

THE THREE MOST IMPORTANT THINGS ABOUT MY COUNTRY'S LEGAL SYSTEM THAT OTHERS SHOULD KNOW

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Introduction

By virtue of colonization and the attendant incidence of reception of English law through the process of legal transplant, the Nigerian legal system draws heavily from the English Common Law legal tradition.

The sources of Nigerian law are:

The 1999 Constitution

Nigerian legislation

Received English law, i.e.

The Common law

The Doctrines of equity and

The Statutes of general application made before 1st January 1900 and extended to Nigeria which are not yet repealed

Customary law (including Islamic law)

Judicial Precedents

The three remarkable aspects of Nigerian Legal System are:

1. Features
2. Curriculum & Training
3. Qualification to practice as a Legal Practitioner

1. FEATURES OF THE NIGERIAN LEGAL SYSTEM

1.1. Legal Pluralism

Despite the influence of English law, the Nigerian legal system is very complex because of legal pluralism. Hence, a striking feature of our legal system is the unique co-existence of English law and customary laws. Customary law is a system of law that reflects the culture, customs, values and habits of the people whose activities it regulates. It has been described as a mirror of accepted usage. Customary law is particularly dominant in the area of personal and family relations like marriage, divorce, guardianship and custody of children, and succession. Customary law can be established before the courts either by proof of it to the court by calling evidence, or by the court taking judicial notice of a custom that is so obvious that it needs no further proof. Moreover, before a custom can be relied on by the court, it must pass the 3(three) validity tests. Thus, it must not be repugnant to natural justice, equity and good conscience; it must not be contrary to public policy; and it must not be inconsistent with any law for the time being in force.

1.2. Partly-fused Courts Structure.

Notwithstanding the federal status of Nigeria, the federal and the state courts system are not in two parallel lines. Hence it is only to a limited extent that it may be asserted that each state has its own legal system. By virtue of section 69(1) of the Constitution of the Federal republic of Nigeria 1999, the following Superior Courts of Record are established in Nigeria:

1. The Supreme Court of Nigeria

2. The Court of Appeal
3. The Federal High Court
4. The High Court of the Federal Capital territory, Abuja
5. A High Court of a State
6. The Sharia Court of Appeal of the Federal Capital Territory, Abuja
7. A Sharia Court of Appeal of a State
8. The Customary Court of Appeal of the Federal Capital territory
9. A Customary Court of Appeal of a State

HIERACHY OF COURTS

Supreme Court

Court of Appeal

(Federal High Courts and High Courts of States)

Sharia Court of Appeal, Customary Court of Appeal.

Magistrates' / District Court.

Customary Courts, Area Courts, Sharia Courts

The Supreme Court is the highest court and all decisions of the court are binding on all other courts. In Nigeria, the states' court structure (36 States in all) dovetail into the federal court structure at the level of the court of Appeal. The Court of Appeal entertains appeals from the decisions of the High Courts, the Sharia Courts of Appeal and the Customary Courts of Appeal. Appeals from the decision of the Court of Appeal go to the Supreme Court. In effect, the Supreme Court is not only a Supreme Court on federal matters; it is also the final court in respect of state laws.

A notable addition to Nigerian Court structure is the Fast Track court system which was inaugurated on Thursday, April 19, 2007. The objects of the Fast Track Court System (which was borrowed from the Ghanaian model) are: to solve the problem of congestion in courts; to deal with backlog of cases to introduce automation (information and communication technology) into the court system; to reduce to a minimum the manual processing of case files; to make for transparent monitoring of cases; to ensure speedy and transparent dispensation of justice and to complement Alternative Dispute Resolution with the court system. Others include to restore confidence in the Nigerian court system and to complement the ongoing economic reform programme of the Federal government. The project has commenced with the training of the Chief Judges, trial judges and operators in Abuja and Lagos, with plans to extend it to other jurisdictions.

2. CURRICULUM & TRAINING

2.1. Curriculum

In Nigeria lawyers are trained in substantive law at the 28 accredited faculties of law of the Universities, which lead to the award of law degree. Certain core courses are prescribed which all law faculties must teach in addition to any other courses.

The core courses are:

1. Nigerian Constitutional Law
2. Nigerian Legal System
3. Nigerian Land Law
4. Nigerian Criminal Law
5. Nigerian Law of Tort
6. Nigerian Law of Evidence
7. Nigerian Law of Commercial Transactions

2.2. Training

A holder of law degree whether from Nigeria or recognized institutions abroad before he can practice law in Nigeria must attend a one year vocational training at the Nigerian Law School.

There is only one law school in Nigeria with four campuses at Abuja, Lagos, Kano and Enugu.

Those qualified to attend the Nigerian Law School are:

1. Graduates of the various faculties of law in Nigerian Universities that are accredited by the Council of Legal Education
2. Law graduates from foreign Universities that are recognized by the Council of Legal Education

However, foreign graduates who wish to attend the Law school must undertake the Bar programme, a course of studies for 4 months. The programme is designed to acquaint qualified foreign graduates with the basic rudiments of Nigerian Law.

The course content is:

1. Nigerian Land Law
2. Nigerian Legal System
3. Nigerian Criminal Law
4. Nigerian Constitutional Law

Any foreign graduate who is deficient in any other core course of studies in Nigerian law faculties may be permitted to remedy such defect as a remedial course of study during the Bar I programme.

3. QUALIFICATION TO PRACTICE IN NIGERIA

3.1. Graduates of Nigerian Law School

After graduation from the Bar I programme the foreign graduates then proceed to the Bar II course, which is the main course of studies at the Nigerian Law School.

Successful candidates at the Bar II Examinations are admitted to the Nigerian Bar by the Body of Benchers. They then qualify to practice law in Nigeria as Barristers and Solicitors of the Supreme Court. This means, unlike the United Kingdom, Nigeria has a fused legal profession in terms of advocate and solicitor.

3.2. Others

In addition to legal practitioners who are admitted to the Nigerian bar by the Body of Benchers the following persons may be permitted to practice law in Nigeria:

1. Any person who applies to the Chief Justice of Nigeria and; it appears to the Chief Justice that such a person is entitled to practice as an advocate in any country where the Legal System is similar to that of Nigeria; and the Chief Justice is of the opinion that it is expedient to permit such an applicant to practice in Nigeria for the purpose of only the proceedings described in the application.
2. Any person who is entitled to practice law by virtue of office such as the Attorney - General, Solicitor - General or Director of Public prosecutions of the Federation or State or such other offices in the Civil Service as the Federal or States Attorneys General may specify.