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THE SECONDARY SOURCES OF LAW IN NIGERIA

It is important to note that the term “source of law” can be interpreted in different senses. It could refer to. I). The Ultimate Origin of the Whole Body of a Legal System

II). The Historical Origin of a Rule of Law

III). The Material Containing the Rules of Law (Literary source of Law)

IV). The Origin of Authority of a Rule of Law

Before going on to the Secondary sources of law its best to state what the primary sources of law are. Primary sources of law are first and foremost those sources of law whose provisions are binding on all courts throughout Nigeria. Among this category of law includes;

1. Nigerian Legislation
2. English Laws; which consists of:

(i). Received English laws:

(a). The common law

(b). The doctrines of equity

(c). Statutes of general application in force in England on January 1, 1900

(d). Statutes and subsidiary legislation on specified matters.

(ii). English laws made before October 1, 1960 and extending to Nigeria.

1. Customary Law
2. Judicial Precedents or Case laws

On the other hand, the secondary sources of Nigerian law are the indirect ways through which we obtain our laws. Apart for law reports, secondary sources of Nigerian law are of persuasive authority in the law courts. They Include:

1. Law reports
2. Texts and Treatises
3. Periodicals, Journals and Legal digests
4. Legal dictionaries
5. Casebooks etc.

Law reports are a very important aspect of secondary sources of law. Regular law reporting started in Nigeria in 1916 with the establishment of the Nigerian law report series by the Judicial Department. Nigerian law reports are reports of cases, wherever published or edited, decided by Nigerian courts. The only cases reported in the law reports are selections from cases decided by the Supreme courts. Cases reported from inferior courts aren’t reported.

Treatises are a type of secondary authority that extensively covers one topic. They are available in print and electronic formats. The size of a treatise may vary from one single volume set to a large multi-volume set. Texts written by legal scholars that focus on one topic of the law are referred to as treatises. Treatises comment on and analyze an area of the law. They analyze the changing common law and also influence its development. While there is no clear demarcation between different types of texts, they can be grouped into several general categories. They include: Scholarly treatises, Hornbooks (written primarily for law students), Practitioners’ handbooks and manuals, Scholarly monographs and Self-help publications.

Periodicals (Legal periodicals) contain articles about emerging areas of law and are written by professors, practitioners, judges, and other law students. They are often the first secondary source of law 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. Commonly used legal periodicals include law review, law journals and bar journals.

Legal dictionaries contain the definitions of legal terms taken from a variety of sources. The two most commonly used dictionaries are **Black’s Law Dictionary** and **Ballantine’s Law Dictionary.** Alongside providing a general definition to legal terms, legal dictionaries also provide references to applicable primary law and other secondary sources of law containing more in-depth discussions of the term.

It is important to note that in many countries and legal systems, the secondary sources aren’t seen exactly as law but instead as commentary on the law. They are used for three different purposes: To educate about the law, to direct towards the primary law and to serve as a persuasive authority. They may influence a legal decision but they do not have the controlling or binding authority of the primary sources.