



COURSE CODE: PUL 112

COURSE TITLE: NIGERIAN LEGAL SYSTEM¹

NUMBER OF UNITS: 4 Units

COURSE DURATION: Three hours per week

COURSE LECTURER: Dr. Florence Masajuwa

TOPIC:

1. Sources of Law-Legislation
2. Statutory Interpretation

INTENDED LEARNING OUTCOMES

At the completion of this topic, students should be able to know the following:

1. List and define the various forms of Nigerian legislation
2. Give examples that fall under each of the types of Nigerian legislation.
3. Explain the legislative process under the constitutional government.
4. Define delegated legislation and provide various examples.
5. Discuss Nigerian legislation as a tool for social change.

RESOURCES

• **Lecturer's Office Hours:** Mondays – Wednesdays 10:30-2:30pm.

•Course	lecture	Notes
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<http://www.edouniversity.edu.ng/oer/compsc/cmp122.pdf>

- The Outline of Nigerian Legal System, Text and Cases by Ese Malemi, 3rd Edition.
- The English Legal System 3rd Edition, by Jacqueline Martin 2007. ISBN: 0-340-848-545•
- Nigerian Legal System by Akintunde Olusegun Obilade, Sweet & Maxwell Limited. ISBN 0421 239 204
- Sources of Nigerian Law by A.E.W Park, Sweet & Maxwell Limited 1980 ISBN 0421 172703
- U. Alkali et al, Nature And Sources Of Nigerian Legal System: An Exorcism Of A Wrong Notion International Journal of Business, Economics and Law, Vol. 5, Issue 4 (Dec) ISSN 2289-1552

Grading System

- **Continuous Assessment** **30%**
- **Examination** **70%**
- **Total** **100%**
- **Any Students who submits assignment late, fail to do it or miss any test without cogent reason shall be scored zero. Seventy-five percent class attendants is a precondition to write the exam at the end of the semester. Names of students who meet the required attendance percentage shall be published not later than two-weeks to the end of the semester.**
- **Students must submit their notes at the end of each week for inspection.**

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TOPIC 1
LEGISLATION

INTRODUCTION

Legislation is a powerful and exigent source of Nigerian law. It is a deliberate exercise of law making powers by a person or persons legally or constitutionally empowered to do so in a political setting. Another name for legislation is statute. It is a utilitarian instrument for the socio-economic and technological development of a country. Through the 19th and 20th century, a huge increase in Nigerian legislation has taken place and it is clear that it has now become by far, the most important source of law. Nigerian legislation is generally viewed as the most important instrument of legal development and source of Nigerian law. It has tremendous effects on all other sources of law in that it can readily alter their content, applications and even repeal them. All other sources of Nigerian law are ascribed validity by virtue of one piece of legislation or the other.

THE LEGISLATIVE PROCESS

The national Assembly in Nigeria is made up of two houses. They are;

1. The Senate, which is the upper house; and
2. The House of Representatives, which is the lower house.

A bill may originate in either the Senate or House of Representatives and shall not become Law unless it has been passed. It may either be a private bill or public bill. The bill passes through three stages before it is passed into Law.

- Stage 1- Formal reading, primary objective is to introduce subject of bill into the house.
- Stage 2- Second reading, content and purpose of the bill are clearly defined, merits and demerits debated and necessary amendments introduced. Committees created, where necessary.
- Stage 3- third reading.

The bill must be passed by a simple majority of the members present. Afterwards, the bill goes through the same procedure in the other house. It is later presented to the president for assent and the president shall within 30 days



signify his assent or otherwise². Where assent is withheld, the bill is again passed by each house by two-thirds majority and becomes law³.

LEGISLATIVE PROCESS UNDER THE MILITARY

While civilian governments derive their legislative authority from the Constitution, military regimes subdue the Constitution. They assume the power to amend or suspend all or any part of the Constitution by Decrees. The unsuspended provisions of the Constitution are usually made subject to decrees and the courts are barred from entertaining questions as to the validity of a Decree or an Edict.⁴

THE CONSTITUTION

The constitution is the supreme law in the land, as stated in **Section 1(1)**⁵ of the constitution of the Federal Republic of Nigeria 1999. **Section 1(3)** also states that “if any other law is inconsistent with the provisions of this constitution, this constitution shall prevail and that other law shall to the extent of the inconsistency be void”

The constitution of Nigeria is written. This is relevant because it is possible to point to the document called the constitution. It is the fundamental, basic or organic law in the land, which lays down the foundation and the structure of the political society in which it operates. In the case of **Kalu v. Odili**, Eso J.S.C stated “it is both a fundamental and elementary principle of our laws that the constitution is the basic law of the land”.

² S 58(4), 1999 Constitution

³ S. 58(5). See *National Assembly v The President* [2003] 41 W.R.N 94 (C.A) where the Court of Appeal held that two-thirds majority of its membership is the right interpretation

⁴ See *Attorney General Anambra State v Attorney General of the Federation* [1993] 6. N.W.L.R 692

⁵It provides that “This constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the federal republic of Nigeria”.



The Constitution of the Federal Republic of Nigeria 1999 regulates the distribution of legislative powers between the National Assembly, which has power to make laws for the Federation and the House of Assembly for each State of the Federation.

FORMS OF NIGERIAN LEGISLATION

Generally, Nigerian legislation is divided into primary and secondary legislation. Primary Legislations are enacted laws that emanate from the major legislative arm of government for example laws made by the National Assembly, State Houses of Assembly or Military Administration during Military era⁶ while subsidiary legislation is legislation made by a person or body other than the sovereign parliament by virtue of powers conferred by legislation⁷.

Generally, Nigerian statutes consist of the following:

1. Acts & Laws
2. Ordinances
3. Decrees
4. Edicts
5. Bye Laws

ACTS AND LAWS

Statutes enacted by the National Assembly are called Act, i.e. Acts of Parliament while statutes passed by a State House of Assembly are called Laws⁸. They are enactments made by the legislature of any region or having effect as if made by the legislature. Various Acts and Laws have been passed to regulate different aspects of life in Nigeria and are still being passed. Law making and reform is a continuous exercise. Law reforms society and society reforms law.

⁶ This is because the primary responsibility of these bodies is law making. The legislature in a civilian administration is responsible for making laws, while under military dispensation, the Supreme Military Council is both the legislature and executive arm of government

⁷ Barclays Bank of Nigeria v Ashiru [1978] 6-7 S.C. 99

⁸ Section 47, 1999 Constitution.



ORDINANCES

They are laws which were passed by the central legislature before Oct 1ST, 1954. The laws of the Federation of Nigeria and Lagos (1958) consist of 12(twelve) volumes. The first six containing 224 Chapters of ordinances (now Acts). The next (4) four covering subsidiary legislations and the 11th (eleventh) including some imperial statutes and order in council relating to Nigerian and subsidiary legislation there under and the twelfth being a volume of index.

DECREE AND EDICTS

In the military regime, laws are made up of decrees and edicts. When a military government is in power, a statute passed by the federal military government of Nigeria through the ruling military council is called a decree, while an Edict is an enactment made by a state military government or by the administrator as in the then Eastern Central and Mid Western States. It is almost a unanimous view that law making is much easier under the Military regime than under the Civilian regime. This is because it eliminates the bogus process of passing bills through both houses and the rigors of debate that occur within the legislative law making process.

BYE-LAWS

Legislations passed by a Local Government Council are known as bye-laws, or by-laws. Many Local Government Councils across the country have various bye-laws, with respect to matters over which they have power to make law under the constitution, such as collection of rates, establishment and maintenance of cemeteries, motor parks, registration of births, deaths and marriages, shops, sale of liquor and so forth.⁹ The aforementioned are listed under the functions of a local government council in the Constitution.

⁹ See *Akingbade v Lagos Town Council* [1955] 21 NLR 90.



DELEGATED OR SUBSIDIARY LEGISLATURE

Subsidiary legislation or delegated legislation is law enacted in exercise of powers given by the statutes. They are laws that are made by bodies other than those constitutionally recognised to make laws. It occurs when the body responsible for legislation gives another body the authority to legislate on its behalf. While statutes are principally the product of the legislature, subsidiary instruments or delegated legislations are those made by the executive or judicial arm of government with the express or implied consent authority or permission of the legislature. The practice of delegated legislation exists because legislators cannot make law on all areas of public life. There are some areas that are quite technical. In these instances, the legislature empowers another body to make laws covering that area.

Delegated legislation is valid due to the fact that its authority is gotten via enabling statutes. An enabling statute is one that is made by the legislature in order to delegate a certain power of legislation to a body other than the legislature. Examples of enabling statute include the Legal Practitioners Act, University College Hospital Act, and Town Planners (Registration, etc.) Act.

Examples of some administrative lawmakers or rule makers include:

- 1) Chief justice of Nigeria and chief judges of the states;
- 2) Ministers;
- 3) Commissioners;
- 4) Government Ministries and Departments;
- 5) Public Corporations, agencies and statutory bodies

Key Feature of Delegated legislation

- A subsidiary legislation when validly made has effect as the principal or enabling Act.¹⁰

¹⁰ Trade Bank Plc v Lagos Island Local Government Council[2003] 3 NWLR (Pt 806) 11 at 27



- Subsidiary legislations are inferior to and may be repealed by a primary legislation.
- The body enabled to make delegated legislation cannot exceed its mandate. If it exceeds its mandate, the court will declare its action *ultra vires* and invalid¹¹. The word *ultra vires* means “beyond your powers”¹².
- Delegated law-making functions cannot be re-delegated unless expressly authorized to do so. This is encapsulated in the maxim ‘**Delegatus non potest delegare**’.
- Our legislators usually regulate subsidiary legislations, in that the proposed rules and regulations are printed and laid down before them. They may then debate them and approve same for enforcement. They may also amend it or otherwise reject it, as the case may be.

¹² Black’s Law Dictionary defines; *ultra vires* as unauthorized; beyond the scope of power allowed a granted by a corporate charter or by law.



TOPIC 2

STATUTORY INTERPRETATION

INTRODUCTION

It is the duty of the Court to give meaning to an ambiguous expression, where the word of a statute are clear enough, or unambiguous, it is the words that governs, but words are usually not clear enough.

The Court have adopted different rules of Interpretations to give meaning to the intention of the Legislature since they do not make laws but interprets laws.

The three most employed rules of interpretations are;

Literal Rules.

The Court will give plain and ordinary meaning to the word in a statute to meet the intention of the legislature and nothing more.

The Golden Rule: The Court will tilt the words in a Statute or substitute it to meet the intention of the legislature if given it the ordinary meaning will lead to absurdity.

The Mischief Rule:

The Court in interpreting the statute will employ the four wheel test to know what the statute was intended for and what lacuna it is meant to cure and advance a remedy.

Other supplementary rules of interpretation are

- (a) Expressio Unius Exclusio Alterius Rule.-The expression of one thing excludes the other.
- (b) Noscitur a Sociis Rule . A word will find its meaning within the context it is used.
- (c) Ejusdem Generis Rule - Where general words follows an expression ,the general is limited to the class of expression



CONCLUSION

Indeed legislations are the main source of law making and law reform e.g. amendment and repeal and it has a tremendous effect on all other sources of law because it can alter their contents. Laws are made for the peace, order and good government of Nigeria. It is the most adequate means of meeting the diverse needs of a complex and dynamic society. It is a vital instrument of nation building and it provides for anticipatory remedies and the making of contingency provisions to cope with future developments. By virtue of legislation, successive governments have affected more positively, the political, economic and social aspects of national life. Truly, law making and Law reform is a continuous exercise. Law reforms society and society reforms Law.¹³

¹³ Brown v Board of Education[1954] 347 US 483

