

1. WHY DO ENGINEERS NEED TO STUDY LAW?

Engineering and law may not seem to have much in common, but laws affect every profession in some way. Engineers deal with highly technical concepts, designs and products, and the laws affecting an engineer's work can be as complex as the work itself. While engineers may be reluctant to devote time to a subject like the law, there are some laws that engineers should be familiar with in order to avoid problems during their careers.

Engineers and engineering managers need to have a working knowledge of the laws that affect their work so that they can do the following:

- Follow regulations.
- Stay compliant with governmental ordinances.
- Know which permits are necessary in which circumstances.
- Protect their work.
- Know the boundaries of liability.
- Avoid lawsuits.
- Negotiate contracts.
- Know when to contact a lawyer.

Here are some of the types of laws that engineers and engineering managers should understand generally.

CONTRACT LAWS: Engineering firms work with clients, and almost every project involves a contract. Contracts form the basis of an engineer's work, and contracts are legally binding documents. Understanding the basics of contract law protects engineers' rights and obligations, and it helps avoid potential lawsuits due to accidental breach of contract.

TORT LAWS: In engineering, laws about tort primarily deal with civil injuries resulting from negligence. Courts measure the damages resulting from these injuries in monetary amounts. Liability issues can be complex, but engineers should learn the basics to protect themselves and their companies.

INTELLECTUAL PROPERTY LAWS: The term "intellectual property" is a broad classification, but engineers work with it on a daily basis. Patents, copyrights and proprietary designs all fall under intellectual property laws.

Engineers who do not understand patent law can end up infringing on someone else's intellectual property rights or accidentally forfeiting their own. Companies often have their own policies regarding intellectual property, and engineers need to understand those policies and how they affect their own work.

LAWS AFFECTING THE WORKPLACE: In addition to the laws engineers need to know, engineering managers may also need to understand the various laws regulating hiring and the workplace. National and state laws cover everything from hiring practices to workers' compensation.

Health and safety laws can be especially important in the engineering field. There are also laws preventing discrimination in the workplace, laws governing medical leave and laws protecting workers' rights.

Managers serve different functions in a company, so not all engineering managers need to know the details of all laws affecting the workplace. Those interested in an engineering management career, however, should be aware that these laws exist and can affect a manager's day-to-day duties.

There are some law topics that engineers simply cannot ignore if they want to avoid potential legal troubles. For engineering and engineering management professionals, taking the time to learn what types of engineering laws can affect their careers — both positively and negatively — can only be beneficial in the long run.

CYBERLAW: "Cyber law or Internet law is a term that encapsulates the legal issues related to use of the Internet. It is less a distinct field of law than intellectual property or contract law, as it is a domain covering many areas of law and regulation. Some leading topics include internet access and usage, privacy, freedom of expression, and jurisdiction".

In other words, Cyber law can be considered as a part of the overall legal system that deals with the Internet, E-commerce, digital contracts, electronic evidence, cyberspace, and their respective legal issues. Cyber law covers a fairly broad area, encompassing several subtopics including freedom of expression, data protection, data security, digital transactions, electronic communication, access to and usage of the Internet, and online privacy.

Cyber crimes can involve criminal activities that are traditional in nature, such as fraud, forgery, theft, and damage to property, which are subject to the Indian Penal Code. The Indian Penal Code also gives birth to a range of new legal issues that are addressed by the Information Technology Act, 2000.

Others are speech law, licensing law,

2. OVERVIEW OF THE NIGERIAN LEGAL SYSTEM: CIVIL AND CRIMINAL

When as Nigerians, we come in contact with the law, either through contracts or court prosecutions and civil actions, it is sometimes difficult to fully understand the system of the law so we usually depend on lawyers to interpret the laws or procedures and also to stand for us as advocates in court. In this section you will be giving a brief introduction to the Nigerian legal system in a lay man's terms in other to help you as engineer and as a Nigerian who has no legal training understand how the law affects your civil rights, duties and obligations.

The Federal Republic of Nigeria (FRN) is a Constitutional Republic. At independence, Nigeria consisted of three regions, namely, the Northern Region, the Eastern Region and the Western Region. Presently, Nigeria is made up of 36 states and a federal capital territory (FCT), located in Abuja. These states are, as a matter of convenience and political expediency grouped into 6 geopolitical zones of North East, North West, North Central, South East, South West, and South South. This grouping has however not been accorded any constitutional recognition. There are close to 400 linguistic groups in Nigeria, but the 3 major languages are Hausa, Igbo and Yoruba, while English is the official language.

2.1 · THE NATURE OF THE NIGERIAN LEGAL SYSTEM

Nigeria has a pluralized legal system which is due to the nature and sources of its law. Following the amalgamation of the northern and southern Protectorates in 1914 by the British Colonial administration, the entity Nigeria came into being. Before the coming of the colonial administration, Islamic law applied in most of the states of the northern part of Nigeria especially Kanem Borno Empire and the Sokoto Caliphate. In the Southern part of the country, customary law applied and each community was governed by its peculiar type of custom or tradition. After Nigeria became an independent state, the body vested with the power to make law made laws for the good governance of the country. Foreign laws equally form part of the body of laws that form the sources of the Nigerian law in addition to the English law, Islamic law, customary law and the local legislations.

There are four distinct legal systems in Nigeria, which include English law, Common law, Customary law, and Sharia (*Islamic*) Law. The English law in Nigeria is by virtue of colonization and the attendant incidence of reception of English law through the process of legal transplant. English law has a tremendous influence on the Nigerian legal system, and it forms a substantial part of Nigerian law. The common law is a development from its post-colonial independence. Customary law is derived from indigenous traditional norms and practices,

Sharia law (*also known as Islamic law*) is law that is used only in the predominantly Muslim north of the country. Sharia, meaning "way" or "path" in religious law of Islam, has been in Nigeria for a long time. Civil sharia law has been enshrined in the various Nigerian constitutions since independence. The most recent constitution came into effect in 1999. With the return of the country to democratic rule in 1999, some of the predominantly Muslim northern states have instituted *full* sharia law (criminal and civil). *Full* sharia law was first passed into law in Zamfara in late 1999 and the law came into effect in January 2000. Since then eleven other

states have followed suit. These states are Kano, Katsina, Niger, Bauchi, Borno, Kaduna, Gombe, Sokoto, Jigawa, Yobe, and Kebbi.

2.1 SOURCES OF NIGERIAN LAW

There are numerous sources of law in the Nigerian legal system, they include:

1. The Constitution
2. Federal and State laws made by the Legislature. E.g. the National Assembly, consisting of the Senate and House of Representatives and also State House of Assemblies.
3. Customary and Islamic law
4. Laws of regulatory agencies such as NAFDAC.

2.1.1 The Constitution

The Nigerian Constitution is a Federal one. A federal constitution is one which provides for division of powers between the constituents of the Federal Government.

The Nigerian Constitution is supreme. Constitutional supremacy relates to the supremacy of authority of the constitution over other laws. Section 1(1) provides, "*this Constitution and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria*". In addition to this, Section 1(3) provides, "*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 current Constitution is the 1999 Constitution. It came into operations on 29th May, 1999.

By virtue of section 13(2)(b), the security and welfare of the people is the primary purpose of the government. Sections 15-21 set out the various ways in ensuring that this purpose is fulfilled without violating the fundamental rights of the citizens which are set out in Chapter 4 of the Constitution. These rights include, the right to life, right to dignity of persons, right to personal liberty, right to fair hearing, right to private and family life, right to freedom of thought, conscience and religion, right to freedom of expression and the press, right to peaceful assembly and association, right to freedom of movement, right to freedom from discrimination and the right to acquire and own immovable property anywhere in Nigeria.

2.1.2 Legislation

The Constitution regulates the distribution of legislative business between the National Assembly which has power to make laws for the Federation and the House of Assembly of 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 2004 (LFN). Laws made subsequently are found in the annual volumes of the laws of the FRN. Federal laws enacted under the military regime known as Decrees and state laws known as Edicts form the bulk of primary legislations.

2.1.3 English Law

This consists of:

- a. The received English Law comprising of the following, the common law, the doctrine of equity, statutes of general application in force in England on January 1, 1900, Statutes and subsidiary legislation on specified matters, and
- b. English law (statutes) made before 1st October, 1960 and extending to Nigeria which are not yet repealed. Laws made by the local colonial legislature are treated as part of the Nigerian legislation.

Despite the influence of English law, the Nigerian legal system is very complex because of legal pluralism.

Legal pluralism is the existence of multiple legal systems within one geographic area. It occurs when different laws govern different groups within a country or where, to an extent, the legal systems of the indigenous population have been given some recognition. Legal pluralism is prevalent in former colonies, where the law of a former colonial authority may exist alongside traditional legal systems. This is evident in the Nigerian Legal system where the customary law exists side by side with the inherited English Legal System.

2.1.4 Customary Law

This emanated from the usage and practices of the people. The traditional classification of customary law is into the following categories:

- Ethnic/ Non – Muslim: is the indigenous law that applies to the members of the different ethnic groups. Nigeria is made up of several ethnic groups each with its own variety of customary law. Ethnic Customary law is unwritten, uncertain and difficult to ascertain. Ethnic Customary law is enforced in customary courts. These courts are at the lowest rung of the hierarchy of courts and in most cases are presided over by non-legally trained personnel.
- Muslim Law / Sharia: In the southern part of the country, Muslim/ Islamic law, where it exists, is integrated into and has always been treated as an aspect of the customary law. Islamic law has however been in use in the Northern part of the country since 1959. Islamic/Sharia/Muslim Law is written with clearly defined and articulated principles. It is based on the Islamic religion and was introduced in Nigeria as a consequence of a successful process of Islamization. It is based on the Holy Koran and the teachings of the Prophet Mohammad. The Muslim laws, also known as the Sharia are found in the Holy Koran and the Hadith (teachings of the Prophet Mohammad).

2.1.5 Judicial Precedent

This is "an earlier happening, decision, etc, taken as an example or rule for what comes up later. The doctrine of precedent is founded on the objective of law that ensures that like cases are decided alike. The operation of the doctrine is tied to the hierarchy of the courts. A court is bound by the decisions of any court above it in the hierarchy and usually by a court of co-ordinate or equivalent jurisdiction. The Supreme Court is the highest court of the land. The Court of Appeal is the penultimate court to entertain appeals from the High Courts, which are the trial courts of general jurisdiction. The Court of Appeal and all lower courts are bound by the decision of the Supreme Court.

The judicial precedent does not apply to certain courts like the customary/area courts and the sharia courts.

The Federal and State courts are not in two parallel lines. It is only to a limited extent that it may be asserted that each state has its own legal system.

2.1.6 International Law

Nigeria is a member of the United Nations, the Commonwealth of Nations, African Union and many others.

Although Nigeria is a signatory to various international conventions and covenants, these are not enforceable in Nigeria unless they are enacted into law by the National Assembly.

2.2 Hierarchy of the Nigerian Legal System

The Nigerian constitution recognizes courts as either Federal or State courts. A primary difference between both is that the President appoints justices/judges to federal courts, while State Governors appoint judges to state courts. All appointments (federal or state) are based on the recommendations of the National Judicial Council.

The Federal courts are: the Supreme Court, the Court of Appeal and the Federal High Court.

The State courts include: the High Court of a State, the Customary Court of Appeal of a State and the Sharia Court of Appeal of a State. Each of the states (currently thirty-six) is constitutionally allowed to have all of these courts. However, the predominantly Muslim northern states tend to have Sharia courts rather than customary courts. While the predominantly Christian southern states tend to have customary courts and not Sharia courts.

Due to the fact that the Nigerian capital (known as happy town or The Federal Capital Territory, FCT) is not a state, it has no Governor. Its courts that are equivalent to the state courts have their Judges appointed by the President and are thus federal courts. The FCT courts are: the High Court of the FCT, the Customary Court of Appeal of the FCT and the Sharia Court of Appeal of the FCT.

2.2.1 Tier 1 Court: Supreme Court

The Supreme Court of Nigeria is the highest court in Nigeria. It is based in the capital, Abuja. The Supreme Court is mainly a court of appellate jurisdiction and is the final appeal court in the country. It also has original jurisdiction in State vs. State and State vs. Federal Government cases. The Supreme Court is headed by a Chief Justice who is assisted by other Justices. The appointment of the Chief Justice and Justices requires confirmation by the Senate.

2.2.2 Tier 2 Court: Court of Appeal

The next highest court is the Court of Appeal, in Abuja. However, to bring the administration of justice closer to the people, the Court of Appeal has multiple divisions (currently sixteen) in various parts of the country. The head of the Court of Appeal has the title President of the Appeal Court. He/She is assisted by Justices. Only the appointment of the President of the Appeal Court requires Senate confirmation.

The Court of Appeal is mainly a court of appellate jurisdiction, however it has original jurisdiction for presidential and vice-presidential election petitions. The Federal Court of Appeal is where the multiple legal systems (English, Customary and Sharia) of Nigeria converge. It is constitutionally required to have at least three Judges who are versed in customary law and at least three Judges who are versed in Islamic personal law.

Judgements from the tier 2 court can be appealed to the Supreme Court (the tier 1 court).

2.2.3 Tier 3 Courts

Just below the Federal Court of Appeal are the tier 3 courts. They include: (1) the Federal High Court and (2) the High Court of a state/FCT, (3) the Customary Court of Appeal of a state/FCT and (4) the Sharia Court of Appeal of a state/FCT.

The Federal High Court is based in Abuja. In order to bring the administration of justice closer to the people it has a division in each of the thirty-six states of the country. The Federal High Court is generally a court of original jurisdiction. However, it has appellate jurisdiction from tribunals such as the Tax Appeal Tribunal. It is presided over by a Chief Judge who is assisted by other Judges.

The High Court of a state/FCT is the highest English law court in a state or the FCT. The High Court of a state/FCT and the Federal High Court have similar powers. Due to the fact that there is a division of the Federal High Court in each state and that each state has its own High Court, there is usually some confusion as to which court is which. For example, in Lagos state, there is a Federal High Court, Lagos and a High Court of Lagos State (sometimes referred to as The Lagos State High Court). It is presided over by a Chief Judge who is assisted by other Judges.

The Customary Court of Appeal of a state/FCT is the highest customary law court in a state/FCT. It is presided over by a Judge who has the title: President of the Customary Court of Appeal of the state/FCT and is assisted by other Judges.

The Sharia Court of Appeal of a state/FCT is the highest Sharia law court in a state/FCT. It is presided over by a Grand Khadi who is assisted by other Khadis.

Judgements from the tier 3 courts can be appealed to the tier 2 court (Federal Court of Appeal).

2.3.4 Tier 4 Courts: State Courts

The lowest courts in the country are all state courts (there is no federal court in this group). They include (i) the Magistrate Courts that handle English law cases (ii) the Customary Courts that handle customary law cases and (iii) the Sharia Courts that handle Sharia law cases

Judgements from the tier 4 courts can be appealed only to their respective higher tier 3 courts (e.g. judgements from the English law Magistrates Court can only be appealed to the tier 3 English law court (the High Court of a state/FCT).

2.2.5 Other Courts

2.2.5.1 Election Tribunals

There are two types of election tribunals viz.: (1) National Assembly Election Tribunals that deal with petitions from the Senate and House of Representatives elections and (2) Governorship and Legislative Election Tribunals that deal with petitions from the Gubernatorial and State House of Assembly elections. Election tribunals are set up by the President of the Federal Court of Appeal in consultation with the Chief Judges of the High Courts of the states, Presidents of the Customary Courts of Appeal of the states and/or Grand Khadis of the Sharia Courts of Appeal of the states.

2.2.5.2 Code of Conduct Tribunal

The Code Of Conduct Tribunal is established by the Chapter C15 Code of Conduct Bureau and Tribunal Act, No. 1 of 1989 Laws of the Federation of Nigeria, 2004 with commencement date of 1 January 1991, which "provide for the establishment of the Code of Conduct Bureau and Tribunal to deal with complaints of Corruption by public servants for the breaches of its provisions.

The Code Of Conduct Tribunal (CCT) shall consist of a chairman and two other members, whose chairman shall be a person who has held or is qualified to hold office as a Judge of a superior court of record in Nigeria and shall receive such remuneration as may be prescribed by law. The chairman and other members of the Tribunal shall be appointed by the President on the

recommendation of the National Judicial Council. The tenure of office of the CCT chairman and members shall expire when he attains the age of seventy years

A person holding the office of chairman or member of the Code Of Conduct Tribunal shall not be removed from his office or appointment by the President except upon an address supported by two-thirds majority of each House of the National Assembly of Nigeria praying that he be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body) or for misconduct or for contravention of the Act. A person holding the office of chairman or member of the Tribunal shall not be removed from office before retiring age, save in accordance with the provisions of the section of the Act.

Judgements from the Code Of Conduct Tribunal can be appealed to the tier 2 court (Federal Court of Appeal).

2.3 Government Bodies

The system of Government in the FRN is modelled after the American presidential system with three arms of government, namely, the legislature, the executive and the judiciary. This is known as 'Separation of powers'. The legislature makes the law, the executive implements the law, while the judiciary interprets the law.

2.3.1 Legislature

Section 4 (1) of the Constitution provides that the legislative powers of the country shall be vested in the National Assembly. By virtue of sub section (2), the National Assembly has powers to make laws for the peace, order and good government of the federation, to the exclusion of the state House of Assembly. It follows law making procedures as specified in sections 58 and 59 of the 1999 Constitution. It is bicameral and is made up of the Senate and the House of Representatives. The powers of the National Assembly to legislate refer to:

- Any matter included in the Exclusive Legislative list, to the exclusion of the State House of Assembly.
- Any matter in the concurrent legislature list set out in the 1st column of Part II of the 2nd Schedule of the Constitution to the extent prescribed in the 2nd Column opposite; and
- Any other matter with respect to which the National Assembly is empowered to make laws in accordance with the provisions of the Constitution.

Each state has its own law making organ known as the House of Assembly. State House of Assemblies have powers to legislate on any matter in the concurrent legislative list and any other matter with respect to which it is empowered to make laws in accordance with the provisions of the Constitution.

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By virtue of S.4 (5), where there is inconsistency between the laws made by the State House of Assembly and the National Assembly, the latter prevails and the former, to the extent of the inconsistency becomes void.

It is pertinent to note that scientific and technological research, this includes health research, falls within items on the concurrent list. Consequently, both the National Assembly and the State House of Assembly may make laws governing research ethics in Nigeria.

2.3.2 Executive

The executive power of the Federation is vested in the President by virtue of section 5(1) of the 1999 Constitution. Such powers can be administered directly or through the Vice President or Ministers or officers of the government. In the states the executive power of a state is vested in the Governor and may through the Deputy Governor or Commissioners or other public officers.

2.3.3 Judiciary

By virtue of section 6(1) of the 1999 Constitution, the following courts are established in the Federal Republic of Nigeria, Supreme Court, Court of Appeal, Federal High Court, High Court, Abuja, High Court of a State, the Sharia Court of Appeal of the FCT, Abuja, a Sharia Court of Appeal of a state, the Customary Court of Appeal of the FCT, Abuja and the Customary Court of Appeal.

The courts established by the Constitution are the only superior courts of record in Nigeria. The Constitution empowers the National Assembly and the House of Assembly to establish courts with subordinate jurisdiction to the High Court. These courts are invariably inferior courts of record notwithstanding the status of the officer presiding in the courts.

2.3.4 Statutory Institutions

Apart from the arms of government set up by the Constitution, there are institutions/governmental bodies which are creation of statutes. These institutions such as the National Health Research Committee, and National Agency for Food and Drugs Administration and Control, are allowed to make rules, regulations, directives and bylaws pursuant to their enabling Acts and consequently are binding. These institutions are also empowered to institute various committees as necessary in carrying out their duties. Procedures devised for these committees have binding effects on all parties concerned.

2.4.1 COURTS

The judicial powers of the federation are vested on the courts established for the federation while the judicial powers of a State are vested on the courts established for the State, as provided by the Constitution. Courts established by the Constitution for the Federation, the states and the Federal Capital Territory are the only Courts of record in Nigeria. These courts include: The Supreme Court; The Court of Appeal; The Federal High Court; The High Court of a

State and of the Federal Capital Territory; The Sharia or the Customary Court of Appeal of the Federal Capital Territory; The Sharia or the Customary Court of Appeal of a State and also Magistrate courts.

Courts are an independent branch of government that exist to interpret laws, to enforce the laws, to resolve disputes, and to protect the rights people have as citizens of the Federal Republic of Nigeria. Another crucial responsibility of courts is to settle disputes or render judgment between people. Courts also play a very important role in preventing the government from abusing its power. Courts exist to check government power by halting infringements of liberty and compensating those who have been injured by government wrongdoing.

Lawsuits brought by the federal or state government to prosecute a person for violating a law are termed criminal cases. Only the government can initiate a criminal case in court, unless an attorney is granted fiat for that purpose by the Attorney-General. While lawsuits brought by private citizens against another person which are not criminal in nature are termed civil cases, examples of this include cases for breach of contract, false imprisonment, nuisance or defamation.

2.4.2 ASSERTING CONSTITUTIONAL RIGHTS

People can assert their constitutional rights in both criminal and civil cases. For example, a person being prosecuted for a crime can argue in defence that the government acted in violation of the Constitution, for instance, by conducting a search without a search warrant. Alternatively, people can sue the government for violating their rights and stop the government's action or receive compensation for their injuries. This is called Fundamental Rights enforcement Proceedings.

2.4.2 THE ROLE OF ATTORNEYS

Lawyers are individuals trained in the law who represent the interests of their clients. Under the rules of the profession, attorneys must do everything for their clients, within the bounds of the law that they would do for themselves under the circumstances. Attorneys are required to keep secret what they are told by their clients; this is called Attorney-client privilege. The Constitution guarantees everyone who is charged with a crime the right to have an attorney. The Nigerian legal system is constantly changing and evolving. Countless problems confront the judiciary as it tries to provide justice for those who are parties to court proceedings. The current system is terribly overburdened. There simply are not enough judges and courtrooms to accommodate all of the cases that must be handled. As a result, there are often long delays before matters are finally disposed of. Additionally, although equal justice for all is the goal, all too often the reality is much different. Many of the poor and middle class simply cannot afford the costs of the legal system and thus sometimes abandon their claims in court.

3. Introduction to Law: Basic Concepts of Law

Do's and Don'ts

Most people would agree that the law governs human behaviour by rules. It forbids certain ways of behaving, for instance stealing, killing or exceeding speed limits and prescribes others. For example paying taxes or driving on the right lane. Legal rules are also called norms.

The law does not stop at setting up rules. It also secures compliance with them by threatening persons who disregard a rule with some disadvantage, like being imprisoned or having to pay money. This consequence is called a sanction.

The task of the state is to put the sanction into effect, for instance to put the offender into prison or to take the money from him. We say: the sanction is enforced by the state.

Is and Ought

The legal rules do not describe facts: they do not tell us anything about reality. Instead they specifies facts and describes what should happen if they are fulfilled. It says what ought to happen in certain situations and what consequences should follow if this does not happen.

Example: If a newspaper reports: "Elfriede Blauensteiner was sentenced to jail for life for killing her husband", it describes facts. The relevant legal provision (§ 75 StGB) says: "Whoever kills another person will be sentenced to jail for life or to be imprisoned between 10 and 20 years". It has several effects: First, it prohibits murder; second, specifying that a murder has been committed, it describes what should happen to the perpetrator.

Right and Wrong

Many people think that the law not only prescribes or forbids certain acts but also indicates what is right and what is wrong. But how do we know whether the rules set up by the law are fundamentally right?; how can we be sure that they are just?

The Doctrine of Natural Law tries to answer this question by referring to meta-legal authority. According to its adherents law is correct if it conforms to the human nature (Plato), to divine revelation (Augustinus, St.Thomas Aquinas, John Duns Scotus, William Ockham) or to reason (Cicero, Grotius, Hobbes, Locke, Rousseau, Kant).

The Positivist Doctrine accepts that we have no means of deriving law from a higher authority. It points out that the law is made up of social norms which are generally