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Introduction to nigerian legal system

The Nigerian Legal System: A Blend of Traditional and Colonial Influences A system is characterized by orderliness and organization. The Nigerian legal system refers to the totality of laws in Nigeria and the machinery through which they are enforced. It has a grundnorm, or fundamental norm, that serves as its source of validity. The grundnorm in colonial Nigeria was the queen of England, while it became the constitution after independence. The 1999 constitution states that it is supreme and its provisions have binding force on every authority and person. Some countries have unique legal systems due to their distinct laws and societal values. In Nigeria, both state and federal laws co-exist with English and customary laws. Despite these differences, there are similarities in the legal systems of various countries, which can be classified as sharing a common legal system. The underlying fundamental tenets and values determine a country's legal system, rather than the laws themselves. Two major legal systems exist worldwide: civil law and common law. Civil law is derived from Roman law and typically codified, with no adoption of judicial precedents. In contrast, common law is based on rules and doctrines developed over time by judges, resulting in often binding precedents. The common law system is practiced in countries such as the United States, the United Kingdom, and Nigeria. Nigeria's legal system was primarily adopted from England due to British colonization. However, the country also possesses unique features, including customary laws and military rulership in the past. Some key traits of the Nigerian legal framework include duality, external influence, diversity, use of precedents, hierarchical court structure, and fusion of the legal profession. Duality is evident in the coexistence of English law, customary law, and Islamic law, with judges presuming knowledge of English laws but requiring evidence for customary ones. External influence is significant due to international law's impact, especially from Islamic and English systems. This diversity is also reflected in different ethnic groups' customary laws, leading to variations within communities. The system follows judicial precedents based on stare decisis, ensuring certainty and predictability through an established hierarchy of courts, with the Supreme Court at the top. In terms of legal practice, Nigerian lawyers combine roles as solicitors and barristers, contrasting with England's split between these two professions. This setup influences how Nigeria's accusatorial or adversarial legal system operates. The accusatorial system used by civil law countries mandates an unbiased judge who serves as an umpire, refraining from involvement in the case. Both parties present their arguments and provide evidence without the judge's assistance or intervention. In *Adetoun oladeji v. Nigerian Breweries Ltd.*, the court acknowledged a bailment issue not presented by either party, prompting the supreme court to reverse the decision and reaffirm that courts should not aid parties in presenting issues. The legal system has been influenced by the military due to repeated coups, resulting in decrees and edicts still applicable today. These have left an indelible mark on the legal framework. Law is a multifaceted concept, often defined as a rule of action. However, its meaning varies among individuals and groups. For instance, a judge views law as rules regulating human behavior and imposing sanctions for non-compliance, while a lawbreaker sees it as a social constraint limiting their freedom. Many agree that law is an essential institution maintaining societal order, preventing the breakdown of civilized societies. Despite this consensus, there's ongoing debate about its nature. Various schools of thought exist: 1. **"Natural Law School"**, This school posits that law has divine or supernatural origins, with human laws conforming to natural laws. Proponents include early Greek philosophers and Christian theologians who believed in determining these laws through reason. However, this school equates law with morality, which poses challenges due to varying moral standards across individuals and societies. 2. **"Historical School"**: Led by Von Savigny, this school believes that law develops from historical experiences and the spirit of a people (volksgeist). It draws parallels between law, language, and culture, exemplified in customary law derived from social customs and traditions. This thought is often associated with shared nationalism and the idea that laws should cater to societal needs. Some countries have diverse communities with unique historical backgrounds, making it challenging to apply one universal legal framework. For instance, Nigeria's laws have been heavily influenced by English common law, equity, and statutes from the UK. The positivist school of thought views law as a command flowing from lawmakers to citizens, focusing on law's formal existence rather than its inherent justice or morality. Proponents like John Austin emphasize the importance of sovereignty, sanctions, and commands in creating laws. Not everyone conforms to laws due to fear of punishment, whereas some may follow moral principles without coercion. Not all laws are commands; examples include inheritance and marriage laws that provide guidelines for individual choice. The sociological or functional school prioritizes understanding law's impact on society, recognizing laws as a means of resolving conflicts rather than mere norms. The realist school adopts a pragmatic approach, focusing on law in action and judicial interpretation rather than statutory law. According to this perspective, judges are often the primary makers of law by interpreting it in court decisions. Law, Morality, and Customs: Distinctions and Overlaps Criminal law pertains to offenses against society, whereas civil law deals with disputes between individuals or organizations. In criminal cases, the state typically prosecutes wrongdoers, often through imprisonment or fines. Felonies are punishable by three years of imprisonment without a previous conviction, while misdemeanors and minor offenses carry less severe penalties. Private citizens may arrest suspects of felonies, but only under specific circumstances. The distinction between civil and criminal law is crucial. Civil law originated from Roman law and emphasizes the judiciary's role in inquiring into facts. It involves codified laws and an inquisitorial system. Common law, on the other hand, emerged from English jurisprudence and focuses on judicial precedents, with judges acting as unbiased umpires. Municipal law governs a nation's internal affairs, while international law regulates state relationships through customs, treaties, and conventions. Substantive law deals with the rules of law and legal principles defining rights and obligations, including contract law, criminal law, and tort law. Procedural law, or adjectival law, concerns the rules governing actions and evidence. Customary law is rooted in indigenous traditions and Islamic law, whereas non-customary law encompasses external sources like English law, local legislation, and case law. Local customary laws must be proven and align with public policy to be valid. The Nigerian legal system draws its authority from a variety of sources, with each source holding significance in understanding the country's laws.

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