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Understanding how the Nigerian Legal System Works

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Introduction

Nigeria's legal system stands at the confluence of tradition, history, and continual change. As Africa's most populous nation and one of its most diverse, Nigeria is home to over 250 ethnic groups, each with its own customs and traditions. These rich and longstanding indigenous practices have, over centuries, merged with the legacy of British colonialism and an evolving body of statutes to create a uniquely Nigerian legal identity. Understanding how Nigerian law operates is no small feat; it requires navigating multicultural sources, a multilayered court system, and a legal landscape where the past continuously interacts with the present.

At the heart of the Nigerian legal framework lies the Constitution—an instrument that not only defines the structure and powers of government but also sets the tone for justice, fundamental rights, and the boundaries of legal authority. Alongside it, statutes passed by both the federal and state legislatures play a central role, addressing issues as varied as commerce, criminal justice, family life, and governance. Yet, neither the Constitution nor statutory law exists in a vacuum. The application of received English law, Nigerian case law, customary law, and Sharia all contribute to the day-to-day reality of law and order, rights and obligations, dispute and resolution.

The diversity of sources of law is mirrored in the court system itself, which is both hierarchical and specialized. From the apex Supreme Court to the grassroots Customary and Area Courts, Nigeria's judiciary is built to accommodate the federal nature of the country and the pluralism of its population. The legal process allows for appeals, extensive judicial precedent, and specialized courts focused on labour, religion, and tradition. This complex structure is intended to ensure justice is accessible at every level and tailored to the needs of the nation's many communities.

Beyond the courts and laws, the Nigerian legal system is underpinned by a range of principles familiar to democracies worldwide—supremacy of the Constitution, the rule of law, and the separation of powers—alongside distinctive features, such as the duality of customary and statutory systems. As the country continues to grow and face modern challenges, issues of access to justice, legal aid, and judicial effectiveness remain deeply important. The role of lawyers, judges, and public interest advocates is central to ensuring the system functions with integrity.

This guide is designed to provide both a detailed roadmap and a broad introduction to the Nigerian legal system. Whether you are a student, a practitioner, a business professional, or a curious observer, it offers clear explanations of the different components that make the system work. From criminal law and civil disputes to administrative structures and the nuances of legal practice, each chapter explores key

aspects of law as it operates within Nigeria's borders.

As you navigate the following chapters, you will come to see not just the rules and institutions, but also the values and history that give life to Nigerian law. In exploring this fusion of tradition and modernity, you are invited to understand both the enduring principles and the evolving realities that make the Nigerian legal system a vital part of the country's democracy and development.

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CHAPTER ONE: The Historical Evolution of the Nigerian Legal System

Before the Union Jack became an unwelcome splash of colour across the map of what is now Nigeria, the various communities that populated the region were far from lawless. Indeed, they possessed intricate and effective systems for regulating behaviour, resolving disputes, and maintaining social order. These were deeply rooted in tradition, culture, and the specific needs of each ethnic group. Think of it as a mosaic of legal landscapes, each piece distinct but contributing to the overall picture of how societies functioned.

In the northern parts, influenced by centuries of trans-Saharan trade and cultural exchange, Islamic law, particularly of the Maliki school, held sway in many areas. Administered through Alkalis (Islamic judges) in dedicated courts, this system provided a more formalized structure, dealing with everything from personal status matters to commercial transactions. It was a written system, drawing authority from religious texts and established legal scholarship.

Further south, and in many other parts of the country, customary law was the dominant force. This was largely unwritten, passed down through generations, and often varied significantly from one community to the next. It covered aspects of life like marriage, inheritance, land ownership, and the resolution of disagreements through elders or community leaders. While it might seem less structured than Islamic law or the English system that would later arrive, it was remarkably adaptable and intimately connected to the social fabric of the people it served.

The arrival of European traders, and later the British, marked the beginning of a profound transformation. As interactions increased, particularly in coastal trading settlements like Lagos, there was a growing need for dispute resolution mechanisms that could handle matters involving both indigenous people and foreigners. The existing customary systems were often perceived by foreigners as insufficient or simply alien. This led to the establishment of early, somewhat rudimentary courts by British consuls, sometimes called Equity Courts or Consular Courts.

Lagos became a British Colony in 1862, and with that came the formal introduction of English law. This wasn't just a casual suggestion; it was a deliberate policy to establish a legal framework familiar to the colonizers and suitable for facilitating trade and administration. The first Supreme Court was established in Lagos by Ordinance in 1863, marking a significant step towards importing the British judicial structure.

The British gradually extended their influence, creating the Protectorates of Southern and Northern Nigeria. With each expansion, English law followed, though its application was layered over the existing indigenous systems. This wasn't about replacing everything overnight, but rather creating a parallel legal universe. The infamous "repugnancy test" was introduced, allowing customary law to be applied only if it was not deemed "repugnant to natural justice, equity, and good conscience," or incompatible with existing British ordinances. This gave colonial officials significant power to invalidate customary practices they found objectionable.

The amalgamation of the Southern and Northern Protectorates in 1914 under Lord Lugard created the single entity we now know as Nigeria. This administrative union necessitated some degree of legal harmonization, though the duality of English law, customary law, and Islamic law persisted. New court structures were established, including the Supreme Court, Provincial Courts, and Native Courts. The Supreme Court was explicitly empowered to apply English common law, doctrines of equity, and statutes of general application in force in England as of a specific date, eventually set at January 1, 1900.

The Native Courts, while intended to handle matters governed by customary and Islamic law, were firmly placed within the colonial judicial hierarchy and subject to the supervision of the English-style courts. This era saw the formal entrenchment of a pluralistic legal system, where different laws applied based on factors like geography, religion, and the subject matter of the dispute. It was a pragmatic, if sometimes awkward, attempt to govern a diverse population under a single colonial authority.

As the colonial period progressed, more legislation was enacted by the British administration specifically for Nigeria, known as Ordinances. These covered various aspects of governance and daily life and added another layer to the evolving legal landscape. The court system was refined, with appeals eventually possible up to the West African Court of Appeal and, for a time, the Judicial Committee of the Privy Council in London.

The period leading up to independence in 1960 was marked by constitutional development, as Nigeria moved towards self-governance. These constitutional changes began to lay the groundwork for a truly Nigerian legal system, though the inherited English framework remained deeply influential. Lawyers and judges trained in the English tradition played a crucial role in this transition.

Upon gaining independence on October 1, 1960, Nigeria embarked on the journey of shaping its own legal destiny. While the English legal heritage was undeniably significant – a legacy you can't simply erase like a bad dream – the process of adapting and developing the law for Nigerian realities began in earnest. The country became a Republic in 1963, replacing the Queen as the head of state and establishing

its own Supreme Court as the final court of appeal, a symbolic break from the judicial apron strings of the former colonial power.

The post-independence era saw the enactment of Nigerian statutes by the federal and regional (later state) legislatures. These laws reflected the priorities and challenges of a newly independent nation, covering areas like criminal law, land law, and commercial regulation. While often modeled on English legislation, they were tailored to local circumstances. This period was characterized by efforts to consolidate and Nigerianize the law.

However, the path of the Nigerian legal system has not always been smooth. Periods of military rule, beginning in 1966, significantly impacted the legal framework. Military regimes governed by Decrees and Edicts, which often bypassed the normal legislative process and sometimes curtailed fundamental rights and the independence of the judiciary. These periods introduced a different kind of legal authority, one based on military fiat rather than democratic parliamentary process.

Despite the interruptions of military rule, the underlying structure and sources of Nigerian law persisted. Customary law continued to govern personal matters in many communities, while Islamic law maintained its relevance, particularly in the northern states, with discussions and expansions of its application occurring over time. The courts, though sometimes subject to the pressures of military regimes, continued to operate, interpreting and applying the complex mix of laws.

The return to democratic rule in 1999 ushered in the current constitutional era. The 1999 Constitution reaffirmed the principles of constitutional supremacy, the rule of law, and the separation of powers, providing a new foundation for the legal system after years of military authoritarianism. This marked a significant moment in the historical evolution, setting the stage for the legal landscape that exists today, a blend of deep historical roots and ongoing development.

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