



COURSE CODE: PUL 112  
COURSE TITLE: NIGERIA LEGAL SYSTEM  
NUMBER OF UNITS: 4 Units  
COURSE DURATION: Three hours per week  
COURSE LECTURER: **JAMES EMOKHAI UZUALU**

**COURSE TOPICS:** CUSTOMARY LAW IN NIGERIA

**COURSE OUTLINE:**

- Introduction
- Characteristics of customary law
- The validity of customary law
- Proof of customary law

**OBJECTIVE:**

The Objective of the study is to expose the students to the importance of native law and customs, that apart from the recognized English practices which was introduced into Nigeria, customary law still has its place in Nigeria

**INTENDING LEARNING OUTCOME (ILO)**

- The students must be able to define customary law
- The students list the characteristics of customary law and describe each
- Explain the repugnancy test with case law & examples and discuss the various test of the validity of customary law
- Evaluate the methods of proving customary law with the aid of statutes and case laws

**RESOURCES:** <http://www.edouniversity.edu.ng/oer/law.pdf>

**BOOKS:**

- *Akintunde, O.O., The Nigeria Legal System. 1979 Sweet&Maxwell 11 feter lane, London and Spectrum books, ring road, Ibadan*
- *Ese Malemi, The Nigeria Legal system text and cases, 2012 third edition Princeton publishing company, Ikeja, Lagos state*

**GRADING:**

Test:	30%
Examinations:	70%
Total:	100%

**Assessments:**

Any Student who submits assignment late, fails to do or misses any test without a cogent reason shall be scored zero. Seventy-five percent class attendance is a precondition to write the exam at the end of the semester. **Note: The names of students who meet the required attendance will be published not later than two weeks to the end of the semester examinations.**



# CUSTOMARY LAW IN NIGERIA

## INTRODUCTION

Customary law in Nigeria, it is defined as rule which in a particular district has a long usage and obtained the force of law. And it is divided into two classes ethnic or non-Muslim customary & Muslim law. Justices Obaseki Jsc has also defined customary law.

## CHARACTERISTICS OF CUSTOMARY LAW

The basic features or characteristics of customary law are:

- It is largely unwritten,
- It is flexible
- It must be binding on the people
- It varies from ethnic group to ethnic group
- It must be in existence and practice by the people

This view was supported by the judicial pronouncement see *Dawodu Vs. Danmole* (1958) 3FSC 46.

## VALIDITY OF CUSTOMARY LAW

The validity of customary law in Nigeria is tested by the following variables.

- The first test is repugnancy test; that is it must not be against natural justice, equity and good conscience.
- Another of the test is the incompatibility test which means it must act within the existing law of the state and must not be against the law in force.
- The public policy test in determining validity of customary law means that it must not be against the welfare and security of the citizens which is the primary responsibility of the governments.



## **PROOF OF CUSTOMARY LAW**

The following are the methods of proving Customary Law in Nigeria.

- Proof by evidence, which may either be by witnesses or judicial notice

Proof by witnesses:

Expert evidence: person versed in the knowledge of the customary like the native chiefs, textbooks & manuscripts, which must be within the provisions of the evidence Act sections 68, 70 and 73 Evidence Act 2011.

Another proof is by judicial notice which must again be within the provision of Sec. 14 of the Evidence Act 2011 which means that the court must have acted upon it several times or at least single distinct time.

