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QUESTION

Discuss secondary sources of law in Nigeria.

Secondary sources of law are materials that discuss, explain, analyze and critique the law. They discuss the law, but are not the law itself. Secondary sources, often explain legal principles more thoroughly than a single case or statute, so using them can help save time. Secondary sources also help to avoid unnecessary research, since you are tapping into a work that someone else has already done on an issue. Secondary sources may influence a legal decision but do not have the controlling or binding authority of primary sources. There are a number of reasons why secondary sources are so essential to the practice of law. One of the chief reasons being that secondary sources are so authoritative that courts themselves rely on them in their rulings. Because secondary sources reflect how the law is viewed, they are truly essential to a more comprehensive understanding of the law.

Secondary sources are particularly useful for

1. Learning the basics of a particular area of law
2. Understanding key terms of art in an area
3. Identifying essential cases and statutes

Secondary sources of law include;

1. Legal encyclopedias
2. Treaties
3. Law journals
4. Legal periodicals
5. Restatements

1. LEGAL ENCYCLOPEDIAS

Legal encyclopedias contain brief, broad summaries of legal topics, providing introductions to legal topics and explaining relevant terms of law. They also provide citations to relevant primary law and sometimes give citations to relevant major law review articles. Here are two major national encyclopedias on US law:

1. American Jurisprudence 2d (AmJur)
2. Corpus Juris Secundum (CJS)

Legal encyclopedias contain information across most areas of law. They summarize the law and will often point you towards legislation, leading cases and other relevant sources, and as such can be a great place to start your research on any given legal subject. They offer broad and general commentary on a full range of federal and state law. Most of the encyclopedias focus on case law and do not contain extensive citations to statutes or other secondary sources. Many but not all states have a legal encyclopedia focusing exclusively on the laws of the state. Example include: *West’s Maryland Law Encyclopedia,* Call No. KFM1265. W4 (kept current with pocket parts and revised volumes). Legal encyclopedias are immense sets of books that briefly describe all of the main legal issues for a particular jurisdiction.

1. TREATISES

Books on legal topics are good places to begin your research or find an answer to a question, and will help you save time by providing explanation, analysis, and tips on the most relevant primary sources. Treatises range from single volume overviews to extensively detailed multi-volume sets. They may come in form of bound books updated with pocket parts or loose leafs with easily replaced pages. Some treatises are intended for law students while others are meant for practicing lawyers. Characteristics of a treaty is; it is a single subject focus in a particular jurisdiction, practitioner audience written by and for practicing attorneys, court rules included, may contain checklists, tips, sample forms. Examples include; CA practice guides, treatises at UCI Law. A treatise focuses on a single area of law and is written by experts in that area. Practitioners rely heavily on treatises for the detailed coverage and practical tips they contain. The content varies tremendously, but you can usually find thorough explanations of the law at issue along with the citations to relevant cases, statutes, regulations, and other secondary sources. Some treatises also contain the full text of these materials in appendices.

Characteristics of treaties include;

1. Overview and in-depth discussion of an area of law
2. Analysis and commentary
3. Citations to primary sources
4. May be one volume or multivolume
5. May be hardbound or loose-leaf

There are as well factors to consider in choosing the best treatises

1. Coverage
2. Organization
3. Currency
4. Accuracy
5. Reputation of book
6. Reputation of author
7. Reputation of publisher
8. LAW JOURNALS

Law review or law journal articles are another great secondary source for legal research, valuable for the depth in which they analyze and critique legal topics, as well as their extensive references to other sources, including primary sources. Law reviews are scholarly publications, usually edited by law students in conjunction with faculty members. They contain both lengthy articles and shorter essays by professors and lawyers, as well as comments, notes, or developments in the law written by students. Law reviews articles often focus on new or emerging areas of law and they can offer more critical commentary than a legal encyclopedia or ALR entry. Some law reviews are dedicated to a particular topic, such as gender and the law or environmental law, and will include in their contents the proceedings of a wide range of panels and symposia on timely legal issues. Law review and law journal articles are lengthy, scholarly articles written by experts in the field on a variety of legal topics.

Characteristics of law journals include;

1. Written by experts in the field
2. Very detailed analysis of particular issues in law
3. Contain many references to expand research
4. Not regularly citied in legal arguments (although that is not always true, especially when a new legal argument is being presented)
5. LEGAL PERIODICALS

Legal periodical articles are in depth discussions of narrow areas of law and legal issues. Articles in academic journals tend to revolve around very theoretical and cutting-edge legal issues. Articles in practitioner oriented journals tend to be more practical. Periodical articles can be very good law finders; they tend to have a great many footnotes with a lot of legal citations. Occasionally, legal periodical articles can be useful for explaining the law, but often they are too theoretical for that. When using an index database such as a legal periodical index or a library or a library catalog, a good strategy is to identify a book or article that looks relevant, notice the subjects or descriptors assigned to the item by the indexer or cataloger and run a new search based on the subjects or descriptors found. To use a full text tool to find periodical articles, a user has to construct an online search and the online search and the online search will return articles that contain the particular language that the user chose.

1. RESTATEMENTS

The restatements were developed by legal scholars initially to restate the law, and currently to describe what the law should be. In either case, restatements are very persuasive although they are not very good at describing the law. They can serve as adequate law finders. There are restatements for many areas of law: but not all. They cover broad topics; such as contracts or property. They are organized into chapters, titles and sections. Sections contain a concisely stated rule of law, comments to clarify the rule, hypothetical examples, explanation of purpose, as well as exceptions to the rule. Restatements are not primary law. Online, they can be searched in full text; in print you would use the library catalog to identify the relevant restatement and then the restatement’s own index to find the relevant sections.

CONCLUSION

The distinction between primary and secondary sources of law is very useful in determining authorities to follow in the law courts. If a case is brought before a court and one party uses a primary source of law as his authority while the other makes use of secondary sources, the scale of justice would tilt in favor of the person who presents primary sources of law.

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