NAME : OINU GRACE ENE ``

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ASSIGNMENT

QUESTION: Discuss secondary sources of law in Nigeria.

ANSWER

SOURCES OF LAW

SOURCES OF NIGERIAN LAW

Legal research is concerned with finding information contained in authoritative sources of law. The sources are where the original fact, information and rule of law could be derived. The law library has a depository of numerous legal sources. The legal sources literally refer where, how and by what authority a rule of is made and becomes legally effective to regulate human conduct.

The entire sources of Nigerian law are classified into two which include, primary and secondary sources of law. Although our main concern her is on the secondary sources of law, there is needing to also have a brief knowledge about primary sources of law.

PRIMARY SOURCES OF NIGERIAN LAW

Primary sources of Nigerian law could be referred to the fundamental sources of law that have ground and binding significance. Primary sources of law constitute ground norms, precedents and binding authorities that determine the decision or judgement of the court. Primary sources of law are authoritative in nature. There are five primary sources of law identified by Beredugo (2009) and Dina, Akintayo and Ekundayo (2005) which include:

1. The Constitution

2. Nigerian Legislation

3. Nigerian Case Law or Judicial Precedent

4. Received English Law

5. Nigerian Customary Law, and Islamic Law.

SECONDARY SOURCES OF NIGERIAN LAW

Secondary sources of law are the sources of law that do not carry a dominant legal weight and binding effect. The legal authorities contained in this kind of source is diluted and persuasive which are not binding on any court of law. According to Beredugo (2009), secondary sources of law are less significant sources of law that carry barely persuasive legal authority or effect and are therefore, not binding on any court of law. Law reports are only authoritative because they serve as the vehicle through which judicial precedent is carried out. Secondary sources of law can be useful in court of law or resorted to where the court finds the opinion or fact underlying the authority contained therein. Secondary sources can also be referred to in court if it supports the authorities of the primary sources.

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, journals, periodicals, dictionaries, letters, speeches, and interviews;

(d). legal judgement contained in nullified judgements.

Secondary sources of law also include all sources that provide helpful introduction to legal subjects, synopses of decisions, statues, and regulations in a given field, analyses of trends and historical background of law, explanation of new or difficult concepts, descriptions and analysis of the law and its developments and citations to primary sources through footnotes and annotations.

EXAMPLES OF SECONDARY SOURCES OF NIGERIAN LAW

There are so many examples of secondary sources of Nigerian law, but only a few will be explained below

(1). Law Reports,

(2). Text Books and Treatises,

(3). Periodicals, Journals, and Legal Digests,

(4). Casebooks,

(5). Legal Dictionaries,

(6). Legal Encyclopedia,

(7). Restatements,

(8). Loose Leaves,

(1). LAW REPORTS OR COURT JUDGEMENTS (Supreme Court, State High Courts, Tribunals, Special Courts): There are many law reports available in Nigerian libraries and most of them, if not all, are published by individuals over the years. There is no government organ solely responsible for law reporting. The law reports are published on a commercial basis. While some are consistent with publishing on weekly, monthly and quarterly, others could no longer continue because of the high cost of production.

Law reporting is essential for the growth of case law system. There have been private, governments imitative in this direction. The law reports that have been published over the years in Nigeria include the following: All Nigeria Law Reports (All NLR) by the Federal Ministry of Justice, Nigerian Weekly Law Reports (NWLR) by Gani Fawehinmi, All Federation Weekly Law Report (All FWLR), Law Reports of Nigeria (LRN), etc.

(2). TEXTBOOKS AND TREATISES

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 text books by notable authors for assistance and guidance. But their books are merely persuasive. The Evidence Act specifically provides about customary laws that any manuscript recognized by natives as a legal authority is relevant. Especially books written Seasons legal icons. Some examples of Nigerian law textbooks are: International Contracts: Evolution and Theory by Yakubu, J. A., Constitutional Law and Military Rule in Nigeria Ibadan by Ojo, A., Company Law in Nigeria and Income Tax Law and Practice in Nigeria by Ola, C. S., etc.

Treatises provide in-depth treatment of a single subject such as contracts or constitutional law. There are often written by influential legal scholars and are well respected. There are usually treatises in every major area of the law. For instance, many are on Westlaw and Lexis. One good example of Treatises is E. Allan Farnsworth, *Farnsworth on Contracts* 3rd ed., (New York: Aspen publishers, 2004). Another example is *The Treatise on Evidence,* (New York: Aspen Law & Business, 2002).

(3). PERIODICALS, JOURNALS, ARTICLES, AND LEGAL DIGESTS

Periodicals and law review articles can be useful in obtaining an overview of an area of the law. They are helpful in finding references to primary and secondary authority (sources of law) as well as developing ideas for analyzing a question of first impression or resolving a conflict of law.

Unlike the encyclopedias which are not usually uploaded regularly, periodicals, journals, articles and legal digests provide more current information on a wide range of law subjects. An example of a Nigerian law journal is *The Relationship of Law and Morality* by B. O. Okere.

(4). CASEBOOK

A casebook is a type of textbook used primarily by students. Rather than simply laying out legal doctrines in an area of study, a casebook contains excerpts from legal cases in which the law of that area was applied. It is up to the student to analyze the language of the case to determine what rule was applied and how the court applied it. Casebooks sometimes also contain excerpts from law reviews articles and legal treatises, historical notes, editorial commentary, and other related materials to provide background for the cases. The teaching style based on casebooks is known as casebook method and is supposed to instill in law students how to “think like a lawyer”. The casebook method is most often used in law schools in countries with common law legal systems, where law is a major source of law.

Most casebooks are authored by law 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 at the area of discussion. New editions of casebooks often retain the names of famous professors on their covers decades after they have died. Updating of the books, falls on the shoulders of the younger generation of their colleagues.

An example of a casebook is *A Casebook on the Nigerian Law of Contract* by Itsejuwa Esanjumi Sagay which was originally published in 1983.

(5). LEGAL DICTIONARIES

Legal dictionaries provide definitions of words in their legal sense or use. These publications provide a short definition for foreign and Latin words. They can also be relied upon by the court when reaching a decision if necessary when there is no primary authority governing a legal question. Examples include law reviews, treatises and restatements.

Some examples of legal dictionaries are: *Black’s Law Dictionary, Prince’s Bieber Dictionary of Legal Abbreviations*, and *The Bluebook: A Uniform System of Citations*.

(6). LEGAL ENCLYCLOPEDIA

Legal encyclopedias are generally known to provide a general overview of the law on a variety of topics. They are a good introductory source if one (a researcher) knows little or nothing about an area of the law. Encyclopedia can be general in nature or cover a specific jurisdiction. Each legal encyclopedia has many volumes and has a subject index near the end of the volumes. To find encyclopedia articles by subject, look up words related to your subject matter of research in the subject index. You will then be directed to a topic and section number. Find the volume of the encyclopedias that includes the topic to which you are referred, and then look for a specific number within that topic.

There are legal encyclopedias that discuss American law in general, including federal law and the most common types of state law. These are called National Legal Encyclopedia. The two most popular ones are *American Jurisprudence* and *Corpus Juries Speculum* which give general overviews of laws in most U.S. states.

(7). RESTATEMENTS

Restatements of the law summarize in a concise manner the common law rules on a subject. They are basically what most renowned authors say. Restatements are available in print and on Westlaw and Lexis and have been published in agency, conflict of laws, contract law, etc.

An example of a restatement is *Restatement of the Law Agency* (3rd ed.), Call No. KF1345. A764 2006

(8). LOOSE LEAFS

Conventionally, a loose leaf service is published in a binder and limited to a specific topic. Loose leafs contain a wealth of information including cases, analysis of administrative decisions and legal news. Legal practitioners usually resort to loose leafs because they are so specialized and can be used to monitor a specific area of law. An example of loose leaf services is *Standard Federal Tax Reporter*, Call No. KF6285. C67

Other examples of secondary sources of law include newspapers, legal directories, words and phrases, etc.

REFERENCE

1. Nigerian Legal Methods edited by C. C. Ohuruogu, O. T. Umahi. (Chapter 8)

2. Dina, Y., Akintayo, J. and Ekundayo, F. (2005). Guide in Nigerian Legal Information. (Online available,

http//www.GUIDE%20TO%NIGERIAN%20LEGAL%20INFORMATION%20%20GLOBALex.html#\_LEGAL\_SYSTEM (March 15, 2019)

3. Meaning of primary and secondary sources of Nigerian law with example available <http://djetlawyer.com>

4. Examples of secondary sources of law <https://digitalcommons.unl.edu/libphilprac/2383>

5. Example of Nigerian law textbooks available <https://lewisraylaw.com>

6. Casebook available <https://en.m.wikipedia.org>