

GENERIC ELECTIVES (GE-8): CUSTOMARY LAW

Credit distribution, Eligibility and Pre-requisites of the Course

Course title & Code	Credits	Credit distribution of the course			Eligibility criteria	Pre-requisite of the course
		Lecture	Tutorial	Practical/ Practice		
Customary Law	4	3	0	1	12 th Pass	---

Learning objectives:

The course is designed to help students understand the approaches to the study of different types of law, particularly customary law. It will also help students to learn the contradictions, inconsistencies inherent in the interface between customary law and the state law.

Learning Outcomes: On completion of the course, students will be able to:

- Locate nuances of diverse customs from around the world based on ethnographic works.
- Make critical evaluation of gendered laws which are intricately enmeshed within the social fabric.
- Gain insights into the workings of state agency that blurs the boundary of customary law and the state.

Syllabus:

Unit 1: Understanding Customary Law (12 Hours)

Customary Law: Concepts and Approaches; Types of Customary Law: Restitutive, Repressive; Anthropological literature: Bronislaw Malinowski, Evans-Pritchard, Meyer Fortes, Max Gluckman, Leopold Pospisil

Unit 2: Custom, Crime and Justice (12 Hours)

Law and Justice in simple societies; Classification of Crimes among indigenous communities; Oath taking and Ordeal; modes of dispute settlement

Unit 3: Gender and Customary Law (12 Hours)

Gendered laws, Inheritance, Succession, Custody of Children and Properties, Political Representation

Unit 4: Customary Law and the State Law (09 Hours)

Interface between customary law and state law; Codification of customary law and its implications

Practical – 30 Hours

- Review of ethnographic works and find out: (i) types of crime, (ii) modes of dispute settlement, (iii) rationale behind ordeals/oaths.
- Project report on (i) customary law and the state law interface, or (ii) Cultural context of a dispute and search for its settlement in one or other legal domains.

References:

1. Evans-Pritchard, E. E and Meyer Fortes. 1940. *African Political Systems*. London: Oxford University Press.
2. Gluckman, Max. 1956. *Custom and Conflict in Africa*. Basil Blackwell Ltd.
3. Malinowski, B. 1926. *Crime and Custom in Savage Society*. London: Routledge & Kegan Paul Ltd.
4. Pospisil, Leopold. 1971. *Anthropology of Law: A comparative theory*. New York: Harper and Row Publishers.
5. Srivastava, Vinay Kumar. 2021. *India's Tribes: Unfolding Realities*. New Delhi: Sage Publications Indian Pvt. Ltd.
6. Zhimo, A.G. 2019. 'Indigenous system of Governance and its implication: The case of Sumi Naga. *Indian Anthropologist*. 49 (2): 41-56.

Keywords:

Customary law, oath taking, custom, dispute, state law

Note: Examination scheme and mode shall be as prescribed by the Examination Branch, University of Delhi, from time to time.