NAME: NKEMJIKA DELIGHT PERFECTA

COURSE CODE: LAW 102

COURSE TITTLE: INTRODUCTION TO LEGAL METHOD II

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LECTURER: MISS OMOMEN

**ASSIGNMENT:**

Discuss the secondary sources of law in Nigeria

**THE SOURCES OF NIGERIAN LAW ARE AS FOLLOWS:**

* The constitution
* Legislations
* Customary law
* English law
* Judicial precedence
* International law

**The Constitution:**

The Nigerian Constitution is a Federal one. A federal constitution is one which provides for division of powers between the constituents of the Federal Government.

The Nigerian Constitution is supreme. Constitutional supremacy relates to the supremacy of authority of the constitution over other laws. **Section 1(1)[[1]](#footnote-1)** provides, “this Constitution and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria”. In addition to this, **Section 1(3)** provides, “if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail and that other law shall to the extent of the inconsistency be void. The current Constitution is the 1999 Constitution. It came into operations on 29th May, 1999.

**By virtue of section 13(2)(b)**, the security and welfare of the people is the primary purpose of the government. **Sections 15-21** set out the various ways in ensuring that this purpose is fulfilled without violating the fundamental rights of the citizens which are set out in **Chapter 4 of the Constitution.**

 These rights include, the right to life, right to dignity of persons, right to personal liberty, right to fair hearing, right to private and family life, right to freedom of thought, conscience and religion, right to freedom of expression and the press, right to peaceful assembly and association, right to freedom of movement, right to freedom from discrimination and the right to acquire and own immovable property anywhere in Nigeria.

**Legislation:**

The Constitution regulates the distribution of legislative business between the National Assembly which has power to make laws for the Federation and the House of Assembly of each state of the federation.

The current legislation in force at the Federal level is largely contained in the **Laws of the Federation of Nigeria 2004 (LFN)**. Laws made subsequently are found in the annual volumes of the laws of the FRN. Federal laws enacted under the military regime known as Decrees and state laws known as Edicts form the bulk of primary legislations.

**English Law:**

This consists of:

The received English Law comprising of the following, the common law, the doctrine of equity, statutes of general application in force in England on **January 1, 1900**, Statutes and subsidiary legislation on specified matters, and

English law (statutes) made before **1st October, 1960** and extending to Nigeria which are not yet repealed. Laws made by the local colonial legislature are treated as part of the Nigerian legislation.

Despite the influence of English law, the Nigerian legal system is very complex because of legal pluralism.

Legal pluralism is the existence of multiple legal systems within one geographic area. It occurs when different laws govern different groups within a country or where, to an extent, the legal systems of the indigenous population have been given some recognition. Legal pluralism is prevalent in former colonies, where the law of a former colonial authority may exist alongside traditional legal systems. This is evident in the Nigerian Legal system where the customary law exists side by side with the inherited English Legal System.

**Customary Law:**

This emanated from the usage and practices of the people. The traditional classification of customary law is into the following categories:

Customary / Non – Muslim: is the indigenous law that applies to the members of the different ethnic groups. Nigeria is made up of several ethnic groups each with its own variety of customary law. Ethnic Customary law is unwritten, uncertain and difficult to ascertain. Ethnic Customary law is enforced in customary courts. These courts are at the lowest rung of the hierarchy of courts and in most cases are presided over by non- legally trained personnel.

Muslim Law / Sharia: In the Northern part of the country, Muslim/ Islamic law, where it exists, is integrated into and has always been treated as an aspect of the customary law. Islamic law has however been in use in the Northern part of the country since **1959**. Islamic/Sharia/Muslim Law is written with clearly defined and articulated principles. It is based on the Islamic religion and was introduced in Nigeria as a consequence of a successful process of Islamization. It is based on the Holy Koran and the teachings of the Prophet Mohammad. The Muslim laws, also known as the Sharia are found in the Holy Koran and the Hadith (teachings of the Prophet Mohammad).

**Judicial Precedent:**

This is “an earlier happening, decision, etc, taken as an example or rule for what comes up later. The doctrine of precedent is founded on the objective of law that ensures that like cases are decided alike. The operation of the doctrine is tied to the hierarchy of the courts. A court is bound by the decisions of any court above it in the hierarchy and usually by a court of co-ordinate or equivalent jurisdiction. The Supreme Court is the highest court of the land. The Court of Appeal is the penultimate court to entertain appeals from the High Courts, which are the trial courts of general jurisdiction. The Court of Appeal and all lower courts are bound by the decision of the Supreme Court.

The judicial precedent does not apply to certain courts like the customary/area courts and the sharia courts.

The Federal and State courts are not in two parallel lines. It is only to a limited extent that it may be asserted that each state has its own legal system.

**International Law:**

Nigeria is a member of the United Nations, the Commonwealth of Nations, African Union and many others.

Although Nigeria is a signatory to various international conventions and covenants, these are not enforceable in Nigeria unless they areenacted into law by the National Assembly.

However, it is important to note that international law is not a primary source of law in Nigeria.

1. 1999 constitution as amended [↑](#footnote-ref-1)