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CHALLENGING THE IDEA OF PRIMITIVE LAW

- *The Cheyenne Way*
- Shucha, *Tribal Law and Legal Change*
- **NAGPRA** (Native American Graves Protection and Repatriation Act).

<https://www.nps.gov/subjects/nagpra/index.htm>

Objective

We often hear the term “**primitive law**” when discussing **non-Western legal traditions**—but is this an accurate description? This assignment invites you to **rethink legal complexity, justice, and sovereignty** in tribal societies.

Drawing from *The Cheyenne Way*, Shucha’s discussion of tribal law, and NAGPRA, we will explore **how indigenous legal systems challenge dominant narratives about law, order, and justice**.

Prompt

Select **two** of the following questions and write a **thoughtful, well-supported response** to each:

1. Law Beyond the "Primitive" Label

- How does *The Cheyenne Way* challenge or reinforce **Radcliffe-Brown’s** idea of "primitive law"? Consider **the sophistication of Cheyenne legal principles** in your response.

2. Justice & Social Order Across Legal Systems

- In *Primitive Law*, **Radcliffe-Brown** describes law as a **mechanism for maintaining social order**. How does this compare to the way **tribal societies** approach **law and justice**? What are the **fundamental differences** between **tribal and Western legal systems**?

3. Tribal Law as a Living System

- Shucha argues that **tribal law is dynamic and evolving**—not a relic of the past. How does this **challenge traditional ideas of "primitive" law**, and what does it reveal about **indigenous legal resilience**?

4. NAGPRA & Legal Power

- Considering *The Cheyenne Way*, *Primitive Law*, and Shucha’s work, how does **NAGPRA** **redefine** the relationship between **federal and tribal laws**? How does the act

acknowledge tribal sovereignty and self-determination?

5. Justice, Repatriation & Legal Barriers

- The implementation of **NAGPRA** has led to **legal battles over cultural artifacts and ancestral remains**. What challenges do tribes face when trying to reclaim what is theirs, and how do these challenges highlight **broader struggles for justice and reconciliation?**

Format & Submission

Guidelines:

- Choose **two** questions to answer.
- Write as much as you can to fully develop your response. If you need a guideline, aim for **250-500 words** (approximately 0.5-1 pages per question).
- Use **examples from the readings** to support your arguments.
- Submit as a **Word or PDF document** via Brightspace.

Grading Criteria

- **Engagement with the Readings** – Demonstrates **understanding & application** of the reading material.
 - **Critical Thinking** – Thoughtful analysis that goes **beyond summary**.
 - **Comparative Insight** – Connects **different legal traditions & perspectives**.
 - **Clear & Well-Structured Writing** – Logical flow, clarity, and organization.

Are tribal legal systems truly "primitive"—or is that just a label imposed by history? Let's rethink the foundations of law together.

After the due date your work may be subject to a penalty of 5% per day.



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