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MATRIC NO: 19/LAW01/048

COURSE TITLE: LEGAL METHOD II

What are the Sources of Nigerian Law?

Introduction

Legal research is concerned with finding information contained in authoritative sources of law. The sources are where the original fact, information and rule of law could be derived. The law library has a depository of numerous legal sources. The legal sources literally refer where, how and by what authority a particular rule of is made and becomes legally effective to regulate human conduct. Legal research as a primary objective for setting up a law library reflects the synch between research, legal profession and library in a bid to actualise the very purpose of regulating human conduct, governing the society (politically, economically, socially, culturally) and adjudication of justice. This tells how important it is to have a grip understanding of the legal system of the country, sources of law and information resources containing the law in the library. With this understanding, both the librarian and researcher can make a better use of the library to achieve research objectives. Being able to research in an effective manner is an essential skill whether you are a student or in practice. The primary aim of conducting clear and methodical legal research is finding the answer to a legal question in the most time effective way and knowing that you have searched in all the relevant sources (Bodleian Libraries, University of Oxford, 2019).

Legal research is the systematic process of conducting enquiry by identifying and retrieving information to support or make rational legal decision. In its broadest sense, legal research includes step by step approach of discovering the fact, evaluating of the facts and application of the fact in solving legal issues. Legal research is holistically, the process of finding an answer to a legal question or checking for legal precedent that can be cited in a brief or at trial. Black Law Dictionary defines legal research as the finding and assembling of authorities that bear on a question of Law. Sometimes, legal research can help determine whether a legal issue is a "case of first impression" that is unregulated or lacks legal precedent. Virtually every lawsuit, appeal, criminal case, and legal process in general requires some amount of legal research (Findlaw, 2019). Moreover, most legal systems rely so much on precedent — that is, decided court cases — in conjunction with statutes and common law. Meanwhile, the function of legal research typically is to find out how previous courts have decided cases with similar fact patterns. Understanding legal research is quite a great deal of task that both the lawyers and librarians in law libraries must make a priority. Literally, legal research is concerned with finding suitable laws that answer legal queries. Researching the law means discovering or identifying the rules that govern the behaviour of man in the society. It is a prerequisite for lawyers to have firm grip on the knowledge of research if they must be successful in their profession. The reason Lawyers must have adequate knowledge of legal research is because they are often called upon to solve legal problems or give advice which require knowing the rules applicable to the different problems and how to locate them. There may be a time when a client needs the services of a lawyer in pursuit of a remedy for a bad situation, or perhaps files a court process concerning a particular outcome, which will require a lawyer to undertake research in order to find out laws that handles the matter. Perhaps, a lawyer may be asked to offer an advice to the client on a new business initiative such as registering of business name, contract agreement or buying a piece of property etc., and to handle that appropriately, the lawyer needs to know the clients' rights and responsibilities, as defined by legal rules and procedures. However, the law library provides lawyers with research assistance and information resources pertinent to their research queries. Law library houses different sources of legal rules.

The concept of legal system in a general terms involves a holistic legal manner, pattern and philosophy of a particular society. This includes the set of principles , rules, doctrines, concept, procedures, standards and theories of law adopted and practice by the society. The Nigerian legal system is carved out of out the English common law legal tradition by the reason of colonisation and the attendant incidence of reception of English law through the process of legal transplant ( Dina, Akintayo and Ekundayo, 2005) According to Beredugo (2009), Nigerian legal system connotes the totality of the law or legal rules and the legal machinery, which cover the constitution, political structure , government , legislature, the judiciary and the justice delivery system, the administrative agencies and even the legal profession that are extant in the country. Nigerian legal system also covers the historic perspective of the transformational legal form that evolved from pre-legal society to a plural

legal system which have undertone of various distinct systems of law including the indigenous customary law, the received English law and local or municipal legislation. To understand Nigeria’s legal system, it is imperative to view through pre-colonial, colonial and post-colonial legal transitions. However, in the pre - colonial era, the ethnic nationalities that later formed Nigeria practiced native or customary laws which were used to regulate the conduct of the society and to govern the affairs of the people. By the time Nigeria was under the colonisation of Britain, English legal system was introduced the colonial powers, comprises colonial statutes , the common law and the principles of equity into the country. With this and the pre-existing customary law system, the Nigerian legal system doubled. Furthermore, at Independence from Britain in 1960, Nigeria (inherited) adopted the English legal system as part of her legal system. Post-colonial government was not left with no room of introducing additional system of law. Meanwhile, Beredugo (2009) stated that “the has from municipal legislative enactments and case law created and developed a national legal system that is anchored on Nigerian precepts of law and justice

Sources of Nigerian Law

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The formal sources of law includes the conclusion of the country, the statutory enactments , judicial precedents and local customs. The historic source of is concerned with the revolutionary process of any particular rule or principle of law , and includes customs, moral and religious beliefs, business practices, human development , conscience or reasoning, as well as social, economic and environmental factors or circumstances that influenced the origin of any particular rule or principle f law. The literary source of law is concerned with the written documents that contain authoritative rules or principles of law and refers specifically to opinions or statements of legal rules and principles by jurists in law textbooks, statute books, law journals, law reports, law digests, periodicals, encyclopaedias and legal letters. The entire body of law is derived and developed from these various sources (Beredugo, 2009).

The law is an abstract term. In order to know what comprises the law, you have to derive it from various places. These places from which the law is derived are aptly described as the sources of law. Sources of law can be defined as the places to which a legal practitioner or a judge turns to in order to answer a legal problem. They can be regarded as springboards from which law emanates. They are the various vehicles through which the law is carried. The sources of Nigerian law can be divided into primary and secondary.

The entire sources of Nigerian law is classified into two which include, primary and secondary sources.

Primary Sources of Nigerian Law

Primary sources of Nigerian law could be referred to the fundamental sources of law that have ground and binding significance. That is to say, primary sources of law constitute ground norms, precedents and binding authorities that determine the decision or judgment of the court. There are five primary sources of law identified by Beredugo (2009) and Dina, Akintayo and Ekundayo (2005) which includes:

1. The Constitution

2. Nigerian Legislation

3. Nigerian Case Law or Judicial Precedent

4. Received English Law

5. Nigerian Customary Law, and Islamic law

Secondary Sources of Nigerian Law

Secondary sources of law are the sources of law that do not carry a dominant legal weight and binding effect. The legal authorities contain in these kind of sources are diluted and persuasive which are not binding on any court of law. According to Beredugo (2009),

secondary sources of law are less significance sources of law that carry barely persuasive legal authority or effect and are therefore, not binding on any court of law. Secondary sources can be useful in court of law or resorted to where the court finds the opinion or fact underlying the authority contained therein. Secondary sources can also be referred to in court if it supports the authorities of the primary sources.

Examples of secondary sources of Nigerian law according to Beredugo includes:

(a) decisions of courts of foreign countries

(b) International conventions, treaties, and resolutions of international bodies;

(c) Statements or opinions of jurists and learned authors contained in law textbooks, journal,

Periodicals, dictionaries, letters, speeches, and interviews;

(d) Legal opinions contained in nullified judgements.

Secondary sources of law also include all sources that provide helpful introductions to legal subjects, synopses of decisions, statutes, and regulations in a given field, analyses of trends and historical background of law, explanation of new or difficult concepts, descriptions and analysis of the law and its developments and citations to primary sources through footnotes and annotations.

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