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QUESTION: DISCUSS SECONDARY SOURCES OF LAW IN NIGERIA.SECONDARY

SOURCES OF LAW

INTRODUCTION:

We can classify the sources of Nigerian law into two aspects namely, primary sources and secondary sources, but now we’re going to concentrate on the secondary sources of law. The secondary sources of Nigerian law comprise of law reports, textbooks, legal periodicals, law digests, legal dictionaries and newspapers, among others. We must quickly point out here that only the primary sources could have binding force on a court of law in Nigeria whereas the mentioned secondary sources can merely serve persuasive purposes, and are usually relied upon where no primary source is available or applicable.[[1]](#footnote-1) Secondary sources are background resources that explain, interpret and analyze. Secondary sources are a good way to start research and often have citations to primary sources. There exists a plethora of other sources of Nigerian law, these are mainly in documentary form, they are important because it is in book form that written laws are stated. Some of these sources are law reports, textbooks, periodicals, journals, law digests and law dictionaries. We shall attempt to discuss them below;

**SECONDARY SOURCES OF LAW**

**DEFINITION**

A form of INTERMEDIATION, Secondary Sources analyze, explain, summarize, or comment on the law.[[2]](#footnote-2) These materials do not have the force of law, but instead provide helpful information to legal researchers. These sources are persuasive. Secondary Sources help legal researchers understand an area of law, and provide citations to relevant primary sources.

Secondary Sources can help you prepare for class and study for exams. Having trouble with a case? Look it up in a citator to see if there are any journal articles that will help you to understand it. Or look in the Table of Cases at the back of a hornbook (treatise) to find out more. Does your lecturer like policy arguments? Look for a law review article on the topic to find ideas.

With this, we can see how important that secondary sources are relevant and reliable. Some think that primary sources are more relevant than secondary sources, but if we look at all these reasons and more reasons to come, we would see that secondary sources are very much relevant as well as primary sources.

Apart from the various primary sources already discussed, there exists a plethora of other sources of Nigerian law. These are mainly in documentary form. They are important because it is in book form that written laws are stated. Some of these sources are law reports, textbooks, periodicals, journals, law digests and law dictionaries. We shall attempt to discuss these in turn.

Law reports or reporters are series of books that contain judicial opinions from a selection of case law decided by courts. When a particular judicial opinion is referenced, the law report series in which the opinion is printed will determine the case citation format.[[3]](#footnote-3)

Law Reports Law reports as well as an efficient law reporting system are essential for a smooth system of judicial administration. This is because in any nation where the principle of judicial precedent is operational, like Nigeria, it is only by reference to reported cases that courts and lawyers would be able to ascertain the position of law in their areas of, jurisdiction. The oldest species of law reports are the Year Books (1282-1537). They are regarded as the most comprehensive reports but are criticized to have been mere notes taken by students and practitioners of law for educational or professional purposes. The first form of law reports in Nigeria was the Nigerian Law Reports which emerged in 1916 but today they have become extinct. One regrettable trend in the law reporting system in Nigeria is the lack of sustainability. This has been the experience with most government and private initiatives in this regard.

In Nigeria today, we have quite a number of law reports in circulation, among which are the following. (i) Nigerian Weekly Law Reports (NWLR) published since 1985; (ii) Supreme Court of Nigeria Judgments (SCNJ); (iii) Law Reports of the Courts of Nigeria (LRCN); (iv) All Nigerian Law Reports (All NLR); and (v) Federation Weekly Law Report (FWRL)

These and many others, are also serving as sources of Nigerian law.

Law Textbooks and Treatises A textbook or treatise written by learned scholars and jurists, constitute a very important source of Nigerian law. It is the same experience in virtually all legal systems. Classical authors of outstanding textbooks on the English law include Braxton; Coke and Blackstone. Others like Dicey; Cheshire; Hood Phillips; Wade have continued to emerge over the years. In Nigeria, legal textbooks of reputable standards have been written by Obilade; Nwogwugwu; Okonkwo; Kodilinye; Aguda among many others. Professor Sagay has written extensively on international law. All these present a potent source of Nigerian law and can be authority where there is scanty or absence of judicial decisions, in which situation they could be of persuasive authorities. Where such works are cited, the weight to be attached to them will depend on the personality of the author and the Significance of the subject Covered.

Periodicals, Journals and Legal Digest These are produced in various forms and colours in Nigeria. Some are professional while some are academic, and yet some are a mixture of both. For instance, in Nigeria, there exist learned journals published by different law faculties as well as private law publishers. Digests are equally available for example, the Digest of Supreme Court Cases. Digests are abridgements of cases, that is, they are useful summaries of the facts, issues, arguments and decisions in judicial proceedings. Some foreign legal dictionaries are also available in Nigeria. Some of these are Jowitt’s Dictionary of English Law, Stroud’s Judicial Dictionary, etc. All the above provide helpful guidance in interpreting Nigerian law.

When a lawyer is confronted with a legal problem, it may be difﬁcult if not impossible for him to fully analyse the facts and determine all the applicable laws immediately. He has to undertake a careful study of the facts and law in order to decide the course of action to take and verify his conclusion through a process called research. The word ‘research’ is used in this context to mean the use of library materials to seek recorded information on a particular legal problem in order to authoritatively determine the rights duties and liabilities of the parties. King George III is reputed to have said that lawyers do not know much more law than other people, but they know better where to find it.

What Is Legal Research? Research is a careful and detailed study of a subject in order to know all about it. In other words, it is a careful and detailed study of a subject in order to discover all the information about it. Thus legal research is the careful and detailed study of facts and law in order to achieve a desired legal result. For instance, in order to find applicable laws, principles, rules, case law, facts, arguments, ideas, the writings of other jurists or persons or to discover any useful information that will help to achieve a desired legal point or purpose.

Why Research? Law is not static. Rather, it is dynamic and developing. It is a lawyer’s task to determine through the proper use of source materials in the library, what the current rules are on a given subject. When a lawyer is researching, he is certainly looking for something that will throw more light on a certain legal problem in order to enable him determine the position of his client vis-a-vis the law. Based on his research findings, a lawyer may persuade the court to adopt his own reasoning or interpretation. If our laws were perfect, there may probably be no need for research. Research is essential for the continuous development of the law towards the achievement of its objectives. A lawyer through a diligent research and advocacy can persuade the court to adopt a new position and even reverse its prior decision(s). This is why continuous study is necessity for all the members of the legal profession. Research also takes us to the primary source of legal materials. A law student who wants to become a lawyer and not merely pass law examinations (which is not the same thing) must learn to use the primary source of legal materials.

Research is an important part of legal education. It is the lifeline of legal education and practice. The reasons why any person or a lawyer needs to carry out research, examine, or investigate anything or laws are numerous. These include the need: 1. To refresh memory and remain sound in knowledge of the law, or legal issue 2. To know all the facts, and information about a thing, law, subject or situation 3. To keep pace with the speed and growth of law in a dynamic world that is ever changing and advancing in terms of new innovations, developments, relationships, activities, facts and law 4. To find applicable statutes or laws 5. To discover applicable case law or judicial precedents 6. To know and rightly or legally decide the rights and duties of parties in a dispute 7. To know the rights and duties, strengths and weaknesses of a case of a client 8. To discover the works, writings, propositions and opinion of other jurist and persons 9. To discover or test new ideas 10. To improve one’s argument and advocacy. 11. To identify gaps and push for reform 12. To have legal materials and authorities to persuade court to agree with one’s reasoning, interpretation and prayers 13. To have materials to continually reform and develop the law 14. To pass professional examinations, interviews, and meet the needs of clients and the challenges in the legal profession 15. To develop and improve legal capacity 16. To render better services in legal practice and profession in whatever capacity a lawyer is serving 17. To develop and improve his legal skills and capacity generally 18. To improve on existing knowledge.

The Library When most people think of a library, they think of books alone; but a Library contains much more than books. A library is a storehouse of information. It is a room or building where books and other records and information are kept for reading and borrowing. There are basically two types of libraries; the physical library and the E-library. Just as the items in a store come in various forms, so does the information in a library. It can be in printed forms as in books, or periodicals or other printed materials, but it can also be in electronic form, in the form of films, recordings, video and sound tapes or almost any format. Our discussion here will however be limited to printed materials. Since law is multidisciplinary in nature, our discussion of printed materials will however not be limited to legal materials.

The library is to a lawyer what the laboratory is to a scientist. A law student should therefore supplement his lecture notes with textbooks of local and foreign authors, statutes, case law materials, journals, articles and other relevant materials. Glanville emphasis the crucial role of law reports and statutes in his advice to all students of law as follows: “The great disadvantage of confining oneself to textbooks and lecture notes is that it means taking all one’s law at second hand. The law is contained in statutes and judicial decisions what the text writer thinks is not, in itself, law. He may have misinterpreted the authorities and the reader who goes to them goes to the fountain head. Besides familiarising himself with the law reports and statute books, the lawyer-to-be should get to know his way about the library as a whole together with its apparatus of catalogues and books of reference.”

The Role of the Librarian A good legal practitioner spends a surprising amount of time in a law library looking up the law on a particular point. Here, the importance of the librarian as a very important research source can never be over-emphasis. The librarian is an official who works in a library. He takes care of the books and other resources in the library for public use. He supervises the library activities, ensuring that relevant books and information are stocked. He ensures proper shelving of library books and materials and their safety. He assists users with information on how to use the library by answering their quick reference questions. The law librarian is constantly looked upon as a specialist in giving information on what sources are relevant on specific subjects. It is an added advantage if a law librarian is legally trained. Once a researcher has a competent law librarian as aid, his work of researching is simplified in that once the subject area of his research has been identified, he can wait for the librarian to assemble both primary and secondary sources of law materials for his use. Unfortunately, librarians of the type described above are not common in many of our libraries in the country. The researcher, apart from the assistance from a good librarian must himself have a good knowledge of how to use the library effectively. Identification of books Most books are identified by at least six elements viz: (i) the cover; (ii) the author’s name; (iii) the publisher; (iv) the title; (v) the place of publication; and (vi) the date of publication.

Apart from (i) information about all the other elements are written on the title page, which is the first important printed page of the book. When a researcher is looking for relevant books in the Library, there are many ways he can go about it. One way is to browse around the shelf with the hope of getting some relevant books. This may take him a great deal of time if ever he is able to find any. Books are not arranged by the colours of their covers or sizes. Rather, they are arranged in a logical way, which enables a researcher to locate relevant books with minimum problem in good time. Most of the books have at least one thing in common. They do have a subject. That is, they are written to explain or illustrate something. In libraries, books are arranged according to a classification system. In a classification system, all books on the same subject are placed together in the same shelf, section or reading room. The two commonest classification systems are the Library of Congress classification and the Dewey Decimal Classification. A. quick way to find out which of the classification a library uses is to pull any of the books from the shelf and check how the call mark (the identification number) on the book is written. If the call mark begins with a letter such as K108.7 it is the library of congress classification. If the call mark begins with numbers such as 642.13 it is the Dewey Decimal System. The basic difference between the two is that one uses letters to classify books into major subject classes (the Library of Congress) while the other uses number (the Dewey Decimal). Most libraries in Nigeria are using the Library of Congress Classiﬁcation hence our discussion will be limited to this classification.

Under the Library of Congress Classification, all the books on the same subject are placed together. Under letters of the alphabets, 21 are used to indicate broad subject areas of classes viz:

(1) General works A (2) Philosophy B (3) History (General) C (4) History (Old World) D (5) American History (General) E (6) American History (Local) F (7) Geography G (8) Social Science H (9) Political Science J (10) Law K (11) Education L (12) Music M (13) Fine art N (14) Language and Literature P (15) Science Q (16) Medicine R (17) Agriculture S

(18) Technology T (19) Military Science U (20) Naval Science V (21) Bibliography Z Tracing a Particular Book Each book on the shelf is given a call number. The call number identifies a book the same way a fingerprint identifies a person. No two books in a library have the same call number. The call number of a book consists of the letter(s) representing the broad subject area (or sub-topic) of the book and a series of numbers and letters that further identify the book. Let us assume that a book written by John Cyprian has as the call number, B358C57. B tells us that the book is on the subject of philosophy of religion, is the unique book number, which identifies that particular book. B Identifies the broad subject area in this case Philosophy. 358 further identifies the subject e.g. meta-physics or ethics. C is the ﬁrst letter of the author’s last name. 57 is a number which further identiﬁes the author. After a book has been given a call number, it is placed on the shelf first alphabetically by the broad subject area letter and numerically by the subject’s numbers, then alphabetically and numerically again by the author’s letter and number. A book with the call No. B200A18 would be shelved before B200C57. In looking up a particular book on the shelf, one has to use common sense. If you are looking for a book with call No. K 146 or 62, after locating the K shelf where books written by authors whose last name begin with K are shelved, if you have seen a book with K146 or 62 you do not have to check the book one by one again. It should now be apparent that to find any book in the library, you need only know its call number. You then trace it on the shelves alphabetically by the first letter in the call number and numerically by the remaining numbers and letters.

How to Find Library Materials Using the Catalogue We have said that one of the ways a researcher can go about his research is to browse around the shelves looking for the books he needs. May be he will find them and maybe he will not. This may take a great deal of time and very often he may not have a great deal of time to spare. Here is where the library catalogue helps him. The catalogue tells a researcher about all the books in the library. The catalogue becomes even more important with libraries that have closed stacks (i.e. where students are not allowed to go directly to the catalogue books). Even where the stacks are open and may be used by anyone, the library catalogue offers the best approach. While it is true that a browse sees all the books on the shelf, he may miss those that have been borrowed, those waiting to be reserved or perhaps those on the reserve. The catalogue is usually located near the entrance to the library or any other conspicuous place where it may be freely accessed.

Library catalogues come in several forms. There are book catalogues produced from computer printout. The catalogues may be in micro-film or microﬁche. The most common form, though, is the card catalogue. The information is printed or typed on 3”x5” card which are filed alphabetically in trays in a central cabinet. Regardless of its form, all library catalogues have one thing in common in the sense that materials may be located in them by knowing the author, the title or the subject. In a card catalogue, there will be one card for the author (the author’s entry), one card for the title entry and at least one card for the subject (subject entry) - all for the same book. Literary works are often an exception. They are not entered in the library catalogue under their subjects. If you know the author of the book you want but you are not sure of the title, you should check the author’s entry. Subject entries on its part tell what books a library has on a subject. The author’s entry is however the main entry. It has all the information found on the title page such as the author’s complete name and the full title, the publisher’s name and address, place and year of publication. You can see that finding the author’s entry is really like seeing the title page of the book. But that is not all that the author’s entry does for you. It is called the main entry because it describes the other elements of the book such as how many pages it has and whether it is part of a series of books. Finally, it tells you that the book has subject entry, a joint-author entry and title entry in the library catalogue. For the above reasons, the author’s main entry is to be preferred where the researcher knows the author’s name it is therefore advisable for a student to familiarize himself with the various academic writers on different subjects.

Kinds of Books in a Law Library There are many kinds of materials or books or information that are available in an ideal law library. They include the following.

Statutes Nigeria is a Federation presently consisting of a Federal Capital Territory and thirty-six states. Each of the States has its own separate system of law and court. The Federal Capital Territory and the Federal Government also have their own separate systems. Hence we have the Laws of Kano State; Laws of Lagos State; Laws of the Federal Capital Territory; and Laws of the Federation. Before the further fragmentation of Nigeria into splinter States, there were laws of the Western Nigeria, Northern Nigeria; Eastern Nigeria etc. If for instance, a lawyer is applying for the bail of an accused in a State High Court, the application will be brought pursuant to the provisions of the law of that state. Also, if a motorist commits a traffic offence on a federal high way, he will be prosecuted under the law of the state. The fact that each state has its own law makes it possible for there to be some differences between the states laws. For instance, the limit of the jurisdiction of the Chief Magistrate Court in Osun State has been recently increased to N30,000.00, while it is N 7,000.00 or 945,000.00 in some other States. This is why it is advisable for a lawyer to consult the relevant laws of other states outside the jurisdiction of his state anytime the need arises and check whether there is any dichotomy in the applicable laws. The Federal Government and the State Governments usually publish copies of each of their own Acts or Laws respectively. Sometimes, the Ministry of Justice may co-ordinate a comprehensive review and publication of all the existing Acts or Laws. One of such compilation was done in 1990 at the federal level when the 1990 Laws of the Federation were compiled. All the existing Federal statutes and the delegated legislation with amendments in Nigeria up till 1990 have now been consolidated in the Laws of the Federation of Nigeria, 1990.

Law Reports A modern law report gives the name of the case, its date, the court and the judges who sat in it, a headnote, an outline of the facts, the name of counsel, sometimes a summary of their argument and always a verbatim copy of the judgement. A case is usually cited by mentioning the names of the parties, the year or month of the case, the volume and the name of the law report and the page where the case is reported. Before we consider the list of law reports in Nigeria, it may be useful to know a little of the history of some foreign law reports. The history of the law reports falls into three main periods: the period of the ‘Yearbooks’, the period of private reporting and the modern period. The Year Books were originally written in AngloFrench (the court language of the middle ages) and they cover the period from 1283-1535. In the real sense of the word, law reporting commenced with ‘Private’ reporting with individuals like Sir James Dyer who started his reports in 1537. He was a Chief Justice of the Court of Common Pleas. By the end of the eighteenth century, this mode of law reporting almost approximated the relevancy and accuracy of reports of the modern era. The most outstanding of them were the ones authored by Sir Edward Coke between 1572-1616 and are to this day accorded the distinction of being referred to as the “The Reports” by reason of their author’s unrivalled eminence. Sir George Burrow’s Reports (1756-1772) are also held in high esteem. The present reports in the United Kingdom include: (i) Appeal cases covering the House of Lords and Judicial Committee of the Privy Council cited as A.C,; (ii) Reports of the Divisions: Queen’s Bench Division(Q.B.); (iii) Chancery Division cited as (Ch) and formerly the Probate, Divorce and Admiralty Division cited as (Fain); (iv) Court of Appeal cases are not reported in Appeal cases but in the reports of the Division from which the case came; (v) Weekly Law Reports cited as W.L.R. This started as Counsel published Weekly Notes (W.N.) in 1866 which contained summary reports of recent cases before it was elevated to a law report in 1953; (vi) The All England Law Reports which commenced in (1936) and cited mostly as All ER. or. A.E.R. (vii) The Times Law Reports (1884-1952).

In addition, there are specialist reports such as the Industrial Court Reports (I.C.R), Tax Cases (T.C) and Reports of Restrictive Practices Cases (R.P.). Commercial firms also produce specialist reports such as Lloyd’s List Law Reports now cited as Lloyd’s Rep; and Criminal Appeal Reports cited as Cr. App. R.

Periodicals

Apart from textbooks, another secondary source of material is the periodical, perhaps better known as the journal. One good reason why one needs a periodical is that there may not be any book on the area that one is researching into. A topic or aspect of knowledge can be so recent that no book has been written on it. Even where there are books, periodicals differ from books in the following ways: (i) It usually appears at intervals: weekly, monthly, bi-monthly, quarterly, bi-annual etc. Whereas the author of a book discusses his subject in one complete issue or edition. (ii) Its articles are briefer than books and one can get to the essential facts quicker. (iii) It contains articles written by different writers.

There are two basic types of law journals. The first is the general law journal, with articles on different fields of law. The second type is the specialized journal that is devoted to a particular aspect of law such as business law, property law, taxation, banking etc.

Examples of Nigerian Law Journals are: (i) Nigerian Current Law Review; (ii) Nigerian Law Journal; (iii) Journal of Islamic and Comparative Law; (iv) Nigerian Journal of Private and Property Law; (v) Gravitas Review of Business and Property; (vi) Justice; and (vii) Modern Practice Journal of Finance and Investment Law.

Most Faculties of Law in the country also have journals, which may be general or specialized. It is also useful to mention a few foreign journals such as the:

(i) Cambridge Law Journal (ii) Harvard Law Review (iii) Oxford Journal of Legal Studies (iv) Yale Law Journal (v) British Tax Review (vi) American Bar Journal (vii) Michigan Law Review

The pertinent question now is how can a researcher locate a particular periodical. The first thing is to locate and get to the journal section of the law library. One of the Options is to start picking the journal one by one with the hope of finding something “on your subject. This takes a lot of time and may prove futile. Another option is by using the citation. Journals are normally cited using abbreviations and are arranged according to the year and volume. Where the citation of a particular article contained in a journal is not known or one is even ignorant of the existence of such an article and other articles on the subject, the best approach in such a situation is to use a periodical index. The periodical index performs much the same functions for periodical articles as the library catalogue does for books. The index gives a list of all existing published articles in various Journals containing the subject of his interest and trace the different authors in alphabetical order. All you have to do is flip to the page containing the subject of your interest and trace the particular article and note the citation.

Reference Books There are times when a researcher requires brief and concise information such as meaning of a word, date of events, quotation, location of places etc. Such information can be quickly looked up in a reference book without reading a book from cover to cover. Reference books differ from regular books.

**CONCLUSION**

In conclusion,Secondary Sources of Law, the essence to is to assist the budding law student and lawyer to identify how and where to locate information on which law applies or what the position of the law is in relation to any legal problem that may confront him. In other words, the expression “sources of Nigerian law” refers to the materials through which a legal practitioner or a court or judge would find reliable authorities for a particular legal question. So with all this and with some reference to other sources, I hope I have been able to shed more light on the Secondary Sources Of Law.

1. [LEGAL METHOD II, EDO UNIVERSITY IYAMHO] Source Materials, Legal Research, Legal Writing, Approaches in Essay Writing [↑](#footnote-ref-1)
2. www.NYCLAW.com [↑](#footnote-ref-2)
3. www.WIKIPEDIA.com [↑](#footnote-ref-3)