

NAME: CHISOM OKWUCHI AMARACHI

LEVEL: 100

COURSE: LAW102

MATRIC NUMBER: 19/LAW01/053

COLLEGE: LAW

Question

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

SECONDARY SOURCES OF LAW IN NIGERIA

A secondary source is not the law. It's a commentary on the law. A secondary source can be used for three different purposes: it might educate you about the law, it might direct you to the primary law, or it might serve as persuasive authority. Secondary sources of law are not authoritative but rather they are persuasive in nature. They are not binding on the court but they can be used to persuade the court to give judgment in their favour. It is of the courts discretion to accept or reject them. Secondary sources assist the researcher in firstly, explaining and understanding the law and secondly, locating the law. Secondary sources are scholarly materials written by legal experts. Secondary sources often explain legal principles more thoroughly than a single case or statute. They provide a good overview of the law and the text or footnotes can refer to relevant legislation or case law. Secondary sources are useful for putting the law into context, and often will lead a researcher to relevant legislation and cases.

Secondary sources of law furnish information or are derived from the primary sources of law through examination, critique of the primary sources and discussions bothering on the primary sources. They explain, interpret and analyse the primary sources of law. Secondary sources of law are background resources; they come in both print and electronic format. Secondary sources are a good way to start research and often have citations to primary sources.

Secondary sources of law include:

Textbooks and treatises

Law digests

Legal dictionaries

Periodicals and journals

Law reports

Newspapers and commentaries

Legal encyclopaedias

Law reviews/ journal articles

1. Textbooks and treatises

They can be ordinary, specialized or general textbooks. Textbooks are very important source of law. Textbooks summarize single specific legal topics. 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, courts 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 recognized by natives as a legal authority is relevant, especially books written by seasoned legal icons. When works in textbooks are cited, the weight attached to them will depend on the personality of the author and the significance of the subject covered. In Nigeria, legal textbooks of reputable standards have been written by Akintunde Olusegun Obilade, E. I. Nwogwugwu, T Akintola Aguda, Gilbert Kodilinye and many others. Classical authors of outstanding textbooks on English law include

Bracton, Coke and Blackstone and so on. All these are potent sources of Nigerian law and can be authority where there is scanty or absence of judicial decisions.

Treaties are commentaries on a single area of law written by legal scholars and practitioners. They are formally concluded and ratified opinions between states. They offer a comprehensive coverage of a single area of law, they give extensive analysis, provide explanation, and tips on the most relevant primary sources. Treatises include textbooks and cover broader subject areas. Legal treatises are publications that present a highly-organized and detailed explanation of a specific area of law (for example, contract, tort, criminal, or property law). They often clarify significant concepts in the area of the law covered by the treatise and provide citations to pertinent cases and other primary materials. Treatises range from single volume overviews to extensively detailed multi-volume sets. They may come in the form of bound books updated by the use of supplements or pocket parts or loose leafs with easily replaced pages. Some treatises are intended for law students while others are meant for practicing lawyers.

Textbooks and treaties both provide authoritative and thorough treatment of the subject area, and are useful to those unfamiliar with a subject area. In addition to a summary of and commentary on the law they will include tables of content, tables of cases and subject indexes. In addition to print versions of the texts and treatises some are also available in electronic format. These will be searchable by subject, keyword, title, or author. Once you have located some preliminary information in texts or treatises you will have known some of the expressions or concepts that you will need to continue further with your research.

2. Law digests

Digests are abridgements of cases, which means, they're useful summaries of the facts, issues, arguments and decisions in judicial proceedings. For example, the Digest of Supreme Court Cases.

3. Law dictionaries

Legal dictionaries provide definitions of words in their legal sense or use. These publications provide a short definition of foreign and Latin legal words and phrases, refer to cases and other legal sources for authority, and may give examples of word usage in various legal situations. They also include tables defining legal abbreviations and acronyms.

The law has its own specific vocabulary, definitions for which can be located through legal dictionaries. Also, when doing your research, do not take it for granted that common terms and expressions have the same meaning in law as they do in everyday life. Often these words or phrases have been defined or interpreted by judges in the courts. These interpretations can be found in dictionaries of words and phrases. Some foreign dictionaries are available in Nigeria and they provide helpful guidance for interpreting Nigerian law. They include: Black's Law Dictionary, Barron's Law Dictionary, Jowitt's Dictionary of English Law, Stroud's Judicial Dictionary, and Oran's Dictionary of the Law.

4. Periodicals and journals:

They are writings or articles written by legal scholars with their various analysis criticisms and assessments of the primary sources. These provide in-depth research on current or developing areas of the law. The articles generally contain substantial citations to primary and secondary sources on the topic, which may lead you to additional information on the subject. Some are professional while some are academic; some are a mixture of both. For example, you can find an article titled “A critical examination of the fundamental right provision constitution of Nigeria”. In Nigeria, there exist learned journals published by different law faculties as well as private law publishers. When an issue with no precedent comes on, a lawyer is free to cite some of the journal matters before the law.

Legal journals and periodicals are collections of legal articles which can be found through full-text databases, periodical indexes or a federated search engine like. They tend to be more current than books as they are published more frequently. They include extensive referencing and footnotes and in some situations, can be influential or persuasive in court.

Legal periodicals are very helpful in locating cases and statutes in a particular subject area. Periodicals are also an excellent method of locating current information. Subjects that are new or too specialized to be covered in books can often be found in periodicals. Articles in periodicals describe, analyze, and comment on the current state of the law. There are numerous types of legal periodicals available, including law school journals and law reviews, bar association journals, legal newspapers, and legal newsletters.

5. Law reports

A law report is a compilation of the judgments of other courts; such judgments may cover a broad area like constitutional law, administrative law etc., and issues bothering on arbitration, banking, and bail. They are essential for a smooth system of judicial administration and are published periodically. In a country 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). The first form of law reports in Nigeria was the Nigerian Law Reports which emerged in 1881. The most commonly referred to law report in Nigeria is Nigerian Weekly Law Report (NWLR), Nigerian Law Report (NLR).

In Nigeria, law reports include the decisions of:

The supreme court of Nigeria

The court of appeal

The high court of any tribunal or court however so designated whether existing or already abolished like the West African Court of Appeal (WACA)

The law reports that have been published over the years in Nigeria include the following:

Nigeria Weekly Law Reports published since 1985

Federation Weekly Law Report

Supreme Court of Nigeria Law Report

Western Region of Nigerian Law Report

Federal Nigerian Law Report

Nigerian Banking Law Report

Nigerian Commercial Law Cases Nigerian Constitutional Law Reports

Nigerian Labour Law Reports

Nigerian Monthly Law Reports

Nigerian Oil and Gas Cases

Nigerian Revenue Law Reports

Nigerian Shipping Cases

Northern Region of Nigeria Law Reports

Quarterly Law Reports of Nigeria

Sharia Law reports of Nigeria

Selected Judgments of the West African Court of Appeal (WACA)

Supreme Court of Nigeria Judgments Supreme Court Monthly

6. Newspapers

Newspapers are also a source of Nigerian law, they can be legal newspapers or general newspapers.

Legal Newspapers: Newspapers/magazines are valuable source of both background information and recent legal developments. It helps identify current legal issues and trends. It include information about the legal community and recent cases.

General Newspapers: Vanguard, The Punch, The Guardian, The Sun, New Telegraph, Daily Champion, This Day, Independent Nigeria, National Mirror etc.

7. Legal Encyclopedias

A legal encyclopedia is a comprehensive set of brief articles on of the main legal issues for a particular jurisdiction. It is arranged in alphabetical order by topics and divided into sub-topics, with an index generally included in the final volume. Legal encyclopedias are a great place to start your research on a new topic or researching unfamiliar areas of law since they offer a general introduction to a legal topic, and often include citations to cases and additional materials. They offer broad and general commentary on a full range of federal and state law. Legal encyclopedias will not delve deeply into an area, nor will they discuss the finer points of an area of law. Most of the articles in encyclopedias focus on case law and do not contain extensive citations to statutes or other secondary sources. They contain footnotes to primary authority (cases and statutes). Legal encyclopedias are available online and in print.

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.

8. Law reviews/ journal articles

They are used for legal research, valuable for the depth in which they analyze and critique legal topics, as well as their extensive references to other sources, including primary sources.

Law reviews are scholarly publications, which are usually edited. They contain both lengthy articles and shorter essays by professors and lawyers, as well as comments, notes, or developments in the law.

Law review articles often focus on new or emerging areas of law and they can offer more critical commentary than a legal encyclopaedia.

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. It generally contains an introductory overview of the law (summary of the relevant law and literature). It has full footnotes with references to primary and secondary authority.