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QUESTION

DISCUSS SECONDARY SOURCES OF LAW IN NIGERIA. TIMES NEW ROMAN, FRONT 12, JUSTIFY YOUR WORK.

SECONDARY SOURCES OF LAW

A good place to start most research projects is within a secondary source. A secondary source is not the law. It is a commentary on the law. It can be used for three different purposes: to educate you about the law, it might direct you to the primary law and it might serve as persuasive authority. Few sources do all three jobs well. The most important classes of legal secondary sources include: treaties, periodical articles, legal encyclopedias, ALR Annotations, Restatements, and looseleaf services. They are regarded as background resources. They explain, interpret and analyze. They are a good way to start research and often have citations to primary sources through footnotes and annotations. They may restate the law but they also discuss and describe it well. They are used to locate primary sources of law, define legal words and phrases or help in legal research, also provide helpful introductions to legal subjects, synopses of decisions, statues, and regulations in a given field and analyses of trends and historical background of law.

Secondary sources of law are the sources of law that do not carry a dominant legal weight and binding effect. The legal authorities contained 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 persuasive legal authority or effect and are therefore, not binding on any court of law. This source of law can be useful in court of law or resorted to where the court finds the opinion or fact underlying the authority contained therein. They can also be referred to in court if it supports the authorities of the primary sources.

Secondary law is created by ministers (or other bodies) under powers given to them by an Act of Parliament. It is used to fill in the details of Acts (primary legislation). These details provide practical measures that enable the law to be enforced and operate in daily life. Secondary sources of Nigerian law are the indirect ways through which we get our law. Secondary sources of Nigerian law are of persuasive authority in the law courts. They are mainly in documentary form. They are important because it is in book form that written laws are stated. Law reports are only authoritative due to the fact that they serve as the vehicle through which judicial precedent is carried. The important classes of legal secondary sources include: Law reports, treaties, law texts and books, periodical articles, legal encyclopedias, ALR Annotations, restatements and looseleaf services.

1. **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 precedents is optional, 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 1881 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: Nigerian Weekly Law Reports (NWLR) published since 1985; Supreme Court of Nigeria Judgements (SCNJ), Law Reports of the Courts of Nigeria (LRCN), All Nigerian Law Reports (All NLR) and Federation Weekly Law Reports etc. These, and many others, also serves as sources of Nigerian Law.

1. **TREATIES**

In this context, legal treaties are single or multi-volume works dedicated to the examination of an area of law. Treaties tend to be very good at describing the law, they are good law finders, and many of classic treaties are persuasive. Treaties tend to provide an in-depth discussion of a particular area of law and will provide the researcher with references to a few cases and statues. Treaties range from single volume overviews to extensively detailed multi-volume sets. They may come in form of bound books updated with pocket parts or looseleafs with easily replaced pages. Some treaties are intended for law students while others are meant for practicing lawyers. **The Legal Information Buyer’s Guide and Reference Manual** describes the important legal treaties in several areas of law. To identify and locate a legal treatise, use a library catalog like MORRIS (searching by topic and handbook, topic and nutshell).

1. **LAW TEXTS AND BOOKS**

A textbook 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 Bracton; Coke and Blackstone. Others like Dicey; Cheshire; Hood Philips; Wade have continued to emerge over the years. In Nigeria, legal textbooks of reputable standards have been written by Obilade, Nwogwuwgu, 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 authorized 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.

1. **LEGAL PERIODICALS**

Are articles in-depth discussions of narrow areas of the law and legal issues. Articles in academic journals tend to revolve around very theoretical and cutting-edge legal issues. Periodical articles can be very good law finders; they tend to have a great many footnotes with a lot of legal citations. Some articles by eminent scholars can be persuasive. Occasionally, legal periodical articles can be useful for explaining the law, but often they are too theoretical for that. The major American Legal Periodical indexes are the Index to Legal Periodicals, also on Lexis and Westlaw and Legal Trac. In addition to the two major north American periodical indexes described above, there are many indexes devoted to article on particular topics. When using an index database such as a legal periodical index or a library catalog, a good strategy is to identify a book or article that looks relevant, notice the subject or descriptors assigned to the item by the indexer or cataloger and run a new search based on the subject or descriptors found. In general, full-text sources are not very good tools for finding periodical articles on a particular topic. However, there are several databases that include full-text legal periodical articles; **Lexis and Westlaw** contain the full text of articles from many law reviews from roughly the past decade**. Hein online** contains the full text of legal periodical articles, a user has to construct an online search and the online search will return articles that contain the particular language that the user chose. An index, on the other hand, will get a user articles that an editor has decided are about the topic selected.

1. **LEGAL ENCYCLOPEDIAS**

Are immense sets of books that briefly describe all of the main legal issues for a particular jurisdiction. An encyclopedia can provide a basic introduction to an area of law and will later provide the user with some case and statutory citations. Legal encyclopedias will not delve deeply into an area, nor will they discuss the finer points of an area of law. Legal encyclopedias are available online and in print. Many states also have legal encyclopedias, which is available in print or online. The two National Encyclopedias is American Jurisprudence and Corpus Juris Secundum.

* AMERICAN JURISPRUDENCE 2d (AmJur): This link provides access to the Table of Contents for AmJur using Westlaw. Print volumes are located at KF 154.A42. Topical Indexes are located in the last volume of every topic.
* CORPUS JURIS SECUNDUM (CJS): This link provides access to the Westlaw. Print volumes are located at KF 154.C56. These are indexes for each major topic.

1. **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 an admixture 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 dictionaries are also available in Nigeria. some of these are Jowitt’s Dictionary of English Law, Stround’s Judicial Dictionary, etc. All the above provide helpful guidance in interpreting Nigerian Law.

1. **ALR (AMERICAN LAW REPORTS)**

ALR provides topical annotations that focus on relatively narrow areas of law, but discuss it in some depth. They provide a good basic grounding in law, as well as serve as good case finding tools. ALR is available in print and on Lexis and also on Westlaw. Annotations can be identified in print by using the ALR Index to Annotations and online via online searches. Some ALR tends to be very descriptive. So it can be useful to limit your search to the title field. In addition, the second section of an ALR annotations generally covers related annotations. This is often worth examining. The ALR in print is located in the Langdell Reading Room beginning at KF 132. The ALR Index is located at KF 132.2.153.

* ALR on Westlaw: This link provides access to the ALR by subject. From there, click on any title of interest or use the search bar to search for additional terms (or consult the index).
* ALR on Lexis: Contains the full text of the annotations included in the Second, Third, Fourth, Fifth, Sixth, Federal and Federal Second Series. Because Westlaw publishes the ALR, their version is the most complete, but users who prefer Lexis can rely on this version.

1. **RESTATEMENTS**

The restatements were developed by legal scholars initially to restate the law, and currently to describe what the law should be. They are highly regarded distillations of common law. 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: not all. Restatements 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. They are not primary law. Due to the prestige of the ALI (American Law Institute) and its painstaking drafting process, however, they are considered persuasive authority by many courts. The ALI’s aim is to distill the “black letter law” from cases to indicate trends in common law, and occasionally to recommend what a rule of law should be. The most heavily cited Restatements are the Restatements of Torts and Restatement of Contracts. The ALI Web Site contains information regarding Restatements projects, ALI membership, history and institutional processes. The restatements are available on Lexis and Westlaw and in print. 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 sources.

1. **LOOSELEAF**

Looseleaf services bring together all of the law on a particular topic. Looseleaf services don’t exist for all areas of law, but when they do exist, they can be an invaluable resource. They are rarely cited except when they serve as a case reporter. However, for a researcher, they bring together in one place the code, administrative regulations, court decisions, administrative decisions, citators, finding aids, commentaries, forms, etc. looseleaf services are moving online. To identify a relevant looseleaf service, whether in print or online, use the Legal Looseleafs in print or a directory search in Lexis or Westlaw.

Legal researchers are encouraged to begin with secondary sources such as law reviews or treatises, which are likely to lead to specific primary law such as statutory references or case citations. Primary law citations can then lead the researcher to additional primary law, or even back to additional helpful secondary materials. Secondary sources often explain legal principles more thoroughly than a single case or statue, so using them can help you save time. Secondary sources can help you save time. Secondary sources also help you avoid unnecessary research, since you are tapping into work that someone else has already done on an issue. Secondary sources are particularly useful for: learning the basics of a particular area of law, understanding key terms of art in an area and identifying essential cases and statues.