**INTERNAL CONFLICT OF LAW**

Where the law of one country, clashes with the law of another country, you have what we call Conflict of laws. However, where there is a clash between two laws in a country, this is called Internal Conflict of Law. Conflict of law is that branch of the law that has its importance in three basic elements.

1. it prescribes which court is competent to entertain such suits [Choice of Jurisdiction]
2. it prescribes which system of law to be applied [Choice of Law], and lastly.
3. It specifies the condition under which a judgment will be recognized in another jurisdiction and how the rights created are to be enforced.

**The conflict of laws situation which usually come up for determination includes;**

1. When is Customary Law Applicable?
2. Between English Law and Customary Law
3. Between English Law and Islamic Law.

**Reasons for Conflict of Laws in Nigeria**

1. Where parties to a transaction may rely on different systems of law. An instance is where one party relies on English Law and the other party argues that it is customary law that is applicable and should be applied by the court to determine a dispute.
2. Where parties who have been involved in a transaction governed by one system of law, go into another transaction governed by a different system of law, there is often a a problem of conflict of law. Cole v Cole (1898)1 NLR 15, Olowu v Olowu (1985)3 NWLR pt. 13, p. 372 SC
3. Nigeria is a multi-ethnic, multi-lingual and multi-cultural country, with each of these groups having customs which maybe similar, but are not exactly the same.

The problem of conflict of laws in Nigeria is a complex issue. This is not only because of the federal form of government with its separate federal and state laws which sometimes create jurisdictional conflicts, but more so because of the dual system of court and the States. Also, as a result of the large increase in the number of constituent states coupled with the frequency in the movement of individuals from state to state, and from city to city, the problem of conflicts of laws has assumed greater prominence now than ever before. Where the conflict arises as a result of interplay of state laws, it is usually called private international law. Private international law which deals with this subject is so developed that some authors prefer to call it "conflict of laws". However, in this chapter, we shall be concerned basically with the subject from a national perspective. That is, conflict of laws within the Nigerian legal system.

**WHEN IS CUSTOMARY LAW APPLICABLE?**

**Customary law is applicable where**

1. The parties are natives or the transaction is subject to customary law. Edet v Essein (1932)11 NLR 47
2. Where the transaction involves a native and a non-native, but substantial injustice will be occasioned to either party if customary law is not applied. See Nelson v Nelson (1951) 13 WACA 248
3. Where a statue provides that customary law should apply. See Agidigbi v Agidigbi (1992) 2 NWLR pt 221, p 98 SC

**Customary law will not apply if**

1. The parties expressly contract that customary law should not apply.
2. If from the nature of the transaction the parties could not have intended that customary law should apply (Koney v Union Trading Ltd (1934)2
3. Sometimes, if the transaction is not covered by customary law. See Green v Owo (1936)13 NLR 43.

N.B A native includes a native of Nigeria, and a native of Nigeria could mean any person whose parents were members of any tribe or tribes indigenous to Nigeria and the descendants of such person.

**BETWEEN ENGLISH LAW AND CUSTOMARY LAW**

Several transactions are capable of being regulated by both English Law and Customary Law.

**When does English Law apply?**

As a general rule, English law applies to transactions between Nigerians on the one hand, and also between Nigerians and Non-Nigerians on the other hand, in the following instances.

1. Where the parties specifically agreed that English Law should govern the transaction
2. Where the party relying on customary law will be deemed to have agreed that English .Law should apply to the transaction. See Baker v Coker (1935)12 NLR 31
3. Where the transaction is unknown to customary law. See Salau v Aderibigbe (1963) NWLR 80

**BETWEEN ENGLISH LAW AND ISLAMIC LAW**

As a general rule, where Islamic Law is the Law applicable to a transaction, then it will apply between muslims. See the cases of Tapa v Kuka (1945) 18 NLR 5. On the other hand, English law will apply:

1. Where from the express terms of a contract or from the nature of the transaction, it should be regulated by a law other than Islamic law (Adesubokan v Yinusa (1971) All NLR 97
2. English law also applies where a transaction is unknown to Islamic law.

**DIFFERENT SYSTEM OF CUSTOMARY LAW**

Due to the multi-ethnic and multi-cultural nature of Nigeria, there are cases of conflicts between two or more systems of customary law and the court is confronted with the determination of which customary law should apply. The areas where we have had clash of different systems of customary laws may be divided into

1. Succession matters
2. Land matters and
3. Other Civil matters.
4. **Succession matters**

Where there is a dispute as to which customary law will apply in the cases of intestate succession, the customary law that is binding is the personal law of the deceased. Thus, in Tapa v Kuka (1945) 18 NLR 5, Nupe law, being the personal law of the deceased, was applied in respect of his estate instead of the Yoruba law of Lagos where the property of the deceased was located. See Ghamson v Wobill (1947) 12 W.A.C.A 181. The court may however opt for the law of the place of its jurisdiction as an alternative, where the personal law of the deceased cannot be established. See Ekem v Nerba (1947)12 WACA 258

1. **Land Matters**

The law applicable in land matters is primarily that of the place where the land in question is situated. See Onisiwo v Fagbenro 21 NLR 3, Aghenghen v Waghoreghor (1974) All NLR 74.

1. **Other civil matters**

The considerations which help the court in deciding the applicable laws are:

1. The nature of the civil matter. See Okonkwo v Otobo (1961) WNLR
2. The law prevailing in the jurisdiction of the court. See Amachree v Good Head (1923) 4 NLR 101
3. The applicable law may be the law which is binding between them.

P.S. This is a brief summary of internal conflicts of law. Do further research on your own and make sure you read up on all the cases you have been asked to see.