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Legal Method 102

## SECONDARY SOURCES OF NIGERIAN LAW

Majorly, there are five sources of Nigerian law which are the primary sources, however, there are also secondary sources of the Nigerian law. The secondary sources serve persuasive purpose, and are usually relied upon where no primary source is available or applicable. secondary sources include footnotes and annotations that can lead you directly to relevant cases, legal databases include mechanisms for linking sources by topic, known as headnotes (Lexis) and key numbers (Westlaw). Examples of secondary sources of the Nigerian law include:

## 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.

Law reporting is essential for the growth of case law system. There have been private government imitative in this direction. The Nigerian weekly law report (NWLR) by chief Gani Fawehinmi and the All Nigerian Law Report by the federal ministry of justice among others are some of the well compiled and edited series.

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)

## TEXTBOOKS

Law textbooks are written by learned scholars and jurists and 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 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, has 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.

Finally, on points of law, especially where such points have not been previously decided in the court or where the position of the law on the point is not clear, court may turn to textbooks by notable authors for assistance and guidance. But their books are merely persuasive. The Evidence Act specifically provides as regards customary laws that any book or manuscript recognised by natives as a legal authority is relevant. Especially books written by seasoned legal icons.

## Legal encyclopaedias:

Legal encyclopaedias contain brief, broad summaries of legal topics, providing introductions to legal topics and explaining relevant terms of art. They also provide citations to relevant primary law and sometimes give citations to relevant major law review articles. A legal encyclopaedia is a comprehensive set of brief articles on legal topics. It is arranged similarly to a general encyclopaedia, such as Encyclopaedia Britannica, with topical articles arranged in alphabetical order and an index in the final volume(s). The two most popular general legal encyclopaedias are American Jurisprudence, 2d (Am. Jur.) and Corpus Juris Secundum (C.J.S.). In addition, there are numerous state legal encyclopaedias, as well as encyclopaedias with a narrower focus, such as American Jurisprudence Trials.

Encyclopaedia articles can be a good starting place if you are researching an unfamiliar area of law. They provide more in-depth information than a legal dictionary, while being nearly as accessible and easy to use. Encyclopaedias also include citations to cases and other useful materials on a particular issue. Legal encyclopaedias, however, are not intended to be used as authoritative sources on the law in any area, and thus are never cited in briefs, memoranda, or scholarly papers.

### Treatises:

Treatises range from single volume overviews to extensively detailed multi-volume sets. They may come in the form of bound books updated with pocket parts or loose-leaf with easily replaced pages. Some treatises are intended for law students while others are meant for practicing lawyers. A treatise focuses on a single area of law and is written by experts in that area. Practitioners rely heavily on treatises for the detailed coverage and practical tips they contain. Its content includes thorough explanation of the law at issue along with citations to relevant cases, statutes, regulations, and other secondary sources.

### Law reviews:

Law review or journal articles are another great secondary source for legal research, valuable for the depth in which they analyse and critique legal topics, as well as their extensive references to other sources, including primary sources. Law reviews are scholarly publications, usually edited by law students in conjunction with faculty members. They contain both lengthy articles and shorter essays by professors and lawyers, as well as comments, notes, or developments in the law written by students. Law review articles often focus on new or emerging areas of law and they can offer more critical commentary than a legal encyclopaedia or ALR entry. Some law reviews are dedicated to a particular topic, such as gender and the law or environmental law, and will include in their contents the proceedings of a wide range of panels and symposia on timely legal issues.

### Restatements:

Restatements are highly regarded distillations of common law. They are prepared by the American Law Institute (ALI), a prestigious organization comprising judges, professors, and lawyers. The ALI's aim is to distil the "black letter law" from cases to indicate trends in common law, and occasionally to recommend what a rule of law should be. In essence, they restate existing common law into a series of principles or rules.

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.

Restatements are not primary law. Due to the prestige of the ALI and its painstaking drafting process, however, they are considered persuasive authority by many courts. The most heavily cited Restatements are the Restatement of Torts and the Restatement of Contracts.

The ALI web site contains information regarding Restatement projects, ALI membership, history and institutional processes.

### 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.

Legal periodicals contain articles about emerging areas of law and are written by professors, practitioners, judges and law students commonly used legal periodicals include law reviews, law journals, and bar journals. Legal periodicals are often the first secondary source to cover new and emerging areas of law and to highlight developments and changes in the existing law.

Legal digests are abridgements of cases, that is, they are useful summaries of the facts, issues, arguments and decisions in judicial proceedings. A digest is essentially an index to a case law; it takes the headnotes that summarize the points of law discussed in each case and organizes them by subject. e.g. state digests which includes the decisions of that state's courts as well as federal court cases that originated in that state, the Digest of Supreme Court Cases. Some foreign legal dictionaries are also available in Nigeria. Some of these are Jowitt's Dictionary of English Law, Stroud's Judicial Dictionary, etc.

Other examples of secondary sources of Nigerian law according to Beredugo includes:

- (a) decisions of courts of foreign countries
- (b) International conventions, treaties, and resolutions of international bodies;
- (c) Statements or opinions of jurists and learned authors contained in law textbooks, journal, periodicals, dictionaries, letters, speeches, and interviews;
- (d) legal opinions contained in nullified judgement

