Course Code: SLGC2LP211

Title: Law and Politics of Indigeneity

Cohort for which it is compulsory: None

Cohort for which it is elective: M.A. in Law Politics and Society

No of Credits: 4

Semester and Year Offered: 3rd Semester course for M.A 2nd year students (Monsoon Sem 2018)

Course Coordinator and Team: Ngoru Nixon

Email of course coordinator: ngoru@aud.ac.in

Pre-requisites: None

Course Aim:

The term “Indigenous” has had gained global currency following the recognition and adoption of the rights of “indigenous peoples and tribal peoples” by International agencies notably the International Labour Organization (ILO) and the United Nations. Harping on the “historical injustices” experienced by the indigenous and tribal peoples through colonization and their concomitant position of marginality (socially, economically, politically and culturally) vis-à-vis the other population, the States within which the peoples in question live are enjoined to respect and promote their rights, freedoms, aspirations, needs, knowledge and practices etc. Meanwhile, India (among other countries) has refused to ratify the ILO Convention no. 169 which envisions self-identification and greater autonomy for “indigenous and tribal peoples” especially in decision-making processes affecting their sphere of lives. The refusal is based primarily on two grounds: i) the term “Indigenous Peoples” does not apply in the context of India where there is a blur between the claimants of “Indigenous Peoples” and the general population unlike in the
contexts marked by European expansion ii) the people forming the “Scheduled Tribes” are already given special privileges under the Constitution of India to secure their rights and their cultural identity/autonomy. On the contrary, the people known as “tribes” in India, like many of the “indigenous and tribal peoples” around the world have enthusiastically embraced the category of “Indigenous Peoples” to give fillip to and legitimize their larger politico- historical narrative and their struggle for self-determination.

The politics of indigeneity draws on the narrative of historical and contemporary marginalization to make a claim for the autonomy and rights of the ‘Indigenous Peoples’. In fact, the proliferation of scholarship on indigeneity in the recent times is impelled as much by the struggle and assertion of the indigenous peoples/ communities as by the discoursing of the ‘Indigenous’ as signifying the limit of the universal narrative of modernity.

Evidently, the orientation of the course is such that not only would the students who have prior interest on “Tribal” issues/concerns and indigeneity identify with the course but also those who have interest in the larger field of postcolonial studies.

**A brief description of the Course:**

The course seeks to examine the key issues engendered by as well as informing the discourse on politics of indigeneity, underlined by the intersection between the “Indigenous” and the law/legal order. This exercise calls for an understanding of the historical context of the emergence of the problem of the “tribe/tribal” manifested brazenly in the ways how the anthropological imagery about people known as “tribes” is conceived/staged. Concurrently, the engagement also entails a reflection on how the discoursing of the “tribe/tribal” and the policies/strategies of the colonial power/state as well as post-colonial state about the “tribe/tribal” inform one another.

While the major focus of the course will be on Indian context, attempt will be made to draw and engage with the relevant examples from the other contexts such as Australia, Canada and others in order to broaden and enrich the understanding of the issues at hand.

**The course will have 6 Modules:**

**Module 1:** What/Who is/are Indigenous (Peoples)? : Examining (the terms of) the Terminology/Debate. (2 Weeks)

**Module 2:** Discoursing of the ‘Wild’ and the ‘Primitive’. (2 Weeks)
Module 3: Colonial/Post-colonial State and the Indigenous Peoples/Communities (2 Weeks)

Module 4: On the ‘Difference’ of the Indigenous (1 Week)

Module 5: The Politics of Indigeneity: Making Rights and Justice Claims. (3 weeks)

Module 6: Legal Order/Adjudication and the Indigenous. (2 weeks)

Law and Politics of Indigeneity

Important Readings

The following readings will be interspersed across the modules based on their significance to the theme of discussion.

**Official Document/Act**

India:

- India’s Constituent Assembly Debates on the Fifth and Sixth Schedules.
- Fifth and Sixth Schedules of the Indian Constitution
- PESA Act 1996
- Forest Rights Act 2006
- Government of India Act, 1919.
- Inner Line Regulation Act, 1873.

International:

- ILO’s *Indigenous & Tribal Peoples’ Rights in Practice: A Guide to ILO Convention No. 169*

**Committee Report (India)**


### Syllabus with List of Readings

**Module 1:**

**What/Who is/are Indigenous (Peoples)?**

**Examining (the terms of) the Terminology/Debate**

(2 Weeks)

The first module seeks to engage the students in examining the concept of “indigenous people” with a focus on the Indian context. It does so by way of introducing the students to the background entailing the global articulation and adoption of the category of “indigenous peoples” and the terms of the ensuing debate it has had induced in India. The engagement with the discussion around the concept of “indigenous people” is also linked to the discussion on category of “tribe” in India since the peoples known as ‘tribes’ have enthusiastically embraced the category of “Indigenous peoples”.

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<th>Weeks 1 &amp; 2</th>
<th>Compulsory Readings:</th>
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**Cases**


**Fictions (indicative list):**

- Hansda Shekhar’s *The Adivasi Will Not Dance*
- Gopinath Mohanty’s *Paraja*
- Mahasweta Devi’s *Imaginary Maps*
- Alexis Wright’s *Carpentaria*
- Malsawmi Jacob’s *Zorami- A Redemption Song*
- Easterine Kire’s *When the River Sleeps*
- Easterine Kire’s *A Terrible Matriarchy*
- Mamang Dai’s *Legend of Pensam*
- Alan Duff’s *Once Were Warriors*
- Sam Watson’s *The Kadaitcha Sung*
- Patricia Grace’s *Potiki*
| Karlsson, Bengt G. and Tanka B. Subba. *Indigeneity in India.* Kegal Paul, 2006 (Extracts). |

**Additional Readings:**


**Module 2:**

**Discoursing of the ‘Wild’ and the ‘Primitive’**  
*(2 Weeks)*

In the second module, the discussion centers on how the people known as “tribes” have come to be burdened with the imagery of the “wild” and the “primitive”. The mode/strategy of articulation and inscription of such imagery of the “tribe” both in colonial discourse/legal order and nationalist thought in India will be delineated, in the meantime underlining the mode of othering of the “tribe”.

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<tr>
<th>Weeks 3,4,</th>
<th><strong>Compulsory Readings:</strong></th>
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<td><strong>Additional Readings:</strong></td>
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### Module 3: Colonial/Post-colonial State and the Indigenous Peoples/Communities

**(2 Weeks)**

Building on the second module, the third module begins by looking at how the subordination and marginalization of the “tribe” by the colonial power/state gets further perpetuated in post-colonial state. The module will also engage with the debate on the question of isolation versus assimilation of the ‘tribe’.

#### Compulsory Readings:


- Ghurye, G.S. *The Aborigines—“so-called”—and Their Future.* Poona: Gokhale Institute of Politics and Economics, 1943.


#### Additional Readings:


Module 4 looks at the recent scholarship on indigeneity which engages in the discoursing of the ‘Indigenous’ as signifying the limit of the universal narrative of modernity. In this regard, the focus will be on how the ‘difference’ of the indigenous people is posited vis-à-vis the dominant narrative.

### Compulsory Readings:


### Additional Readings:

### Module 5:
The politics of Indigeneity: Making Rights and Justice claims (3 Weeks)  
Weeks 8, 9, 10

The module will examine the politics of indigeneity involving making rights and justice claims against the exclusionary policy/politics of the state.

**Essential Readings:**
- Baviskar, Amita. *In the Belly of the River: Tribal Conflicts Over Development in the Narmada River.* Oxford University Press, 2004. (Extracts)

**Additional Readings:**

### Module 6
Legal Order/Adjudication and the Indigenous (Week 2)

In Module 6, the focus will be directed at examining the intersection and tension between the indigenous and the hegemonic narrative of law. The gender question/implication will also be discussed.
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<th>Weeks 11 and 12</th>
<th>Compulsory Readings:</th>
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<td>Additional Readings:</td>
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Assessment Methodology:

Rough break up:

Class participation/Presentation: 20%
Term paper: 25%
End Semester: 30%
Reading/Analysis of reports/cases/acts (written + presentation): 15%
Book Review: 10%