Seymours Customary Law In Southern Africa

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Seymour's customary law in Southern Africa.
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Seymours Customary Law In Southern Africa [PDF, EPUB EBOOK]
South African customary law refers to a usually uncodified legal system developed and practised by the indigenous communities of South Africa. Customary law has been defined as an established system of immemorial rules evolved from the way of life and natural wants of the people, the general context of which was a matter of common knowledge, coupled with precedents applying to special cases, which were retained in the memories of the chief and his councilors, their sons and their sons' sons unti

L’ampleur des enjeux humains, économiques et sociaux posés par la question des solidarités entre générations a conduit l’International society of Family Law (ISFL) à choisir ce thème pour son XVe congrès mondial. Plus de 200 intervenants, venus de 50 pays, ont abordé ces questions sous l’angle juridique, mais aussi philosophique, économique et anthropologique. Cet ouvrage présente une partie de ces communications organisées autour de deux grands thèmes : l’enfant au cœur des solidarités familiales et la prise en charge des aînés par la famille. Des phénomènes tels que l’allongement de la durée de la vie, l’urbanisation des populations, la difficulté d’entrée sur le marché du travail ou encore l’éclatement des modèles familiaux traditionnels marquent notre monde contemporain et impliquent la disparition d’anciennes solidarités et l’apparition de nouvelles solidarités redessinant les relations entre générations, posant alors le problème du sort des personnes les plus fragiles : les enfants, les malades, les handicapés et, surtout, les personnes âgées. – Quel est alors le rôle de la famille et des collectivités dans la protection de ces personnes ? – Quels rapports entre solidarités publiques et solidarités privées ? – Quels sont les droits et libertés reconnus aux personnes que l’âge, la maladie ou le handicap, placent en situation de dépendances ? Telles sont les questions au cœur de cet ouvrage. The importance of the human, economic and social issues caused by the question of generations’ solidarities led the International Society of Family Law to choose this theme for its XVIth World Congress (Lyon, July 19-23rd 2011). More than 200 speakers from 50 countries studied these questions from the legal angle, but also philosophic, economic and anthropological. This work collects a part of these papers about two great issues: the child, as the center of family solidarities; and the support for elders by family. Phenomena such as increasing life expectancy, population urbanization, labor-market entry barriers, decline of traditional family patterns, mark in depth our contemporary world and involve old solidarity disappearance and new solidarity emergence, reshaping relations between generations while bringing up the problem of the fate of the most vulnerable: children, the sick, disabled, and especially elderly people. – What then is the role of families and communities in protecting these people? – What is the relationship between public and private solidarity? – What are the rights and freedoms of people placed by age, illness or disability in a dependence situation? These are the issues addressed by the authors of this book.

Described as 'ground-breaking' in Kent McNeil's Foreword, this book develops an alternative approach to conventional Aboriginal title doctrine. It explains that aboriginal customary law can be a source of common law title to land in former British colonies, whether they were acquired by settlement or by conquest or cession from another colonising power. The doctrine of Common Law Aboriginal Customary Title provides a coherent approach to the source, content, proof and protection of Aboriginal land rights which overcomes problems arising from the law as currently understood and leads to more just results. The doctrine's applicability in Australia, Canada and South Africa is specifically demonstrated. While the jurisprudential underpinnings for the doctrine are consistent with fundamental common law principles, the author explains that the Australian High Court's decision in Mabo provides a broader basis for the doctrine: a broader basis which is consistent with a re-evaluation of case-law from former British colonies in Africa, as well as from the United States, New Zealand and Canada. In this context, the book proffers a reconceptualisation of the Crown's title to land in former colonies and a reassessment of conventional doctrines, including the doctrine of tenure and the doctrine of continuity. 'With rare exceptions ... the existing literature does not probe as deeply or question fundamental assumptions as thoroughly as Dr Secher does in her research. She goes to the root of the conceptual problems around the legal nature of Indigenous land rights and their vulnerability to extinguishment in the former colonial empire of the Crown. This book is a formidable contribution that I expect will be influential in shifting legal thinking on Indigenous land rights in progressive new directions.' From the Foreword by Professor Kent McNeil (to read the Foreword please click on the 'sample chapter' link).

"Omudile muua ohapo; epangelo liua ohamba". Freely translated, this proverb of the Ovakwanyama of northern Namibia means: "New leaves produce a good shade; the laws of a king are always as good as new". The proverb paints a picture of wisdom to express the dialectical relationship between continuity and change in customary law. Since royal orders are supposed not to change from one king to the next, they are always as good as new, reads the explanatory note to the proverb by the anthropologist Loeb, who recorded the proverb. Traditional authority is like a tree standing on its roots, rooted in the tradition created by the ancestors of the ruler and the community. These roots remain firm, stable and unchanged, not so the concrete manifestation of authority that changes and responds to changes of the environment. This makes that new leaves are produced by the rooted tree. The new leaves are new and old. They are old, because in structure, colour and their capacity to protect by giving shade, they are more or less like the leaves of last year and the year before; they are new because they react to the challenge of seasons. The Shade of New Leaves emerged out of an international conference on the living reality of customary law and traditional governance held in Windhoek in 2004. The conference was organised by the Centre for Applied Social Sciences and the Human Rights and Documentation Centre, both affiliated to the Faculty of Law of the University of Namibia, in co-operation with the Law Departments of the Universities of Bremen, Germany, and the School of Oriental and African Studies, University of London. The contributions to this book are grouped into six parts: Part 1: Legal pluralism, traditional governance and the challenge of the democratic constitutional order * Part 2: Traditional administration of justice revisited * Part 3: Ascertaining customary law: prerequisite of good governance in traditional authority * Part 4: Legal philosophy, African philosophy and African jurisprudence * Part 5: Research, training and teaching of customary law * Part 6: Afterthoughts

Derived from the renowned multi-volume International Encyclopaedia of Laws, this book provides a practical analysis of criminal law in South Africa. An introduction presents the necessary background information about the framework and sources of the criminal justice system, and then proceeds to a detailed examination of the grounds for criminal liability, the justification of criminal offences, the defences that diminish or excuse criminal liability, the classification of criminal offences, and the sanctions system. Coverage of criminal procedure focuses on the organization of investigations, pre-trial proceedings, trial stage, and legal remedies. A final part describes the execution of sentences and orders, the prison system, and the extinction of custodial sanctions or sentences. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable resource for criminal lawyers, prosecutors, law enforcement officers, and criminal court judges handling cases connected with South Africa. Academics and researchers, as well as the various international organizations in the field, will welcome this very useful guide, and will appreciate its value in the study of comparative criminal law.

This book brings together the uBuntu jurisprudence of South Africa, as well as the most cutting-edge critical essays about South African jurisprudence on uBuntu. Can indigenous values be rendered compatible with a modern legal system? This book raises some of the most pressing questions in cultural, political, and legal theory.

In our time the study of law and religion is emerging as a wide-ranging and vital academic discipline, with increasingly urgent implications for society at large. Lying at the intersection of a variety of other disciplines ? law, theology, religious studies, political science, sociology and anthropology, to name only the most obvious ? the field of law and religion is generating a burgeoning volume of interdisciplinary and trans-disciplinary research and study. The current volume is proof of this. The discussion of the relationship between law and religion, as seen from a variety of perspectives in Africa, underscores the critical importance of the issues involved in the everyday life of all citizens. It is accordingly vital for governments to take note of the scholarly results that are produced. We hope that this volume will contribute to this aim.

Among the many contentious matters thrown up by the relentless march of economic globalization, those forms of knowledge variously known as 'indigenous' or 'traditional' remain seriously threatened, despite numerous transnational initiatives and highly publicized debate. It is not proving easy to bring these holistic worldviews into accordance with the technical terms and classifications of intellectual property law. The contributions in this volume contrast efforts to find solutions and workable models at the international and regional level with experiences on the ground. Legal policies related to 'indigenous knowledge' in settler societies such as Australia and New Zealand are compared with those in densely populated neighbouring countries in Asia, where traditional knowledge is often regarded as national heritage. While many of the chapters are written by lawyers using an interdisciplinary approach, other chapters introduce the reader to perspectives from disciplines such as legal sociology and anthropology on controversial issues such as the understandings of 'art, ' 'culture, ' 'tradition, ' 'customary law' and the opportunities for traditional cultural knowledge and traditional cultural expressions in an Internet environment. Experienced observers of the international debate and regional experts discuss international model laws as well as legislation at regional and national level and the role of customary law. Topics covered include the following and much more: the concept of 'farmers' rights'; biodiscovery and bioprospecting; traditional knowledge as a commodity; encounters between different legalities; geographical indications; registration requirements; sanctions, remedies, and dispute resolution

mechanisms; the ongoing fragmentation and loss of traditional knowledge; and systems of data collection.