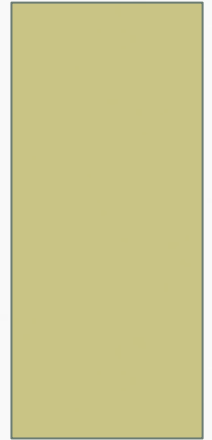




AFRICAN LAW



CHARACTERISTIC FEATURES AFRICAN LAW.

- One of the characteristics of customary law is that legal and moral norms are inseparably linked, and in the resolution of conflicts the parties shall be guided primarily by the idea of reconciliation. The task of the court is not so much to find facts and apply the rules of their view of how much to repair the damage, to restore harmony in the community and to ensure its cohesion.



- Another feature of African customary law is that it regulates the relations in the first place, groups or communities, not individuals. So, the marriage contract was a rather an agreement between two families than a Union of two individuals; divorce was possible only with the consent of the families. The property inherited also, as a rule, is not passed to individuals and to families or groups. When compensation payment was made, usually one family or clan to another family or clan. Land rights, according to custom, was not endowed with the individual and the group. Although an individual could use the land, but in the end she belonged to the community or group. Litigation in African society occurred mainly between communities and groups. And, finally, the principle of collectivism was responsible for the misconduct: it was like a responsibility of a family or group of relatives for the acts of its individual members

COURTS IN AFRICA

- In Africa there are two basic types of courts, and sometimes they acted simultaneously and in parallel. Thus, in the absence in the region of any Central authority cases of marriage, child custody, inheritance, land ownership was decided by the arbitration composed of elders and other influential members of the family or group of relatives. If disagreements arose between neighbors within the same community, the arbitrators were of the oldest families, the heads of the main lines of inheritance, etc.
- The courts of another type functioned as government departments compliance with legal formalities. They existed in the regions with a more or less centralized power. Typically, these courts form a hierarchical system, starting from the lowest (e.g. courts of petty chiefs) to high (courts of major leaders).



PRIMITIVE LAW IN AFRICA

- Customary law is universally recognized polygamy and set a bride price, called to confirm that customary marriage is buying a wife. Divorce was very rare, and to obtain permission for divorce was too much trouble. Families were interested in the continuation of the established Union between them, the divorce meant the return of the dowry. The divorce are negotiated between families, with the involvement of elders of the clan.



THE MAIN TRENDS IN THE DEVELOPMENT OF LAW IN AFRICA.

- The main trends in the development of the law of African countries in terms of national independence characterized, on the one hand, to overcome the colonial stratifications (although in the early stages of colonial laws continued to operate), and the constraint governing the value of a legal custom to the extent that expanding the range of relationships covered by national legislation. In former French colonies after independence, taken over a hundred codes. Similarly enacted major laws in English-speaking countries. In most independent African States under the new Constitution. Legislative activity covers first of all such branches of modern law as constitutional, contracts, criminal law and the judicial system.