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Research Under Nigerian Legal System: Understanding the Sources of Law for Effective Research Activities in Law Libraries

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Abstract

The paper examines research from Nigerian Legal System's prospective and explores sources of Nigerian law as a prerequisite for effective research services in law libraries. It coherently, explains the concept of legal research, and also law library as a centre for legal research and depository of information resources. Different kinds of legal resources available in Nigerian Law libraries were identified including various research-support services in law libraries. The study adopted simple explanatory method to enhance comprehensiveness of the content.

Introduction

Legal research as a primary objective for setting up a law library reflects the synch between research, legal profession and library in a bid to actualise the very purpose of regulating human conduct, governing the society (politically, economically, socially, culturally) and adjudication of justice. This tells how important it is to have a grip understanding of the legal system of the country, sources of law and information resources containing the law in the library. With this understanding, both the librarian and researcher can make a better use of the library to achieve research objectives. Being able to research in an effective manner is an essential skill whether you are a student or in practice. The primary aim of conducting clear and methodical legal research is finding the answer to a legal question in the most time effective way and knowing that you have searched in all the relevant sources (Bodleian Libraries, University of Oxford, 2019).

Concept of Legal Research

Legal research is the systematic process of conducting enquiry by identifying and retrieving information to support or make rational legal decision. In its broadest sense, legal research includes

step by step approach of discovering the fact, evaluating of the facts and application of the fact in solving legal issues. Legal research is holistically, the process of finding an answer to a legal question or checking for legal precedent that can be cited in a brief or at trial. Black Law Dictionary defines legal research as the finding and assembling of authorities that bear on a question of Law. Sometimes, legal research can help determine whether a legal issue is a "case of first impression" that is unregulated or lacks legal precedent. Virtually every lawsuit, appeal, criminal case, and legal process in general requires some amount of legal research (Findlaw, 2019). Moreover, most legal systems rely so much on precedent — that is, decided court cases — in conjunction with statutes and common law. Meanwhile, the function of legal research typically is to find out how previous courts have decided cases with similar fact patterns.

Understanding legal research is quite a great deal of task that both the lawyers and librarians in law libraries must make a priority. Literally, legal research is concerned with finding suitable laws that answer legal queries. Researching the law means discovering or identifying the rules that govern the behaviour of man in the society. It is a prerequisite for lawyers to have firm grip on the knowledge of research if they must be successful in their profession. The reason Lawyers must have adequate knowledge of legal research is because they are often called upon to solve legal problems or give advice which require knowing the rules applicable to the different problems and how to locate them. There may be a time when a client needs the services of a lawyer in pursuit of a remedy for a bad situation, or perhaps files a court process concerning a particular outcome, which will require a lawyer to undertake research in order to find out laws that handles the matter. Perhaps, a lawyer may be asked to offer an advice to the client on a new business initiative such as registering of business name, contract agreement or buying a piece of property etc., and to handle that appropriately, the lawyer needs to know the clients' rights and responsibilities, as defined by legal rules and procedures. However, the law library provides lawyers with research assistance and information resources pertinent to their research queries. Law library houses different sources of legal rules.

Nigerian Legal System

The concept of legal system in a general terms involves a holistic legal manner, pattern and philosophy of a particular society. This includes the set of principles , rules, doctrines, concept, procedures, standards and theories of law adopted and practice by the society. The Nigerian legal system is carved out of out the English common law legal tradition by the reason of colonisation and the attendant incidence of reception of English law through the process of legal transplant (Dina, Akintayo and Ekundayo, 2005)

According to Beredugo (2009), Nigerian legal system connotes the totality of the law or legal rules and the legal machinery, which cover the constitution, political structure , government , legislature, the judiciary and the justice delivery system, the administrative agencies and even the legal profession that are extant in the country. Nigerian legal system also covers the historic perspective of the transformational legal form that evolved from pre-legal society to a plural legal system which have undertone of various distinct systems of law including the indigenous customary law, the received English law and local or municipal legislation.

To understand Nigeria's legal system, it is imperative to view through pre-colonial, colonial and post-colonial legal transitions. However, in the pre - colonial era, the ethnic nationalities that later formed Nigeria practiced native or customary laws which were used to regulate the conduct of the society and to govern the affairs of the people. By the time Nigeria was under the colonisation of Britain, English legal system was introduced the colonial powers, comprises colonial statutes , the common law and the principles of equity into the country. With this and the pre-existing customary law system, the Nigerian legal system doubled. Furthermore, at Independence from Britain in 1960, Nigeria (inherited) adopted the English legal system as part of her legal system. Post-colonial government was not left with no room of introducing additional system of law. Meanwhile, Beredugo (2009) stated that "the has from municipal legislative enactments and case law created and developed a national legal system that is anchored on Nigerian precepts of law and justice

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 particular rule of is made and becomes legally effective to regulate human conduct.

The formal sources of law includes the conclusion of the country, the statutory enactments , judicial precedents and local customs. The historic source of is concerned with the revolutionary process of any particular rule or principle of law , and includes customs, moral and religious beliefs, business practices, human development , conscience or reasoning, as well as social, economic and environmental factors or circumstances that influenced the origin of any particular rule or principle f law. The literary source of law is concerned with the written documents that contain authoritative rules or principles of law and refers specifically to opinions or statements of legal rules and principles by jurists in law textbooks, statute books, law journals, law reports, law digests, periodicals, encyclopaedias and legal letters. The entire body of law is derived and developed from these various sources (Beredugo, 2009).

The entire sources of Nigerian law is classified into two which include, primary and secondary sources.

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. That is to say, primary sources of law constitute ground norms, precedents and binding authorities that determine the decision or judgment of the court.

There are five primary sources of law identified by Beredugo (2009) and Dina, Akintayo and Ekundayo (2005) which includes:

1. The Constitution
2. Nigerian Legislation
3. Nigerian Case Law or Judicial Precedent
4. Received English Law
5. Nigerian Customary Law, and Islamic law

The Constitution

The current constitution is the 1999 Nigerian Constitution which came into operation on May 29, 1999. The Constitution has undergone through several amendments.

Nigerian Legislation

The Nigerian Legislation constitutes the Act of parliament of the National Assembly, which has power to make laws for the Federation, and the State House of Assembly for each State of the Federation. The current legislation in force at the federal level is largely contained in the Laws of the Federation of Nigeria 1990 (LFN). Laws made after the 1990 law revision exercise of the federal laws are to be found in the Annual Volumes of the Laws of the Federal Republic of Nigeria. Federal laws under the Military, known as Decrees, and state laws, known as Edicts, form the bulk the primary legislation. Most of the pre-1990 Decrees were incorporated into the LFN and those patently incompatible with the new constitutional order were repealed on the eve of the inauguration of a new democratic government in May 1999 (Dina, Akintayo and Ekundayo, 2005).

On the aspect of State House of Assembly, each of the 36 states and the Federal Capital Territory (FCT) Abuja respectively, has its own laws. Some states have in recent times made some changes in their laws and factored them in a compact and comprehensive form to facilitate easy access. Legislation has been described as the most important source of Nigerian law. This is partly

because all other sources of Nigerian law are considered as such by virtue of a piece of legislation or the other.

Nigerian Case Law or Judicial Precedents

The Supreme Court is the highest court of the land. It replaced the Judicial Committee of the Privy Council in 1963 as the final court of appeal. The Court of Appeal (originally known as the Federal Court of Appeal) was established in 1976 as a national penultimate court to entertain appeals from the High Courts, which are the trial courts of general jurisdiction. The Court of Appeal is found in 17 Judicial Divisions across the states of the Federation with Headquarters in Abuja, the Federal Capital Territory but still functions as one indivisible court (Court of Appeal Nigeria, 2015). The Court of Appeal and all lower courts (Customary, Magistrate and High Courts) are bound by the decisions of this Supreme Court. The High Courts and other courts of coordinate and subordinate jurisdiction are equally bound by the decisions of the Court of Appeal. The doctrine of judicial precedents does not apply rigidly to certain courts like the customary/area courts and the Sharia courts in Nigeria (Dina, Akintayo and Ekundayo, 2005). Nigerian Case Laws or Precedents are published in a documents known as Law Reports.

Received English Law

When heard of “ Received English law”, what erroneously comes to mind is the law converted in English. But the truth is that received English law has nothing to do with the language composition. In a nutshell, “Received English law” refers to the rules of law and legal principles that have their roots or origin in England but were adopted into Nigerian legal system to form part of Nigerian laws. The influence of colonialism resulted to adoption of received English law into Nigerian legal system upon Independence in 1960.

Components of “Received English law” include the common law, the doctrines of equity, statutes of general application in force in England on January 1, 1900, statutes and subsidiary legislation on specified matters and English law (statutes) made before October 1, 1960 and extending to Nigeria which are not yet repealed.

Laws made by the local colonial legislature are treated as part of Nigerian legislation. The failure to review most of these laws especially in the field of criminal law has occasioned the existence of what may be described as impracticable laws or legal provisions which are honoured more in breach than in observance. Despite the influence of English Law, the Nigerian legal system is very complex because of legal pluralism (Dina, Akintayo and Ekundayo, 2005).

Nigerian Customary Law

Nigerian Customary law refers to a system of law that evolved from the tradition, culture or customs of the indigenous communities of Nigeria used to regulate the conduct of the people. Customary law is the body of legal rules at the grassroots. According to Black Law Dictionary (2009), Customary law refers to law consisting of customs that are accepted as legal requirements or obligatory rules of conduct; practices and beliefs that are so vital and intrinsic a part of social and economic system that they are treated as if they were laws. In other words, customary law is characterised with legal obligations or requirement that emanated from people's norms, traditions and custom. Customary law is a system of law that reflects the social, cultural, economic, political values and belief system of the people. In Nigeria, there are two main categories of customary law. This includes,

- Ethnic Customary Law
- Islamic / Sharia Customary Law

Ethnic customary law, also refers to in the context of the study, applies to various indigenous laws of ethnic groups that make up the country. Nigeria is a heterogeneous country that have various ethnic nationalities with variant customary laws and traditions that guide the conduct of the natives and their society. Islamic law, Moslem law or Sharia law, distinct form ethnic customary law, is written. This system of law is based on the Holy Koran and the teachings of Prophet Muhammad. Its principles are religiously inclined and are clearly defined and articulated. This system of law is predominately in use in the northern parts of Nigeria and some Southern regions where Moslems are dominated.

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 contain in these kind of sources are diluted and persuasive which are not binding on any court of law. According to Beredugo (2009), secondary sources of law are less significance sources of law that carry barely persuasive legal authority or effect and are therefore , not binding on any court of law. Secondary sources 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, journal, periodicals, dictionaries, letters, speeches, and interviews;
- (d) legal opinions contained in nullified judgements.

Secondary sources of law also include all sources that provide helpful introductions to legal subjects, synopses of decisions, statutes, 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.

Law Library as a Centre for Legal Research and Depository of Legal Resources

As oxygen is a necessity for human survival so is the law library to research activities. Law library belongs to the special library category of library as it serves special research needs of lawyers in their day-to-day business of providing legal advice, assistance, representation and other services to the clients. Law library is the library that is found within the law firms, court, faculty of Law in

Universities, Law Schools, and other legal institutions to serve as a research unit that supplies research resources, legal information services and research-support assistance to the lawyers for the day-to-day legal operations.

According to Gusau (2017), a law library is the library set up to provide legal materials to assist judicial officers, other members of the court and their clients in case of the court, law scholars and students in academic institutions and other law officers in ministries, police stations and other law related bodies. In the light of the core legal research, Miyetti Law (2019) defines law library as a library that serves the research needs of legal practitioners, paralegals, researchers, academic scholars and other members of the law library.

The law library is as important as the law profession itself because “Legal profession needs information on how to determine the case, argue or represent a client before the law court, and how to pass the law examination” (Olorunfemi and Mostert, 2012). Research in law library is dynamic and engaging as the quality of legal advise and opinion dispensed is rooted to the knowledge of the sources and provisions of the law. As opined by Abubakar (2005), Law library as a laboratory to the legal profession is much more concerned with current information, its mode of access, operation, preservation , dissemination, analysis and synthesis which have a lot to offer to the legal profession in their conduct of research. However, Abubakar (2005) states that the essence of any law library is to maximise the accessibility of its resources to meet the demands of its users. The law library is very crucial in all aspect of legal profession, it encourages scholarly research by maintaining an environment conducive to study (The university of Iowa, 2019)

The heartbeat of every law library is the holdings of legal information resources containing primary and secondary sources of law in its disposal.

Information Resources in Law Libraries

Law libraries are rich with numerous materials that contain sources of law. Both the primary and secondary sources of law are predominant in the law library for research purposes. The law

library serves as a law laboratory where legal professionals resort to in search of laws or authorities without which, it is impossible to dispense right legal advice, agreement, justice, opinion and other legal transactions. Information resources in law library are in both print and electronic format which contain laws and other legal related matters. With respect to the sources of law, information resources in law library are divided into the following. categories:

- Primary Information Sources
- Secondary Information Sources

Primary Information Resources in Nigerian Law Libraries

In relation to primary sources of law discussed above, the Law library houses different kinds of primary resources which contain information that has ground and binding significance. Meanwhile, primary resources are legal information resources that constitute laws or ground norms, precedents and binding authorities that determine the decision or judgment of the court. They are regarded as primary resources because they contain primary sources of law. The materials contain first-hand legal information that has not been diluted.

Akinyemi (2017) defines primary information resources as information resources that have not been diluted, manipulated or rearranged. They are original in nature. Example of primary information resources include:

- Constitution (1999 Nigerian Constitution)
- Statutes, Acts, Decrees
- Rules, Codes, Ordinances (Federal and State Government bodies)
- Parliament Debates, bills, /Proceedings (both Upper and Lower Houses)
- Gazettes (both Federal and State Governments)
- Legal Periodicals

- Government Publications (Federal, State and Local Government)
- Institutional Papers and documents of various agencies
- Treaties
- Other documents of binding significance.
- Law Reports or Court Judgments (Supreme Court, State High Courts, Tribunals, Special Courts)

There are many law reports available in Nigerian Law 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 as a result of high cost of production.

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

Nigeria Law Report

All Federation Weekly Law Reports

All Nigeria Law Reports

Commercial Law reports

Customary law in Nigeria through the cases

Eastern Region of Nigeria Law Reports

Election Petition Reports

Failed Banks Tribunal of Nigeria Law Reports

Federal Reporter

Federation of Nigeria Law Reports

Federation Weekly Law Reports

Judgement of the Supreme Court of Nigeria

Law Reports of Nigeria

Monthly Judgments of the Supreme Court of Nigeria

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
Nigerian Supreme Court Cases
Nigerian Supreme Court Quarterly Law Reports
Nigerian Weekly Law Reports
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
Supreme Court Reports
Weekly Reports of Nigeria
Western Region of Nigeria Law Reports

Secondary Information Resources in Nigerian Law Libraries

Secondary information sources are the materials that contain information derived or extracted from the primary sources of law and have undergone diluted processes or certain alterations. Akinyemi (2017) defines secondary information sources as the information resources extracted from the primary sources after they have been manipulated, diluted and rearranged. They include:

Text books (of different practice areas and others)

Journals /Law reviews

Law digests

Court forms (e.g. Atkins Court Form)

Practice notes

Magazines

Encyclopaedias

Law dictionaries, and

Others.

Research Support-Services of the Law Libraries

Law library provides myriads of services to the patrons. Based on the purpose of this study, attention should be given to research services provided by the law libraries other than the general services of the law library. Having looked at the Nigerian legal system, the sources of law and different information resources in the library, there is need to portray the basic research services of a law library. According to Cornell University Law School (2019), The law library will help you find the information you need by helping you select and use the proper sources depending on your needs, resources, and location. However, as the general rule implies, research librarians do not perform research for the users or give legal advice but only support researchers through provision of their needed information resources that facilitate their research activities. The research services of the law library include the following:

Research and Reference

This is the kind of services provided by the library through the law librarian. The librarian handle a wide variety of research requests, ranging from those requiring a quick or ready answer to an extensive or critical analysis or examination of issues and resources. No request is too small or too large, they all required expertise and in-depth knowledge of the sources of law and in some cases,

laws itself. The university of Iowa (2019) states that reference services of a law librarian include the following: Helping patrons locate Law Library resources

- Instructing patrons in the use of library materials and electronic resources
- Suggesting appropriate resources and research strategies
- Looking up readily available information, such as legal citation verifications, addresses, or telephone numbers
- Assisting patrons with locating resources not found in the law library collection, and
- Referring patrons to other libraries or institutions for materials

Where as Law Librarians are not allowed to perform the following services as doing these is against the ethics of the progression:

1. Conduct legal research on patron's behalf
2. Interpret the law
3. Provide legal advice
4. Read statutes, cases, court rules, or definitions over the phone
5. Confirm that resources currently are on the shelf and available to use

Research Guidance / Training

Law library provides research guidance and training to the legal researchers on relevant material, help develop research strategies for different kinds of research and develop research guides. The law librarians ensure that researchers are properly guided on how to navigate various legal databases, legal e-portals and offline legal tools.

E-Resources Access Support

Another research service of a law library is assisting researchers in both accessing and using the many electronic resources. Most law libraries in Nigeria subscribed to varieties of legal databases of both

local and foreign jurisdiction including Lawpavilion, Legalpedia, Heinonline, Bloomberg, Westlaw, and LexisNexis, Practical law and so on.

Current Awareness

The law librarian gathers the research interest or areas of the researchers and notify them of new resources and services that may be of interest to you. Services offered may include notification of the changes in law or new publications notifications through emails, text messages, news feed, phone call, fax or by words of mouth, new acquisitions notices, routing of journals issues and so on.

Document Delivery

The librarian will conduct a literature search, obtain the books, articles and other materials that the researcher needs for his or her research. If such materials are not available in the Library, alternative measure might be taken to obtain the resources from another library through interlibrary loan, purchase a copy or another avenue. Once the concerned material or information is retrieved, it will be delivered to the requester either in print or electronically, according to the researchers' preference (Some libraries charge a fee for this service).

References

- Abubakar, I.A. (2005). Law Librarianship in the 21st Century: Professional Skills and Competencies. *Nigerian Current Legal Problems*, 6 (1), 81 -100
- Akinyemi, N. (2017). Judicial Library Service in Nigeria: Issues and Challenges. Paper Presented at the Biennial National Workshop for Judiciary Librarians, National Judicial Institute, Abuja on 8th-12th May, 2017.
- Black Law Dictionary (9th ed.) (2009). Dallas: Thomson Reuters.
- Bodleian Libraries, University of Oxford (2019). Legal Skills and Research: Legal Research. [Online] Available <https://ox.libguides.com/law-legalskills> (March 21, 2019)

- Cornell University Law School (2019). Research. [Online] Available <https://law.library.cornell.edu/research> (March 21, 2013)
- Court of Appeal Nigeria (2015). Court Divisions. <http://www.courtsofappeal.com.ng>. Retrieved on March 17, 2019.
- Dina, Y., Akintayo, J. & Ekundayo, F. (2005). Guide to Nigerian Legal Information. [Online] Available http://www.GUIDE%20TO%20NIGERIAN%20LEGAL%20INFORMATION%20-%20GloboLex.html#_LEGAL_SYSTEM (March 15, 2019)
- Findlaw (2019). What is Legal Research?: Thomson Reuters. [Online] Available <https://hirealawyer.findlaw.com/choosing-the-right-lawyer/legal-research.html> (March 12, 2019)
- Gusau, I.B. (2017). Paper Presented at the Biennial National Workshop for Judiciary Librarians, National Judicial Institute, Abuja on 8th-12th May, 2017.
- Miyetti Law (2019). Miyetti Law Library Bulletin.
- Olorufemi, D.Y. and Mostert, J. (2012). Information seeking behaviour of law students in a developing country: a literature review. [Online] Available <http://www.lis.uzulu.ac.za/Reasearch/2012/Yemisi%20and%50Mostert%20SECSAL.%20UZ.%207.pdf> (March 20, 2019)
- The university of Iowa (2019). Law Library: Policies. [Online] Available <https://library.law.uiowa.edu/policies#Legal%20Research%20and%20Legal%20Advice>