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## Current practice of customary law in the Basque Country

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**Celaya Ibarra, Adrian** (Elcano, 30. 48008 Bilbao): La actual coyuntura del derecho vasco. La conjoncture actuelle du droit Basque (The present juncture of the Basque law) (Orig. es, fr)

In: *Azpilcueta*. 13, 13-34

Abstract: According to its political history, the diverse Basque territories had different laws and customs in civil questions. Nevertheless, there is a common juridical background for the Basque people, as for all of them the Law has a popular origin and it is not imposed, besides it arranges the social and family life within a regimen of civil freedom and solidarity. An effort have to be made to grasp the essential of the different Basque societies in order to get their values to be organized and applied.

Key Words: Custom. Family. New objectives.

**Aycart Orbegozo, José María** (Real Sociedad Bascongada de los Amigos del País. Peña y Goñi, 5-2º izda-20001 Donostia): Visión histórica actual del derecho consuetudinario guipuzcoano. Vision historique et actuelle du droit coutumier du Gipuzkoa (Present historic perspectives of the customary law of Guipuzcoa) (Orig. es, fr)

In: *Azpilcueta*. 13, 35-44

Abstract: The Private Law in Gipuzkoa, of customary origin, has not been reflected in written procedures as Statutory Civil Law. Given this reality, our Law in the past is now being researched, as well as its possible current application.

Key Words: Private Law in Gipuzkoa. Usage.

**Sanza Amurrio, Jesús María** (Luis Mariano, 10 - 4<sup>º</sup> B 20302 Irun): Función notarial y derecho de Gipuzkoa. Fonction notariale et droit du Guipuzcoa (Notary function and law of Guipuzcoa) (Orig. es, fr)

In: *Azpilcueta*. 13, 45-68

Abstract: The author analyses from the Notary point of view the way of testing and the mortis cause succession in Guipuzcoa. It gives a historic view as well as of the institutions that have been applied in Guipuzcoa. But above all, what it tries is to reach some subjective conclusions from a practical view about the possible and future use of the Statutory Law by this Historic territory. This conference view is posterior to the article 147 of the Basque Civil Law coming into force.

Key Words: Tested succession. Statutory law of Guipuzcoa. Notary practice. Conclusions.

**Uriarte Zulueta, Manuel M<sup>º</sup>** (Eusko Ikaskuntza. San Antonio, 41. 01005 Vitoria-Gasteiz): Consecuencias en Álava de la reforma del derecho ayalés y vizcaíno. Conséquences en Alava de la réforme du droit d'Ayala et de Biscaye (Consequences in Alava of the reform of the Law from Ayala and Biscay) (Orig. es, fr)

In: *Azpilcueta*. 13, 69-82

Abstract: Civil Law in Alava is very complex. In most of the Province, inhabited by 85% of its population, the Civil Code is applied, in Llodio and in Aramaio the Statutory Law from Bizkaia is applied, whereas in Ayala the Civil Code is applied with the exception that there is absolute freedom in the way testaments are formulated. These differences, that already existed in the 15th century, have only experimented small changes as a consequence of the Law dated 2nd July 1992.

Key Words: Statutory Civil Law in Alava. Llodio. Aramaio. Ayala.

**Salinas Quijada, Francisco** (Eusko Ikaskuntza. García Casteñón, 2-6. 31002 Iruñea): La costumbre en el derecho navarro. La coutume dans le droit navarrais (The custom in the law of Navarre) (Orig. es, fr)

In: *Azpilcueta*. 13, 83-96

Abstract: Usage in Navarre was not only the first source of Law in time, it has also maintained such a primacy until the present day, and even the current statutory compilation locates it in its law nº2, in a position of privilege within its own norms, before statutory law itself, and it goes without saying that with precedence to the general principles of Law, and supplementary Law. It is precisely by virtue of such a principal position in the application of Navarran Law, that the legal phenomenon of the usage before law is applied, in which usage takes precedence over written law in cases of collision of usage against written law, as specifically mentioned in Law nº3 of the mentioned Compilation.

Key Words: Custom in the Law from Navarre. ("Foral") Statutory Custom from Navarre. Customary Statutory law of Navarre.

**Lafourcade, Maité** (Univ. de Pau et des Pays de l'Adour. Fac. Pluridisciplinaire de Bayonne-Anglet-Biarritz. 29-31, Cours du Comte de Cabarrus. 64100 Bayonne): Le droit basque et sa survivance (The Basque law and its survival) (Orig. fr)

In: *Azpilcueta*. 13, 97-102

Abstract: Despite the unification of the French law carried out by the revolutionaries and finished with the writing down of the civil code of 1804, the customary law survives in Iparralde, at least in the rural area and in their fundamental principles that are the preservation of the family house and the property of the common land in Soule and the Lower Navarre. Are they simple anachronistic vestiges? So, doesn't the Basque country take the risk of losing its identity, contributing to the uniformizing of the society?

Key Words: Basque Country. Law. Property. "Cayolars".

**Etcheverry-Ainchart, Jean** (Notaire. 8 rue Biscarbidea. 64500 Donibane Lohitzune/Saint Jean de Luz): Les partages de famille de Basse-Navarre de la Révolution à la loi de 1971 (The family sharings in Lower Navarre of the Revolution) (Orig. fr)

In: *Azpilcueta*. 13, 103-116

Abstract: Lower Navarre witnessed countless changes, brought about by the French Revolution and subsequent wars, which also affected Family Law. Nevertheless, the Basques did not stop promoting the unity of family property.

Key Words: Changes. French Revolution and wars. Unit.

**Gouffrant, Bernard** (Office Notarial. 64430 Saint Etienne de Baigorri): Le droit de la famille en Basse-Navarre (Family law in Lower Navarre) (Orig. fr)

In: *Azpilcueta*. 13, 117-122

Abstract: It is the conciliation between the old system which gave preference to the "house" in order to secure the perpetuity of the family exploitation, and the modern law which has instituted a principle of equality among the children. The traditional instrument of this conciliation is the notary, whose duty will be supported by the parents who, at the age of their jubilation, will know together how to impose their children the preference that they have wanted to give to one of them to be their heir, through a sacred deed: "the family arrangement".

Key Words: The arrangement within the family. The preservation of the traditions. The custom facing the modern law.

**Richer, Michel** (Office Notarial. Rue de Belzunce. 64130 Mauléon Soule): Le cayolar en Soule (The "Cayolar" in Soule) (Orig. fr)

In: *Azpilcueta*. 13, 123-130

Abstract: The "cayolar" covers a pastoral financial institution which obeys a complex juridical and particular ordinance that has its application in the "estives" of the Basque province of Soule. Promoters of the collective operation, the "Souletines" have known how to develop the traditional rules of transhumance, inherited from the traditions to which they are very connected, without abandon them, in order to adapt them to the hard economic realities of the present.

Key Words: Nomad living. Communal goods. Union commission.