

LAW 101
LEGAL METHOD
MATRIC NO: 18/SMS13/002

SOURCES OF LAW

The source of law means the origin from which the system derives its validity, be it the electorate, a special body, the general will or the will of a dictator. It also means the historical origin of a rule of law. Statutes books, law reports and textbooks are sources of law in any legal system.

SECONDARY SOURCES OF LAW

Secondary sources of law in Nigeria are:

- 1 Legal journals
- 2 Interviews, periodicals and newspaper
- 3 Foreign materials (treaties and conventions)
- 4 Dictionaries
- 5 Theses, Dissertations and technical reports
- 6 Legal textbooks and monographs
- 7 Government publications

1. LEGAL JOURNALS

Legal journals are the most current sources of law because of their frequency of publications, some being monthly, quarterly, half-yearly or bi-annual. They contain scholarly articles, commentaries, notes and comments on current legal problems.

In most cases, some of the contents of legal textbooks might have been published or serialized in journals earlier on. Legal journals that are of general nature may contain articles reflecting various subject background and topical issues in law.

Like the law reports, legal periodicals may be broadly categorized into foreign and local titles. Periodicals oftentimes contain book reviews, seminars, and roundtable and conference announcements. Some of the standard foreign law journals as secondary source of law include, the Cambridge law journal; (C.L.J.), Harvard Law Journal (H.L.J.), Yale Law Journal (Y.L.J), Harvard law review (H.L.R).

Remarkable advancement has been recorded in the area of local periodicals publishing. Some typical examples of academic and professional local journals as secondary source of law include the Nigerian Law Journal (N.L.J), The Nigerian Journal of Contemporary Law (N.Y.C.L).

2. INTERVIEWS, PERIODICALS AND NEWSPAPERS

Interviews granted by legal writers and jurists can also serve as a secondary source of law. This is because these legal luminaries are regarded as “authorities” and therefore their speeches or legal letters written by them are persuasive and form secondary source of law. Law libraries subscribe to newspapers and magazines not for the mere purpose of general reading. A deliberate effort is usually made by the law librarian to cut feature articles and notable news items and clip them neatly for storage. Such materials are thus arranged under broad subject headings in alphabetical sequence for easy retrieval. Newspaper and magazine clippings provide the most accessible current sources of research materials and therefore form secondary source of law.

Articles in newspapers often cover wide areas of subject matters spanning every conceivable field of human endeavor.

The only major snag about newspaper clippings as source of law is that the facts contained in a particular report or write-up may need to be further clarified or verified possibly from the writer or the maker for authenticity. This is not saying that newspaper articles and reports are not dependable as sources of law. This fact notwithstanding, newspapers are veritable sources of quick information on topical issues, which would take some time to be covered by authoritative textbooks.

3. FOREIGN MATERIAL

Foreign materials as secondary source of law are those materials published outside the jurisdiction of Nigeria. They include treaties and conventions. These treaties and conventions consist of the various international agreements and understandings concluded by countries amongst themselves. Where the law-making bodies of the subscribing nations have ratified such treaties and conventions, they become binding. They serve as useful source of law especially in the areas of international law. Typical examples of treaties include Nigeria's treaties in force, 1971; consolidated treaty series, 1920 – 1946 and the United Nations Treaty Series 1946. These are all vital sources of international laws.

Other foreign materials include the following: Law Quarterly Review, (L.Q.R), Current Legal Problems (C.L.P), International and Comparative Law Quarterly (I.C.L.Q); Modern Law Review, (M.L.R), Criminal Law Review (C.L.R), The Journal of African Law (J.A.L) and the African Journal of International Law (A.J.I.L.).

Digests also serve as foreign source of law. Digests are summaries of cases judicially considered. They differ from law reports in that they are mere paraphrasing of cases in very concise and understandable forms. Encyclopedias and precedent books are also foreign sources of law. The Encyclopedia Britannica and Encyclopedia America cover wide subject areas of law, jurisprudence and legal theory, legal Biography etc. They therefore provide valuable secondary sources of law.

Precedent books contain samples of works done by legal authors for others to follow. Precedent books include the Butter worth's Encyclopedia of forms and precedents (5th Edition) which covers extensive areas of solicitor's work and the Atkin's court forms which deals with the forms, contents and procedure in civil matters. There are also standard compendia, which are of immense source of law. An example is the American Juris Secundum, which is an encyclopedic digest of American cases and statutes.

4. DICTIONARIES

Dictionaries are indispensable sources of law. To this end, the law library keeps some Standard English Language Dictionaries and lexicons. These include, among others, the Oxford English Dictionary, chambers English Dictionary and Webster's International English Dictionary. Such dictionaries help not only in verifying the meanings of words and phrase, they also assist in the use of appropriate style, construction and framing of legal sentences to elucidate some precision, conciseness, simplicity, and unity all of which are salient hallmarks of any source of law.

Legal dictionaries may either be exclusively in English or bi-lingual. Examples of Standard English language legal dictionaries include Black's Law dictionary and Stroud's judicial Dictionary. There also exists some specialized dictionaries concerning specific subject areas as well as other topical issues –Bi- lingual legal dictionaries are most helpful for deciphering certain words or phrases especially Latin or French, which have been unavoidably used in a passage. Most of such words have Roman and Anglo – saxon origins and have become part of today's legal writing to drive home certain principles and legal

maxims. Examples of bi-lingual dictionaries may include English-French, English – Italian, English- Latin and English – Arabic Dictionaries.

(5) THESES DISSERTATIONS AND TECHNICAL REPORTS

These are written research reports and authoritative pontifications in the area of law. They essentially have the characteristics of originality being the outcome of spirited research endeavors. These are listings and implications of such materials in aid of legal research. The lists are helpful in the preliminary aspects of legal research especially in literature searches and reviews, thereby forming secondary sources of law.

(6) LEGAL TEXTBOOKS AND MONOGRAPHS

These constitute the bulk of the stock of a law library and can therefore be regarded as the most authoritative secondary sources of law. Legal textbooks consist of scholarly views, opinions, commentaries and authoritative expositions in certain subject area. Some legal series have become household names in academic and professional legal parlance. An example is the common law library series made up of standard and quite authoritative legal textbooks. Other notable modern legal text writers include Lord Denning in the general aspects of law and practice. Schwazenberg in the field of International Law, Street and Jolowicz on torts, Cheshire and Fife foot on contracts, Roscoe pound, Hart and Fuller on Jurisprudence and legal theory, Margery and Wade on property.

Apart from citations in various academic papers, the opinions and views of some of the legal textbooks writers have been referred to with approval in the court proceedings, for instance, authoritative texts like Johnson's history of the Yoruba's, Coker's family property among the Yoruba's, obi's Ibo land law and Ajayi's History of west Africa have had to be cited in order to get to the root of certain prevailing customary practices in some societies.

(7) GOVERNMENT PUBLICATIONS

Government documents have assumed great importance as source of law owing to the fact that they emanate directly from government sources, they are always considered to be very authoritative. For instance, any information contain in the Gazette are deemed to have been issued by authority and as such deemed to be authentic. Official publications include books, pamphlets, posters and pictorial items issued by the government printer. Such materials also consist of laws, regulations, directives, notices, decrees, edicts, bye – laws and important announcement relating to the state as contained in the gazette or an extra ordinary publication.

These Government publications are usually in various forms like gazette, reports of commissions of inquiries, white papers, reports of special tribunals, as constitutional bodies, as the Constituent Assembly, parliamentary publications including the "Hansard" and some other personalities in government.