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QUESTION

Discuss secondary sources of law in Nigeria. Times New Roman, font 12, justify your work.

 SECONDARY SOURCES OF LAW

Apart from the various primary sources of law, there are other sources of law called the secondary sources. A good place to start most research projects is with a secondary source. Secondary sources are important because it is mainly in documentary form and it is in book form that written laws are stated. A secondary source is not the law; it is commentary on the law. Secondary sources can be used for various purposes: to educate about the law, to direct to the primary law or to serve as persuasive authority. Few sources do all three jobs very well. Some of these sources are law reports, textbooks, periodicals, journals, law digests, law dictionaries, treaties, legal encyclopedias, ALR annotations, restatements and loose-leaf services.

* Law Reports:

Law reports as well as an efficient law reporting system is 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 should be able to ascertain the position of law in their area of jurisdiction. The oldest species of law reports are the Year Books (1282-1537). They are regarded as the most comprehensive reports that are not 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 initiative in this regard.

In Nigeria today, we have quite a number of 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.

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

* Law Textbooks and Treaties:

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 amongst 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 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. 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 the classic treaties are persuasive. Treaties tend to provide an in-depth discussion of a particular area of law and will provide researchers with references to a few cases and statutes.

* 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 existed 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. Legal periodical articles are in-depth discussions of narrow areas of the law and legal issues. Articles in practitioner-oriented journals tend to be more practical. Periodical articles can be very good law finders; they tend to have many footnotes with a lot of legal citations. Some articles by eminent scholars can be persuasive. Occasionally, legal periodical articles can be used 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 catalogue, a good strategy is to identify a book or article that looks relevant, notice the subjects or cataloger and run a new search based on the subjects or descriptors found. In general, full-text sources are not very good tools to use for finding periodical articles on a particular topic. To use a full-text tool to find 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 chooses. An index on the other hand, will get a user articles that an editor has decided are about the topic selected.

* Legal Encyclopedias:

Legal encyclopedias are immense set 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 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.

* ALR:

ALR provides topical annotations that focus on relatively narrow areas of the law, but discuss it in some depths. They provide a good basic grounding in law, as well as serve as good case finding tools. Annotations can be identified in print by using the ALR index to Annotations and online via online searches. ALR titles tend to be very descriptive and so can be useful to limit your search to the title field. Also, the second section of an ALR annotation generally covers related annotations and is often worth examining.

* 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 the law but not all. Online, they can be searched in full-text; in print, you would use library catalogue to identify the relevant restatement and then the restatements own index to find relevant sections.

* Loose-leaf Services:

Loose-leaf services bring together all the law on a particular topic. Loose-leaf services do not exist for all areas of the 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, citations, finding aids, commentaries, forms, etc.