTA is the common acronym which functions in any language. Lastly, a Spanish name describes a mixed community of Miskitu and African Diaspora peoples who share a territory and speak Miskitu and English Creole.

The multifaceted reality of names colors the entire endeavor of organizing access to indigenous law. Names are a metaphor for the complex historical processes that shaped the Western Hemisphere and continue to do so. Solidarity in divergence means not oversimplifying access but accounting for indigenous names in whatever form they take.

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3 PEOPLE

As law emanates from jurisdictions, the classification is organized geographically. This means that the classification is divided regionally, then sub-regionally, and within these indigenous peoples are listed alphabetically. Providing access to indigenous peoples is complicated by name variations, communities spread out throughout a country, single communities traversed by national borders, and diverse communities in different countries that share the same language. Each situation is described below.

A side note about bridging classification schedules. At the beginning of the twentieth century, the Library of Congress Class E Schedule, *History of the Americas*, grouped all indigenous peoples in E99.A-Z, regardless of subject. Because this is a long-established legacy schedule, the new law classification provides references to related cultural materials as highlighted below. This linking feature provides speedy access across subjects.
Large Communities in One Country

To provide subject access to ethnic groups with many communities in a given region makes grouping necessary within the classification. The Cree of Canada illustrate this idea.

Canada is divided into two large regions, east and west, with the Cree residing in both. Eastern Canada’s distinct indigenous peoples are listed alphabetically followed by groups, also listed alphabetically. Within the Cree group are the “Cree of Eeyou Istchee James Bay Territory” listed as follows:
• KIC4764 Cree Nation of Chisasibi
• KIC4765 Eastmain (First Nation)
• KIC4766 Cree Nation of Mistissini
• KIC4767 Cree Nation of Nemaska
• KIC4768 Oujé-Bougoumou Cree Nation
• KIC4769 Washaw Sibi Eeyou (First Nation)
• KIC4770 Crees of the Waskaganish First Nation
• KIC4771 Waswanipi (First Nation)
• KIC4772 Cree Nation of Wemindji
• KIC4773 Whapmagoostui First Nation

This subgroup was formed to represent the First Nations enrolled under the Eeyou Marine Region Land Claims Agreement,9 which the Cree ratified in 2010.10 The classification lists the remaining Eastern Canadian communities under “Other Cree:”

• KIC4881-4900 Chapleau Cree First Nation
• KIC4901-4920 Fort Severn (First Nation)
• KIC4921-4940 Missanabie Cree (First Nation)
• KIC4941-4960 Moose Cree First Nation

Similarly, there are thirty-eight Cree communities grouped together under KID7860.5+ in the region of Western Canada. Rather than listing each community alphabetically, the classification group gives more meaningful subject access by uniting the culturally and linguistically related peoples residing in the same region.

3.2 Communities in Various Countries

As subject access to communities is geographically based, a community in two nations gets two name authority records. The Tohono O’odham, who reside in the United States and Mexico, are a case in point. Established in the United States as Tohono O’odham Reservation (Ariz.), the qualifier indicates that the reservation is in Arizona, a state whose southern border touches Mexico. In Mexico, the community was established as Tohono O’odham (Community : South). While frequently called Pápago in Mexico,11 a note in the 670 subfield explains the naming decision was based on what the community calls itself.12 On the Indigenous Law Portal, including alternate names such as Pápago help users who search for historical names.

3.3 Language Communities in Various Countries

Subject access to a language group with communities separated by borders requires geographic markers within each country and notes in the NARs. One case to examine regards the Nahua speakers, known for building the Aztec Empire.13 With 1.3 million people, Nahua

speakers are concentrated in several states in central Mexico. Because of the size of this language community, five NARs were created for Mexico with geographic qualifiers based on the relative positions of the Mexican states: east, central, south central, southeast, and southwest. The NAR below orient the user geographically using subfield 370 and two notes in subfield 670 briefly describe this language community.

Screenshot of the Nahua (Community: Central) name authority record, Mexico

Nahua speakers migrated in waves between 800-1300 C.E. settling further south from El Salvador to Nicaragua. While retaining the language, these communities are known by various names today. The Pipil or Nahuat-Pipil are widely dispersed among several departments of El Salvador so three NARs were established for regions called Central Division, East-Central Division, and Western Division. Again, subfields 370 and 670 are important components for the user to understand what differentiates these Nahua speakers from those in Mexico. The example below shows the NAR for the Western Division:

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Screenshot of the Pipil (Indigenous community: Western Division) name authority record, El Salvador

Both the NARs for Mexico and El Salvador use the qualifier *community* because they do not occupy an externally-recognized land base. Indigenous law may apply to a certain area but the jurisdiction could not be defined through the research. What can be defined is that the country does not legally recognize indigenous authority. The qualifier *community* indicates the presence of an indigenous people in a region but the precise legal entities are defined by the NARs of local councils within that region.

Screenshot of the Nahoa (Indigenous community: North Central) name authority record, Nicaragua

Another large group of Nahua speakers continued further south to Nicaragua where they are commonly called Nahoa.¹⁷ Nicaragua’s colonial legacy means that only some groups have an externally-recognized land base representing a jurisdiction where indigenous law is exercised. The “Law of Communal Property Regime of the Indigenous Peoples and Ethnic Communities of the Autonomous Regions of the Atlantic Coast of Nicaragua and the Rivers

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Coco, Indio and Maiz.”\textsuperscript{18} begins by outlining Nicaragua’s commitment to land titling for indigenous peoples of the former Mosquitia region in accordance with earlier treaties between Nicaragua and England as well as the 1987 Constitution and Law No. 28 “Statute on Autonomy of the Atlantic Coast Regions of Nicaragua.”\textsuperscript{19} Therefore, Nicaragua’s Atlantic NARs are qualified as indigenous territories; indigenous groups in the Pacific, northern, and central regions are qualified as indigenous communities because the laws mentioned above do not apply to them. While there is a movement to grant similar autonomous rights to Pacific indigenous groups,\textsuperscript{20} the Nahoa are designated as a community because they do not have an externally-recognized land base with identifiable borders.

These differences in the NARs are also reflected in the classification. While, language families are not legal entities, they provide important contextual information about relationships. Knowing about the name variations can help a user know which national context applies to which community as indigenous law is affected by Western law and relationships with local, regional, and national governments. The Nahua language family demonstrates cultural separation over time and the name authorities parallel this divergence.

Over 2,000 name authorities were established for North America alone—indigenous groups new to the jurisdictional map. While the statistics are not yet available for Central America, the Library of Congress is committed to the necessary groundwork for providing subject access to indigenous law starting with people.

\textbf{4 COUNCILS}

There are different names for indigenous governments but \textit{council} is the most common across the Americas as the following examples demonstrate:


Screenshot of the Montagnais de Natashquan website with the council highlighted

- **Conseil des Montagnais de Natashquan** (Council of the Montagnais de Natashquan Canada) 21
- **Privy Council from the historic Kingdom of Hawaii’s** (United States) 22
- **Consejo de Ancianos Laka Iwi Indianka Nani Asla Takanka LAINASTA** (Council of Elders of the LAINASTA Territory, Honduras) 23
- **Conselho Geral da Tribo Sateré-Mawé** (General Council, Brazil) 24

Whatever the term, because of the governmental function of councils, they are critical decision making organs to be captured in the classification. Providing subject access means conducting time-intensive research then establishing name authority records and providing classification numbers within the evolving schedule.

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5 DOCUMENTS

The indigenous law classification provides subject access to primary legal documents such as treaties. The multilingual indigenous law classification and the open access Indigenous Law Portal are two vehicles that serve both catalogers and the general public.

5.1 Law Classification

The Six Nations, called the Iroquois by outsiders and the Haudenosaunee by its own members, is a confederacy historically made up of the Mohawk, Oneida, Onondaga, Cayuga and Seneca and later joined by other tribes. The Six Nations signed several treaties in the eighteenth century and each is captured in the classification as shown below:

![Screenshot of the Six Nations' individual treaties from ClassificationWeb](http://www.haudenosuaneconfederacy.com/leagueofnations.html)

Providing subject access to primary source legal instruments is at the heart of creating the new law schedule. The bibliographies on the Indigenous Law Portal extend the subject access further.

For areas of concurrent jurisdiction, references can bridge the parallel law schedules. In the United States, there are several acts in both the Western national and the indigenous law schedules, which are in bold below:

- KF8548 United States (General)—Indians—Federal law—Courts and procedure. The judiciary—Criminal law and procedure—General
Conversely:

- Indigenous law: United States: General—Criminal law and procedure—Criminal jurisdiction for investigation and prosecution of reservation crimes Cf. KIE3336-3340
  - Indian Major Crimes Act see KF8550.A328 1885
  - Indian Country Act see KF8550.A328 1948
  - Public law 83-280 see KF8550.A328 1953
  - Indian Crimes Act of 1976 see KF8550.A328 1976

Providing subject access on both sides tells the story of concurrent jurisdictions where legal pluralism or conflict of law lives. Without the indigenous law schedule, entire legal systems are left unrepresented and areas of overlap are overlooked. The new schedule and its referential dimension demonstrate solidarity with indigenous law as it is exercised today.

5.2 Indigenous Law Portal

One difference between the indigenous law schedule and the Portal is the presence of the bibliographies organized by subject with links to digital content. Each country page has links that take users to the bibliography with these subjects:

- Law Gateways
- Official Gazettes
- Intergovernmental Congresses & Conferences
- Intergovernmental Organizations (IGO)
- National Indigenous Organizations
- Laws and Treaties
- Law Reports
- Directories
- Research Guides
- Legal Education
- Indigenous Law Societies
- Institutes and Academies
- History
- Conflict of laws including plurality of laws conflict, multiculturalism, plurinationalism
- Land Law
- Economic Law
- Social Services
- Public Health
- Environmental Law
- Medical Laws
- Education
- Constitutional Law
- Human Rights
- Nationality & Citizenship
- Administrative Law
- Public Property
- Courts & Procedure

Each heading copies the terms in same order as the indigenous law schedule. In bold are the categories that tend to have the most open access, digital content available. One instance of
primary source law found in the Nicaragua bibliography under the category of “land law” and “environmental law” is Bio-protocols for Free, Prior, and Informed Consultation and Consent of the Mayangna Sauni Arungka People. This document outlines the territorial and community governments, women’s political participation, and methods of conflict resolution. The protocols apply to decisions regarding underground, forest, or water resources, using traditional genetic material or knowledge, and land use that involves areas of cultural significance, displacing people, or storage of dangerous materials.

The relationship between a national government and indigenous communities impacts how indigenous law is practiced. Not all indigenous governments are recognized or supported and, this in turn, affects the availability of primary source materials. There are many organizations involved in research and the Portal includes those with legal facets. Some examples of headings with secondary sources include:

- Conflict of laws including plurality of laws conflict, multiculturalism, plurinationalism: Access to justice and alternative mechanisms for conflict resolution for indigenous peoples and afro-Hondurans: Mapping and guide from MASC
- General resources: Bilingual Glossary of Legal Terms Spanish-Q'eqchi' (Guatemala)
- Human rights: Opening paths through legal intersections: gender violence and Maya women

The above resources give users a glimpse into indigenous law via secondary sources. If there were primary resources available, they would be given priority but this is not always possible and some information on specific communities is preferable to nothing.

The Portal does not link to any proprietary material for which fees or memberships are necessary. This aspect supports users of all socioeconomic backgrounds who are pursuing information about indigenous law. The subject access provided by the classification is extended to the Indigenous Law Portal to the benefit of users around the world.

5.3 Digitization

Over 400 works have been digitized from the Law Library collections, primarily for indigenous groups of the United States. This collection demonstrates evolving indigenous law in the nineteenth and twentieth centuries. While the bulk of the materials are in English, there are documents published in indigenous languages such as:

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27 Ibid. (p. 83).


• Acts of 1881 in Choctaw
• 1875 Constitution and Laws of the Cherokee Nation in Cherokee
• 1894 Revised statutes in Creek
• 1899 Compilation in Chickasaw

These indigenous language materials were not originally catalogued by the Library of Congress but they are all available via the classification, the bibliographic databases, and the Portal. As seen above, the English links provide broader access to the materials. This is helpful when searching although the materials themselves are not in English. More indigenous law materials from the Western Hemisphere may be uncovered for future inclusion on the Portal. The digitization efforts of the Law Library of Congress demonstrate solidarity in linguistic divergence by making laws accessible via the Indigenous Law Portal.

6 ORGANIZATIONS

Both the indigenous law classification and the Indigenous Law Portal provide subject access to organizations dedicated to research, development, and indigenous rights advocacy. The schedule includes the name of an organization and its location as it is classified geographically. Through the Portal, one may access a website or blog created by the organization and/or documents that describe the organization’s activities. Because not all organizations have a website or a social media presence, sometimes users will have to depend on secondary sources. For inclusion on the Portal, a minimum of two different sources is required. Users can also search for social media accounts as the Library of Congress does not link to these sources. Described in detail below, organizations are grouped into a research category called “institutes and academies” or “advocacy organizations.”

6.1 Institutes and Academies

There are many research institutes dedicated to a wide range of issues relating to indigenous communities but KIA-KIX and the Portal focus on legal institutes such as these.

• Tribal Law and Policy Institute (United States)—Described on its website as “dedicated to providing free publication resources, comprehensive training, and technical assistance for Native nations and tribal justice systems.”

• Scow Institute (Canada)—Its mission is to develop “greater understanding between Aboriginal and non-Aboriginal peoples through information that is fact based, non-

partisan and accessible on topical issues that affect all Canadians”36 and its research library includes many publications on legal issues.37

- **Mayan Language Academy of Guatemala**—The name belies the contributions to legal glossaries in Q’eqchi’,38 K’iche’,39 and Kaqchikel40 and a publication regarding a proposed constitutional reform.41

A cursory look at the research by the above organizations shows a range of topics from juvenile justice and tribal-state collaboration to fishing rights and government finance. The new schedule provides subject access to critical research regarding indigenous communities by way of research organizations.

### 6.2 Advocacy Organizations

Advocacy organizations such as the following play an important role at the regional, national, and sub-regional levels:

- **Inuit Circumpolar Council (transnational)**—Described on its website as an “international non-government organization representing approximately 160,000 Inuit of Alaska, Canada, Greenland, and Chukotka (Russia).”42
- **National Salvadoran Indigenous Council Coordinator (El Salvador)**—Also known by its acronym CCNIS, the multi-tribal members are involved in and consulted for various initiatives.43
- **Center for Legal Assistance for Indigenous Peoples (Nicaragua)**—Headed by a human rights lawyer, CALPI is a nonprofit that promotes the rights of indigenous and Afro-Caribbean peoples of the Atlantic coast region.44

The first advocacy organization works with a single community spread out over various countries while the second works with several groups within a single country. The final example also works with several groups with a sub-national region of a country. Although advocacy at the national level is important, there are many organizations working across

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borders that make it necessary to include regions such as North America, Central America, South America, the latter two combined and sometimes including Mexico, the Western Hemisphere and the globe. Both the schedule and the Portal are easily expanded to accommodate changes in indigenous law, an important component of maintaining subject access.

While these organizations represent secondary sources, their inclusion is essential; where indigenous groups cannot legally operate as governments, they often create nonprofits as a contemporary expression of indigenous autonomy. Organizations exemplify solidarity in divergence as their inclusion is a departure from the Western law schedule.

7 LIMITATIONS

Like all library systems created by humans, Class KIA-KIX and the Indigenous Law Portal are not without limitations. There are subject access challenges around language such as Zapotec in Mexico, which has 12-60 languages depending on the linguist.45 The more research one conducts, the more name variations one finds but some cultures are poorly documented or left out of research publications. The map below shows how complex documentation of areas like Oaxaca, Mexico can be.

Another limitation is governed by legal trends, which in the Americas is largely focused around land and the resources attached to it.Jurisdictions usually leave out urban indigenous

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populations. There are Western governments ruling nation states so another hot topic is the conflict of laws and how legal pluralism can or cannot function in practice. The legal profession and the legal needs of indigenous communities and the countries in which they reside drive research and publication in certain areas, which can create lopsided subject access.

A limitation for the Indigenous Law Portal specifically is the focus on open access digital resources. There is a world of proprietary publications that could be covered by the classification if a library acquires these materials but the Portal is shaped by what is freely accessible on web. While the Portal can present web resources in an organized way, it may also give users the impression that if there is no content, it does not exist.

8 CONCLUSION

The indigenous law schedule was created to improve subject access to indigenous legal resources from communities and councils to documents and advocacy organizations. Recognizing legal plurality, the Library of Congress demonstrates democratic solidarity with numerous indigenous communities across the Americas.

Acknowledgments

Jane Sanchez, Law Librarian of Congress.

References


