

The Potential of Using Local Customs prevailing in the War-torn Areas in Resolving Emergent Community Disputes in the Post-war Scenario

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Abstract: Every particular group of community in human society has a unique system of social custom which is wrought and operated for the initial purpose of maintaining moral governance over that particular community within the social parameters demarcated by the inherent social norms and values of that community. However, certain locally operated social customs have been empowered with the legal authority particularly by the judiciary through recognizing its legal validity as one of the sources of law by which determined the rights and duties of the members of a particular community. This legal experience is not outlandish to Sri Lankan legal system and consequently, certain local customs which satisfy the required criteria under the Sri Lankan jurisdiction have been acknowledged as customs that engender legally enforceable rights and duties among the members of a particular community. Therefore, there is a strong potential of utilizing certain local customs prevailing in war affected areas as a legitimate tool for resolving community disputes emergent in the post war context notably, including land and property matters and perhaps even family matters as well. Using such local customs as one of the sources of law by which community disputes are determined, is of vital social-legal significance since they able to provide legal solutions which accustomed with the typical life style of the members of the war affected communities. Furthermore, employing local customs in this scenario would not prevent those communities from lining with emerging concurrent social advancement since a progressive judicial approach sensible to the evolving social developments can be evidenced in Sri Lankan legal system on this topic, while signifying the contemporary thoughts of right based approach therein. Being so, the paper is concluding with emphasising the legal potential and social significance of using local customs prevailing in the war-torn areas in resolving community disputes emerging in the post war scenario at least for a certain extent since they have been given slight legal and social consideration in the attempts of outfitting specific legal regulations to determine community disputes

Keywords: Legal Validity of Local Customs, Local customs, Resolving Community Disputes, Social Significance of Local Customs