

by different customary states each having the force of law.

**Conditions of Custom.** In order to be a source, custom must fulfill certain conditions.

- 1 — Custom must be 'general', that is, it should be followed by the majority of individuals in society. The generality of custom, however, does not preclude the existence of either a 'local custom' prevalent and having the force of law in a

particular locality only, or a 'particular' custom, for a certain group of individuals in society, as, for example, members of a trade or a craft.

- 2 — Custom must have existed for so long a time to be 'of memorial antiquity'. Recent or modern customs are not allowed. Although it is difficult to fix the period for the birth of custom, it is, nevertheless, immemorial if its origin was so ancient that the beginning of it was beyond human memory, so that no testimony was available at the time when it did not exist.
- 3 — Custom must be 'constant', that is, its observance must be continuous and unchanged. Non-observance of it by individuals, if it is confined within the exceptions allowed by law, does not extinguish the character of custom as a source of law.
- 4 — Custom should not be against the rules of 'public morality'. This is natural, for no rule of law is allowed applied which such contravenes the fundamental principles of public morality in society.
- 5 — Custom should not run counter to the 'written provisions of the law'. Once there is a legislative rule of law, no custom is not allowed.
- 6 — Custom must have been observed as of right. This does not mean that custom must be acquiesced in as a matter of general right. What the condition means is that the custom must have been followed openly, without the necessity of being enforced by course to force, and without the permission of those affected by the custom being regarded as necessary.