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TOPIC: SECONDARY SOURCES OF LAW

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 The secondary sources of Nigerian law are the indirect ways through which we get our law. Save for law reports, secondary sources of Nigerian law are of persuasive authority in the law courts. Law reports are only authoritative due to the fact that they serve as the vehicle through which judicial precedent is carried. Examples of secondary sources of law are:

1. Law Reports
2. Text Books and Treatises
3. Periodicals, Journals, and Legal Digests
4. Casebooks
5. Legal Dictionaries
6. Newspapers
7. Restatements

The distinction between primary and secondary sources of law is very useful in determining authorities to follow in the law courts. If a case is brought before a court and one party uses a primary source of law as his authority while the other makes use of secondary sources, the scale of justice would tilt in favour of the person who presents primary sources of law.

Secondary sources of law are only made use of whenever there are no primary sources of law to fall back on.

**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. 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)

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

 **Law Textbooks and Treatises**

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 among many 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 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.

A **legal treatise** is a scholarly [legal publication](https://en.wikipedia.org/wiki/Legal_publication) containing all the law relating to a particular area, such as [criminal law](https://en.wikipedia.org/wiki/Criminal_law) or [trusts and estates](https://en.wikipedia.org/wiki/Trusts_and_estates). There is no fixed usage on what books qualify as a "legal treatise", with the term being used broadly to define books written for practicing [attorneys](https://en.wikipedia.org/wiki/Lawyer) and [judges](https://en.wikipedia.org/wiki/Judge), textbooks for law students, and explanatory texts for laypersons.[[1]](https://en.wikipedia.org/wiki/Legal_treatise#cite_note-Walker-1) The treatise may generally be loose leaf bound with rings or posts so that updates to laws covered by the treatise and annotated by the editor may be added by the subscriber to the legal treatise.

Legal treatises are [secondary authority](https://en.wikipedia.org/wiki/Secondary_authority), and can serve as a useful starting point for [legal research](https://en.wikipedia.org/wiki/Legal_research), particularly when the researcher lacks familiarity with a particular area of law. [Lawyers](https://en.wikipedia.org/wiki/Lawyers) commonly use legal treatises in order to review the law and update their knowledge of pertinent [primary authority](https://en.wikipedia.org/wiki/Primary_authority) namely, [case law](https://en.wikipedia.org/wiki/Case_law), [statutes](https://en.wikipedia.org/wiki/Statute), and [administrative regulations](https://en.wikipedia.org/wiki/Regulation).

In [law schools](https://en.wikipedia.org/wiki/Law_school), treatises are sometimes used as additional study materials, as treatises often cover legal subjects at a higher level of detail than most [casebooks](https://en.wikipedia.org/wiki/Casebook) do. Certain treatises, called [hornbooks](https://en.wikipedia.org/wiki/Hornbook), are used by American law students as supplements to casebooks. Hornbooks are usually one volume – sometimes a briefer version of a longer, multi-volume treatise written by a recognized legal scholar.

**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. 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.

Digest is an index of legal propositions showing which cases support each proposition. It can also be a collection of summaries of reported cases, arranged by subject and subdivided by jurisdiction and court. The main purpose of a digest is to make the contents of reports available and to separate, from the great mass of case law, those cases bearing on some specific point. The American Digest System covers the decisions of all American courts of last resort, state and federal, from 1658 to present.

In Civil law digest refers to a compilation and systematic statement of the various areas of law, chiefly, the Pandects of Justinian in 50 books, known as the Digest. This is also referred to as digesta.

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. An issue that is too new to appear in an encyclopedia or treatise is often discussed heavily in the trade press or scholarly journals. In addition to providing an in-depth discussion on the legal issue, a law review or journal article also will provide citations to significant, and often recent, primary and secondary sources.

A periodical index collects information about individual articles that appear in journals, newsletters, and magazines. That information is arranged alphabetically by title, author, and subject. Some indices also include tables that list articles by statute or case name. Well-known online legal periodical indices include the [Index to Legal Periodicals and Books](http://proxygt-law.wrlc.org/login?url=http://web.a.ebscohost.com/ehost/search/advanced?sid=4bc33ab4-16c6-4386-9fbf-60bc2dbc1d34%40sessionmgr4002&vid=0&hid=4112), [LegalTrac](http://proxygt-law.wrlc.org/login?url=http://go.galegroup.com/ps/start.do?p=LT&u=gtown_law&authCount=1), [Current Index to Legal Periodicals](http://proxygt-law.wrlc.org/login?url=http://cilp.nellco.org/), [Index to Foreign Legal Periodicals](http://proxygt-law.wrlc.org/login?url=http://www.heinonline.org/HOL/Index?collection=iflp).

A legal journal is a scholarly or academic publication presenting commentary of emerging or topical developments in the law, and often specializing in a particular area of the law or legal information specific to a jurisdiction.

Examples of Legal journals are:

* [*American Journal of International Law*](https://en.wikipedia.org/wiki/American_Journal_of_International_Law)
* [*American Journal of Trial Advocacy*](https://en.wikipedia.org/wiki/American_Journal_of_Trial_Advocacy)
* [*Berkeley Journal of International Law*](https://en.wikipedia.org/wiki/Berkeley_Journal_of_International_Law)
* [*Chicago Journal of International Law*](https://en.wikipedia.org/wiki/Chicago_Journal_of_International_Law)
* [*Connecticut Journal of International Law*](https://en.wikipedia.org/wiki/Connecticut_Journal_of_International_Law)
* [*Cornell International Law Journal*](https://en.wikipedia.org/wiki/Cornell_International_Law_Journal)
* [*European Journal of International Law*](https://en.wikipedia.org/wiki/European_Journal_of_International_Law)
* [*Florida Journal of International Law*](https://en.wikipedia.org/wiki/Florida_Journal_of_International_Law)
* [*The George Washington International Law Review*](https://en.wikipedia.org/wiki/The_George_Washington_International_Law_Review)
* [*Harvard International Law Journal*](https://en.wikipedia.org/wiki/Harvard_International_Law_Journal)
* [*Indian Journal of International Law*](https://en.wikipedia.org/wiki/Indian_Journal_of_International_Law)
* [*International Journal of Transitional Justice*](https://en.wikipedia.org/wiki/International_Journal_of_Transitional_Justice)
* [*Journal of International Law and International Relations*](https://en.wikipedia.org/wiki/Journal_of_International_Law_and_International_Relations)
* [*Melbourne Journal of International Law*](https://en.wikipedia.org/wiki/Melbourne_Journal_of_International_Law)
* [*Minnesota Journal of International Law*](https://en.wikipedia.org/wiki/Minnesota_Journal_of_International_Law)
* [*New York University Journal of International Law and Politics*](https://en.wikipedia.org/wiki/New_York_University_Journal_of_International_Law_and_Politics)
* [*North Carolina Journal of International Law and Commercial Regulation*](https://en.wikipedia.org/wiki/North_Carolina_Journal_of_International_Law_and_Commercial_Regulation)
* [*Oxford University Commonwealth Law Journal*](https://en.wikipedia.org/wiki/Oxford_University_Commonwealth_Law_Journal)
* [*Suffolk Transnational Law Review*](https://en.wikipedia.org/wiki/Suffolk_Transnational_Law_Review)
* [*Texas International Law Journal*](https://en.wikipedia.org/wiki/Texas_International_Law_Journal)
* [*Tulane Journal of International and Comparative Law*](https://en.wikipedia.org/wiki/Tulane_Journal_of_International_and_Comparative_Law)
* [*Utrecht Journal of International and European Law*](https://en.wikipedia.org/wiki/Utrecht_Journal_of_International_and_European_Law)
* [*Virginia Journal of International Law*](https://en.wikipedia.org/wiki/Virginia_Journal_of_International_Law)
* [*Washington International Law Journal*](https://en.wikipedia.org/wiki/Washington_International_Law_Journal)
* [*The Yale Journal of International Law*](https://en.wikipedia.org/wiki/The_Yale_Journal_of_International_Law)

## Africa

* [*African Human Rights Law Journal*](https://en.wikipedia.org/wiki/African_Human_Rights_Law_Journal)
* [*African Journal of Legal Studies*](https://en.wikipedia.org/wiki/African_Journal_of_Legal_Studies)
* [*Comparative and International Law Journal of Southern Africa*](https://en.wikipedia.org/wiki/Comparative_and_International_Law_Journal_of_Southern_Africa)
* [*South African Law Journal*](https://en.wikipedia.org/wiki/South_African_Law_Journal)

**Casebooks**

A **casebook** is a type of [textbook](https://en.wikipedia.org/wiki/Textbook) used primarily by students in [law schools](https://en.wikipedia.org/wiki/Law_school).Rather than simply laying out the [legal doctrine](https://en.wikipedia.org/wiki/Legal_doctrine) in a particular area of study, a casebook contains excerpts from [legal cases](https://en.wikipedia.org/wiki/Legal_case) in which the law of that area was applied. It is then up to the student to analyze the language of the case in order to determine what rule was applied and how the [court](https://en.wikipedia.org/wiki/Court) applied it.[[1]](https://en.wikipedia.org/wiki/Casebook#cite_note-ah83-1) Casebooks sometimes also contain excerpts from [law review](https://en.wikipedia.org/wiki/Law_review) articles and [legal treatises](https://en.wikipedia.org/wiki/Legal_treatise), historical notes, editorial commentary, and other related materials to provide background for the cases.

The teaching style based on casebooks is known as the [casebook method](https://en.wikipedia.org/wiki/Casebook_method) and is supposed to instill in law students how to "think like a [lawyer](https://en.wikipedia.org/wiki/Lawyer)."The casebook method is most often used in law schools in countries with [common law](https://en.wikipedia.org/wiki/Common_law) [legal systems](https://en.wikipedia.org/wiki/Legal_systems_of_the_world), where [case law](https://en.wikipedia.org/wiki/Case_law) is a major [source of law](https://en.wikipedia.org/wiki/Source_of_law).

Most casebooks are authored by law [professors](https://en.wikipedia.org/wiki/Professors), usually with two, three, or four authors, at least one of whom will be a professor at the top of his or her field in the area under discussion. New editions of casebooks often retain the names of famous professors on their covers decades after those professors have died. Updating of the books, then, falls on the shoulders of a younger generation of their colleagues. Such casebooks are often known by the names of the leading professor authors, such as [Prosser](https://en.wikipedia.org/wiki/William_Prosser_%28academic%29), Wade, & Schwartz's, [*Torts*](https://en.wikipedia.org/wiki/Torts)*: Cases & Materials* (now in a 13th edition).

The leading publishers of casebooks in the United States are [Thomson West](https://en.wikipedia.org/wiki/Thomson_West) (publisher of the Foundation Press and American Casebook Series imprints), [Aspen Publishing](https://en.wikipedia.org/wiki/Aspen_Publishing), and [LexisNexis](https://en.wikipedia.org/wiki/LexisNexis). Each of these publishers uses a quickly identifiable color and pattern for their book covers across all subjects. Traditionally, the covers of casebooks come in the colors red, blue, or brown, although West's American Casebook Series has switched to faded black cloth as an environmental move.

**Restatements**

Restatements are secondary sources that seek to "restate" the legal rules that constitute the common law in a particular area.  They are written by the American Law Institute (ALI), a prestigious legal organization composed of noted professors, judges and lawyers. The ALI has completed Restatements in 15 areas of law including Torts, Contracts, Property, Conflict of Laws, Foreign Relations Law, and Products Liability.

In drafting a Restatement, the ALI divides the law analytically into hundreds of key legal issues or situations and then writes a rule of law governing that issue or situation, based on the rule preferred by the majority of states (or in some instances, the rule preferred by the drafting committee).  Each rule is given a section number and is follow by "Comments" which explain the rule and the reasons for its adoption.  Sometimes the Comments are followed by "Illustrations," which show how the rule would apply in specific fact situations.  Finally, most Restatement provisions conclude with "Reporters Notes," which give the history of the provision and cite to the authority from which the rule is derived.

Restatements are one of the most highly regarded types of secondary authority and have exerted considerable influence on the judicial process.  Many courts have adopted Restatement sections verbatim as the law of their jurisdiction.  Moreover, many law professors rely on Restatements in their courses as the definitive source of "black letter" law.

Restatements can be very useful in situations where the law in the jurisdiction you are researching is unclear or non-existent.  In such a situation, you can rely on the Restatement to provide a clearly articulated rule that is most likely the one adopted by a majority of jurisdictions.  Alternatively, where the jurisdiction whose law you are researching has adopted a Restatement section (or cited it with approval), you can use the comments and illustrations to that section to interpret and apply the legal rule.  In addition, because Restatements are heavily annotated with case citations, they can be an excellent case-finding tool.

Most of the Restatements are published in both a first and a second series.  And several Restatement topics, such as Product Liability and Foreign Relations Law, are now published in a third series.  The later series of a Restatement does not technically repeal the earlier series because some states have adopted a variety of Restatement sections from different series.  Thus, you may still need to consult an earlier series of a Restatement in order to interpret a case that has adopted a section from that Restatement.  On the other hand, if you are using the Restatement to fill a gap in the law of the jurisdiction whose law you are researching, it makes sense to consult the most recent series.

Each Restatement consists of a set of topical volumes, which contain the actual legal rules and drafters' commentary, and a set of Appendix volumes, which contain summaries of cases which have adopted or interpreted the Restatement rules.

**Legal Dictionaries**

A legal dictionary contains the definitions of legal terms taken from a variety of sources. They are the first place you should look when you do not understand what a legal term means.

The two most commonly used legal dictionaries are [Black's Law Dictionary](http://wrlc-gulaw.primo.exlibrisgroup.com/discovery/search?tab=Everything&search_scope=MyInst_and_CI&vid=01WRLC_GUNIVLAW:01WRLC_GUNIVLAW&lang=en&offset=0&query=any,contains,b1260349?) and [Ballentine's Law Dictionary](http://wrlc-gulaw.primo.exlibrisgroup.com/discovery/search?tab=Everything&search_scope=MyInst_and_CI&vid=01WRLC_GUNIVLAW:01WRLC_GUNIVLAW&lang=en&offset=0&query=any,contains,b175741?)

In addition to providing a general definition of the legal term in question, legal dictionaries may also provide references to applicable primary law and other secondary sources containing more in-depth discussions of the term. For example, the entry for the legal term of art in Black's Law Dictionary contains a definition and references two Supreme Court opinions.

**Newspapers**

Legal newspapers are officially designated publications in which citizens and governmental units advertise notices required by law.

For example, individuals and businesses filing Assumed Name Certificates at the Secretary of State's office must advertise their intention to use a name in two consecutive issues of a legal newspaper.  In addition, the law requires that notices must be placed in legal newspapers for many public hearings, opening of bids for public contracts, public land sales, corporate dissolutions, and numerous other private and government activities.

**References**

**Introduction to Legal Method by Abiola Sanni.**

[**www.djetlawyer.com**](http://www.djetlawyer.com)

**https://guides.ll.georgetown.edu/secondary/periodicals.com**