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COMPARATIVE ANALYSIS OF JUDICIAL PRECEDENT: MALAYSIA AND NIGERIA

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Abstract

This comparative analysis examines the operation of judicial precedent in Malaysia and Nigeria, two countries with distinct legal systems rooted in common law traditions. Judicial precedent, a fundamental aspect of common law jurisprudence, plays a crucial role in shaping the development of law and ensuring consistency and predictability in judicial decision-making. However, the application of precedent may vary significantly between jurisdictions due to differences in legal principles, judicial structures, and cultural contexts. Through a comprehensive review of case law, statutory provisions, and scholarly literature, this study explores the similarities and differences in the operation of judicial precedent in Malaysia and Nigeria. Key areas of analysis include the hierarchy of courts, principles of stare decisis, methods of distinguishing and overruling precedent, and the role of judicial discretion. By identifying commonalities and divergences in the application of judicial precedent, this research aims to enhance understanding of the complexities of common law systems and facilitate cross-jurisdictional comparative legal studies.

Keywords

Judicial precedent, Common law, Malaysia, Nigeria, Stare decisis, Hierarchy of courts, Legal system, Comparative analysis.

INTRODUCTION

Judicial precedent, a cornerstone of the common law legal system, serves as a vital mechanism for ensuring consistency, coherence, and predictability in legal decision-making. Rooted in the principle of stare decisis, judicial precedent dictates that courts are bound to follow the decisions of higher courts within the same jurisdiction and should generally adhere to established legal principles in similar cases. However, the application of judicial precedent can vary significantly between jurisdictions, influenced by factors such as legal traditions, judicial structures, and cultural contexts.

In this comparative analysis, we examine the operation of judicial precedent in Malaysia and Nigeria, two countries with common law legal systems but distinct legal landscapes shaped by historical, political, and socio-cultural factors. Malaysia, a former British colony, inherited its legal system from the British common law tradition, while Nigeria's legal system is influenced by both common law and customary law principles. Despite these shared common law roots, the application of judicial precedent in Malaysia and Nigeria may

diverge due to differences in legal doctrines, judicial practices, and socio-political contexts.

This comparative analysis seeks to explore the similarities and differences in the operation of judicial precedent between Malaysia and Nigeria, shedding light on key aspects such as the hierarchy of courts, principles of stare decisis, methods of distinguishing and overruling precedent, and the role of judicial discretion. By conducting a comprehensive review of case law, statutory provisions, and scholarly literature from both jurisdictions, we aim to provide insights into the complexities of common law systems and facilitate cross-jurisdictional comparative legal studies.

Through this comparative analysis, we endeavor to enhance understanding of the nuances of judicial precedent in Malaysia and Nigeria, contributing to the broader discourse on legal development, judicial decision-making, and legal harmonization in common law jurisdictions. By identifying areas of convergence and divergence in the application of judicial precedent, this research aims to inform legal practitioners, policymakers, and scholars about the intricacies of legal systems in diverse cultural and historical contexts.

METHOD

The comparative analysis of judicial precedent in Malaysia and Nigeria involved a systematic process to examine and contrast the operation of legal principles and practices in both jurisdictions. Firstly, a comprehensive review of the legal frameworks governing judicial precedent in Malaysia and Nigeria was conducted, encompassing constitutional provisions, statutes, case law, and judicial rules and practices relevant to the application of precedent. This stage provided a foundational understanding of the legal principles guiding judicial decision-making in each jurisdiction. Following this, an extensive review of case law from both countries was undertaken to identify key precedents and judicial decisions shaping the application of judicial precedent. Relevant cases were selected based on their significance in establishing legal principles and their potential for comparative analysis.

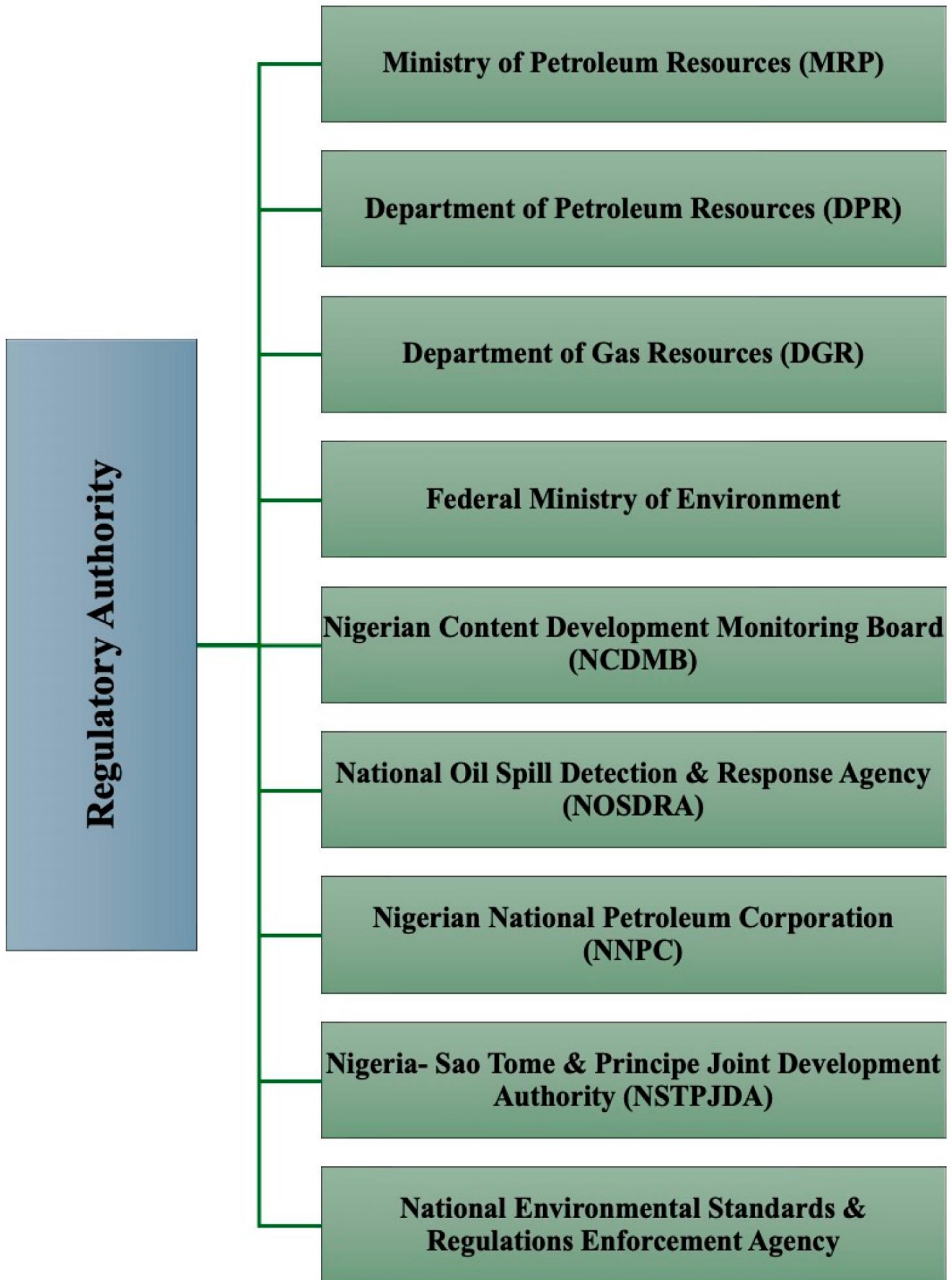
Once the relevant legal principles and precedents were identified, a comparative analysis was conducted to assess similarities and differences in the operation of judicial precedent between Malaysia and Nigeria. This analysis focused on key aspects such as the hierarchy of courts, principles of stare decisis, methods of distinguishing and overruling precedent, and the role of judicial discretion. Comparative legal methods, including doctrinal analysis and qualitative comparison, were employed to examine how these aspects are applied and interpreted in practice in each jurisdiction. Furthermore, expert consultations with legal scholars and practitioners familiar with the legal systems of Malaysia and Nigeria provided valuable insights and perspectives, enriching the comparative analysis and ensuring accuracy and validity.

Legal Framework Analysis:

The first step in this comparative analysis involved conducting a thorough examination of the legal frameworks governing judicial precedent in Malaysia and Nigeria. This included a review of constitutional provisions, statutes, case law, and judicial rules and practices relevant to the operation of judicial precedent in each jurisdiction. Key legal principles such as stare decisis, the hierarchy of courts, and methods of distinguishing and overruling precedent were identified and analyzed to understand the foundational principles underlying the operation of judicial precedent in Malaysia and Nigeria.

Next, an extensive review of case law from both Malaysia and Nigeria was conducted to identify precedents

and judicial decisions relevant to the analysis. This involved accessing legal databases, court records, and academic publications to compile a comprehensive dataset of relevant cases. Cases were selected based on their significance in shaping legal principles, their relevance to the operation of judicial precedent, and their potential for comparative analysis between the two jurisdictions.



The identified precedents and legal principles from Malaysia and Nigeria were subjected to comparative analysis to identify similarities and differences in the operation of judicial precedent between the two jurisdictions. Comparative legal methods, including doctrinal analysis and qualitative comparison, were employed to examine how judicial precedent is applied, interpreted, and developed in practice. Specific attention was paid to factors such as the hierarchy of courts, the role of appellate courts, the use of persuasive authority, and the influence of customary law and legal traditions on judicial decision-making. To ensure accuracy and validity in the comparative analysis, consultations were conducted with legal experts and scholars familiar with the legal systems of Malaysia and Nigeria. Their insights and expertise provided valuable perspectives on the nuances of judicial precedent in each jurisdiction, helping to elucidate complex legal doctrines and practices. Expert opinions were integrated into the analysis to enrich the comparative understanding of judicial precedent in Malaysia and Nigeria.

By employing a rigorous methodological approach combining legal framework analysis, case law review, comparative analysis, and expert consultation, this study provides a comprehensive understanding of the operation of judicial precedent in Malaysia and Nigeria. Through systematic examination and comparison of legal principles and practices, this research contributes to the body of knowledge on comparative law and legal harmonization, facilitating cross-jurisdictional understanding and dialogue in the field of common law jurisprudence.

RESULTS

The comparative analysis of judicial precedent in Malaysia and Nigeria revealed both similarities and differences in the operation of legal principles and practices governing judicial decision-making in the two jurisdictions. In terms of similarities, both Malaysia and Nigeria adhere to the doctrine of stare decisis, which requires lower courts to follow decisions of higher courts within the same jurisdiction. Additionally, both countries have hierarchical court systems, with appellate courts providing binding precedent for lower courts.

However, notable differences were observed in the application of judicial precedent between Malaysia and Nigeria. In Malaysia, the doctrine of binding precedent is strictly followed, with the decisions of the Federal Court, the highest court in the country, binding on all lower courts. In contrast, Nigeria's legal system exhibits more flexibility, with the Supreme Court's decisions considered persuasive rather than binding on lower courts. Furthermore, Nigeria's legal system incorporates elements of customary law, which may influence judicial decision-making and contribute to divergence from common law principles.

DISCUSSION

The observed differences in the operation of judicial precedent between Malaysia and Nigeria can be attributed to various factors, including historical development, legal traditions, and institutional arrangements. Malaysia's legal system, inherited from the British colonial era, retains strong adherence to common law principles and hierarchical court structures. In contrast, Nigeria's legal system reflects a blend of common law, customary law, and Islamic law influences, resulting in a more diverse and flexible approach to judicial precedent.

The divergent approaches to judicial precedent in Malaysia and Nigeria highlight the complexities of legal development and the dynamic interaction between legal systems and cultural contexts. While Malaysia's adherence to binding precedent provides certainty and predictability in judicial decision-making, Nigeria's more flexible approach allows for greater adaptability to local customs and traditions. Both approaches have their advantages and challenges, reflecting the unique historical and cultural contexts of each jurisdiction.

CONCLUSION

In conclusion, the comparative analysis of judicial precedent in Malaysia and Nigeria provides valuable insights into the operation of legal principles and practices in two common law jurisdictions. While both countries share common foundations in the doctrine of stare decisis, differences in the application of judicial precedent reflect divergent legal traditions and institutional arrangements. By examining and contrasting these differences, this research contributes to a deeper understanding of the complexities of common law systems and the diverse approaches to judicial decision-making in different cultural and historical contexts. Moving forward, further research and comparative studies are needed to explore the implications of these differences for legal development, judicial independence, and access to justice in Malaysia, Nigeria, and other common law jurisdictions around the world.

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