

world. In any case, however, the jurisdiction to decide cases of personal status for all Christians has been assigned to the "Court of Personal Status" which is a civil court. The applicable law is still the same that was followed in the period prior to the Law No. 32, 1947, that is to say the Proclamation of 1917 supplemented by the rules deduced by the religious heads of the minorities.

2 - CUSTOM

When we talk of custom as a source of law, we mean legal custom. 'Legal custom' is distinct from other social customs in that its obligatory sanction is complete and uniform.

Although custom is an important source of law in early times, its importance continuously diminishes as the legal system grows. However, it is a misunderstanding of the evolution of law and the conditions of primitive societies to regard customs merely as 'positive morality' until they have been expressly ratified by some determinate law-making authority. The great majority of customs are non-litigious in origin, and their rise and observance depend on de facto conduct and repetition.

The importance of custom as a source of law is not entirely confined to the early stages of social growth; in all civilized jurisprudence it has always been recognized as greatly influencing the development of legal institutions. Roman law, though its theory in this respect was not entirely clear or consistent, attributed an important function to custom, constantly recognizing its effect both in substantive and adjective law, though assigning to it a secondary position as compared with the supreme legislative instrument of the imperial régime.

In modern jurisprudence the Historical School of Savigny found in custom the true source of all law, deriving it from the 'common consciousness of the people'. We have seen that in the

tenacious
diligent
obstinate
headstrong
coherent, cohesive

turnover

عقود

Expansion

عقد

transformation

عقود

transformation

عقود

افرن

Legal Custom // Is a custom that has total power and that the courts have acknowledged and upheld = enforced =

view of this School law is valid and just only in so far as it is known and embodied in concrete forms the inherent law of the community which it purports to govern. This modification, for it seems impossible to attribute all the general conviction among the community of their necessity, and appropriateness. Customs are often the product of a widespread conviction, but of the convenience or interest of the ruling class which imposes its will on the majority. Many are purely legal in origin, and many are the result of social influences which cannot be called peculiarly popular or legal.

Kinds of Custom. All custom which has the force of law is of two kinds, which are essentially distinct in their operation. The first kind is 'legal' custom which is operative per se as a binding rule of law, independent of agreement on the part of those subject to it. The second kind is 'conventional' custom, which is the one operating only through the medium of agreements whereby it is accepted and adopted in individual instances as conventional law between parties. The authority of the former is absolute, that of the latter is conditional on its acceptance and incorporation in agreements between the parties. In the language of English law the term 'custom' is more commonly confined to legal custom exclusively, while 'conventional' custom is distinguished as 'usage'. The distinction drawn, however, between the terms 'custom' and 'usage' in popular speech are synonymous, is by no means uniformly observed even by lawyers. In Arabic, the two terms are interchangeably, but some writers follow Western jurists in distinguishing them. French jurists draw the distinction between 'la coutume' (custom) and 'l'usage' (usage). The former is common practice regarded as the source of a rule of law, while the latter is confined to such practice as gives rise to an implication that the parties intended their relations to be governed by it and have relied upon this implication without expressing their intention in any other way.