

Paper 4**CONDUCTING LIBRARY RESEARCH IN LAW – AN ANALYSIS****Pradeep M.D.**Associate Professor, Institute of Social Sciences and Humanities, Srinivas University,
Karnataka, IndiaOrcidID: 0000-0003-2561-4749; Email: mdpradeepnair767@gmail.com**ABSTRACT**

Human beings counter the uncertainties of life and learn from such experiences. This inquisitiveness is applied as a pedagogy to acquire knowledge amounting to be the research. Any scientific enquiry into new facts of any discipline. Generally, research is a journey from the known to the unknown deemed to be the voyage of discovery. It originally contributes to the existing stock of knowledge and its advancement. This truth is pursued for comparison, analysis and experiment. Law is systematically studied through doctrinal and non doctrinal research methods. Socio-legal studies will analyze the impact of law on the social system. This paper explores into the fundamentals, philosophy, correlating forms of legal research methods.

Key Words: Socio-legal studies, doctrinal studies, non-doctrinal

1. INTRODUCTION

Research is systematic inquiry to find solutions adding to the knowledge domain [1]. Scientific search into the concepts of law is legal research. Study into facts of intersection between law and society is the subject matter of legal research. Scientific methodology deals with analysis of data the rigor of scientific study depends on its formality, validity and reliability [2]. Traditional legal research is evaluative by investigating into the emergence of legal rule and its significance. For legal research can be done to understand the roots of right to information and its contribution for good governance. Legal research describes the provisions of law it becomes explanatory in form. For example, study on intellectual property and its legal regime. The aim of legal system is to build economic system rather disturbing it. Law makers can understand the ways to fill the vacuum existing in both substantive and procedural laws. Any study to ascertain the use of any law is considered exploratory for instance impact of Income Tax law in India.

2. SOCIO-LEGAL RESEARCH

Law according to Holmes is logical fact deriving an approach [3]. Study of law alone is meaningless. New approach of studying the lacunas of law in 21st Century is considered as socio-legal studies. This study will notify the need for new law or amendment of existing one based on its lacunas. Better governance is possible through the blend of social and legal research. The application of law is factually connected to the life experiences connecting varied disciplines. The interrelation between law and other discipline facilitates expansion of enquiry beyond the legal boundary. The inter disciplinary knowledge of the researcher will decide the deepness of socio-legal research which leads to law reforms for social welfare [4].

3. DOCTRINAL RESEARCH

Research investigates into new experiences. Socio-legal research is carried as both doctrinal and non-doctrinal forms. The word ‘doctrine’ resembles instruction or precept. Doctrine is the synthesis of rules, principles, norms which determine the law [5]. S.N. Jain ex director of Indian Law Institute, New Delhi depicts that doctrinal research carries case studies and legal propositions through the pedagogy of rational deduction [6]. Doctrinal studies investigate legal structure and case laws to find new facts based on literature survey without collecting data from the field. Ascertaining a legal rule for the purpose of solving a problem is one of the purposes of the traditional legal research. This has been achieved by the first hand and original study of authorities. Doctrinal research is the traditional source of research to derive logical conclusions on legal aspects contributing to research domain with quality. Doctrinal research solves legal issue with less time and cost by analyzing doctrines, frameworks and cases on scientific ways. Doctrinal studies do not test hypothesis as like non doctrinal research [7]. Legal professionals can carry comparative studies in doctrinal ways [8]. Legal doctrine propagates law in the forms of principles, rules and abstracted exceptions [9]. The objective of these research is to establish new theory, principle and doctrine in the legal domain, application of doctrines based on the authority of law, case and principles, deriving decisions with authoritative evidences, find implications of both substantive and procedural laws for better interpretation. Judges, advocates, academicians, scholars, journalists and students are the researchers here. Research objective determine researcher to discover research design, back ground of the problem, legal structure and reasons to choose the problem. Legal research is carried in law library with the help of online sources, books, journals, magazines, law reports, bulletins, newspapers, library catalogues, public documents, thesis, reference books, judicial reports, articles, websites etc. This research uses authoritative legal information, laws and precedents. The laws of Parliament, State Legislatures and cases decided by the apex courts having binding force on the lower courts as Precedents. Researchers can depend on secondary sources including text books, legal commentaries which do not have much authority. The quality of doctrinal research is determined based on the sources upon which the study is based to derive a conclusion. Doctrinal legal research verify hypothesis on authoritative sources. The researcher should be acquainted with using library and research methodology to identify reliable authoritative sources. Hypothesis is the tentative proposition the validity of which is unknown [10]. Hypothesis is an assumption to be proved or disproved which is clear, precise, testable, relatable, limited, specific, simple, consistent and explanatory. Research methodology is the systematical ways to solve the research problem giving reason about using particular technique to analyze the result. It describes the scope of study, research problem, hypothesis, data collection and analyses of data [11, 22]. Research design is a strategy to investigate answers to the problem chosen for study covering the works of investigator from drafting hypotheses to final analysis [12]. In doctrinal studies both descriptive and exploratory research designs are usually used by the researchers. The design of research provides answers about the type of data required, scope of study, sources of data, area, time span, cases, data collection, analysis, cost and nature of the study.

4. STEPS IN DOCTRINAL RESEARCH

The steps involved in the conduction of doctrinal research is described below. Research problem is framed basing relevant facts connected to law. The researcher identifies concerned legal issues to decide the area of study. Identify relevant laws with scrutinized reasoning and formulate

research problem to be studied further. Identifying the problem is crucial to find requisite solutions in that regard. The problem statement will clarify the intension of the researcher [13]. Working through the formulation of research problem will provide reasonable knowledge to carry the study further. Searching for relevant literature starts prior to forming research problem and continued till its final reporting. The existing paradox is that research problem cannot be formed without the formulation of research problem as well search of literature in formulating research problem. Review of literature brings clarity on the problem, methods and enrich knowledge. Review determines the findings within the frame of existing body of knowledge [14]. Reviewing establish theoretical framework to investigate with. The sources of literature include books, journals, cases, statutes, treaties, catalogue, nutshells, handbooks, encyclopedia, periodicals etc. A brief review will widen the understanding. The way of formulation of a problem determines the type of study design, the search instruments could be used, the type of analysis that could be used. While formulating research problem broad area is identified, subareas are noted, research questions are raised and detailed review is carried. Primary sources include census reports, statistics published, survey reports, health reports, employment reports, economic forecasts and demographic portfolios. Previous research studies can be referred through online international legal databases such as Westlaw International, HeinOnline, LexisNexis, JSTOR, E-Hart, Manupatra, Indlaw, SCC Online, AIR SC & High Courts, AIR Criminal Law Journal, Corporate Law Advisor etc. can be referred. Research problem will be interpreted upon the statutes, cases. decisions etc. The analysis will be carried in the following two ways. Indian law includes decisions of Supreme and High Courts giving 'Precedent' to the lower courts which carries several rules and principles used by judges while deciding. Doctrine of Precedent states that not everything said by judge constitutes precedent but covers only reasons for such decision. Hence, reason for any judgment in the appeal case will become the subject matter for research. Analysis of Case law identify facts, arguments, critical examination and conclusion as to the right [15]. Theory establishes conceptual basis for the events with information. According to John Galtung it is a set of hypotheses proven based on its impact. Doctrinal Research update and clarify existing theory. It points out relationship among variables with definite viewpoints to the researcher, findings in special cases and causal relationship over isolated empirical information. Doctrinal research ensures social welfare by keeping the door open for further research. The conclusion completes the research work. The information through library research is presented in a structured form. The research report consists of preliminaries, main text and references. The Preliminary consists of title, certificates, acknowledgement, preface and contents. Body consists of introduction, objectives, methodology, report, analysis, findings, suggestions and conclusion. The reference is formed of bibliography and appendixes. The references are cited with authenticity and source in blue book style, MLA, ILI, APA. Citation will acknowledge others work in a uniform way like APA format [16].

5. FINDINGS

Legal research has certain limitations [17]. Since availability of literature is the foundation of doctrinal research, any lack by the researcher to collect relevant literature turns the research null. In the interdisciplinary era impact studies plays vital role. Since theoretical outcome of doctrinal research is conservative and will not make impact analysis leaving out scope for non doctrinal studies [23]. Doctrinal methodology presumes law to be operative in vacuum but in reality, its impracticable.

6. CONCLUSION

Law represents theory, doctrines, principles, rules, guidelines etc. [18]. Legal research with socio- scientific approach will aid law professionals in their profession [19, 21]. It analyzes legal impact by logically testing the legal propositions. Doctrinal Research with projective or predictive methodology evaluates social acceptance, social connectivity, public welfare the virtues of human life. Academic legal research will review the reasons behind enacting laws to fill the gap existing in the legal system. [20].

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