

M.A.H.R-509

Research Methods and Report Writing



**Master of Arts in Human Rights
Uttarakhand Open University**

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UNIT -1

MEANING TYPES AND SIGNIFICANCE OF RESEARCH

- 1.1. Introduction
- 1.2 Objectives
- 1.3. What is Research?
- 1.4. Research Methodology
- 1.5. Research Design
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1.1 Introduction

Curiosity is an innate quality of human, and this quality is fueled by research done in a systematic way to enhance the knowledge and understanding of that topic in a better way. Research is the search for knowledge and an art of scientific investigation executed to discover new knowledge, solve an existing problem or validate an existing knowledge. This plays a significant role in academia as it sows the seed for development across disciplines. A wide range of methods and techniques are applied to analyze the data at the primary and secondary level. In this unit, you will learn the basic concepts, types and significance of research.

1.2 Objectives

After reading this Unit you will be able to:

- Explain the meaning types and objectives of Research.
- Understand the significance and characteristics of research across disciplines.
- Learn the various steps involved in the process of research.
- Comprehend the difference between research methods and research methodology.
- Realize the need for Interdisciplinary research.
- Identify the trends and patterns of research related to the problem.

1.3 What is Research

The term ‘Research’ is a combination of two words “Re” and “Search”, where RE-stands for again and SEARCH – stands for to find. Research is a systematic and organized manner of investigating a specific research problem, with the goal of generating new knowledge and insights. It involves a series of steps ranging from collection of data, analyzing and interpretation of data to achieve the desired results, test hypothesis or solve problems. The prime aim of research is to interpret, re-search and develop systems for a deeper understanding of the existing human knowledge on varied scientific matters and develop solutions to practical issues.

Research can also be defined as a systematic and logical way of thinking and questioning what you observe and attempt to further enhance the existing knowledge base. It is a skill in which you work inquisitively and critically to gain an in-depth knowledge of its rationale, effectiveness and relevancy and practical applicability. Subsequently research is a specialized form of scientific enquiry which is the result of analyzing related facts and information.

Research in the field of education is a systematic way of analyzing or gathering information on a specific topic through a scientific approach. It is objective in style, impartial, logically analyzed recording of a controlled observation that will lead to the development of a theory, principle, or a policy.

Definition of Research by Experts:

- **Merriam & Webster** – “A studious inquiry or examination, especially; investigation or experimentation aimed at the discovery and interpretation of facts, revision of accepted theories or law in the light of new facts or practical application of such new or revised theories or law.”
- **Advanced Learner’s Dictionary** – “A careful investigation of inquiry through search for new facts in any branch of knowledge”
- **Redman and Mory** – “Systematized effort to gain new knowledge”.
- **Clifford Woody** – “Research comprises defining and redefining problems, formulating hypothesis or suggested solutions collecting, organizing and evaluating data, making

deductions and reaching conclusions; to determine whether they fit the formulating hypothesis.”

- **Wikipedia** – “Creative and systematic work undertaken to increase the stock of knowledge.”

Payton (1979) – “Research is a systematic, formal, rigorous and precise process employed to gain solutions to problems or to discover and interpret new facts and relationships.”

- **Francis G, Cornell** – “Defines research as, "the activity of collecting information in an orderly and systematic fashion".

Significance of Research:

Research plays a vital role in academics and particularly for the students at the master’s level. It allows students to indulge themselves in specific area of study, enabling them to contribute unique knowledge and insights.

Here are some key significances of research:

Development of new knowledge:

Engaging in research compels students to investigate a specific topic, examining its intricacies, challenges, and the existing body of work. This thorough exploration fosters a well-rounded understanding of the subject, surpassing the basic knowledge acquired from textbooks.

Develops Critical Thinking:

Research enhances critical thinking abilities which is crucial in both academic and professional front. Students learn to scrutinize information, assess evidence, and construct arguments based on their discoveries.

Enhances Problem-Solving skills:

Research typically involves pinpointing and tackling research questions or challenges. This in-turn aids the students to hone their problem-solving skills, as they learn to dissect complex issues into smaller parts and come up with effective solution.

Contributes to knowledge:

Through research students can add original insights to their field, thereby enriching the understanding and bridging the gap in a specific topic. Their findings can be disseminated through publications or presentations in various platforms.

Preparing for better future prospects: Experience in research is highly valued by employers and higher programs alike. It showcases a student’s capacity to work independently, think critically and resolve issues through the out-of-the box thinking caliber. Furthermore, the skills acquired through research are applicable across various career paths, from academia to industry.

Characteristics of Research: Research is the process of collecting, analyzing and interpreting information to solve a research hypothesis. To be called as ‘research’, the work should govern certain principle characteristics as defined below:

1.3.3.1. Clarity and focus

It is crucial to have a well-defined research question or hypothesis. This should be clear, concise and focused enough to steer the entire research process.

Rigorous Methodology: The methodology used in the research should be apt, justified and relevant for the research question. It should outline a clear plan for data collection, analysis and interpretation.

Reliability and Validity: The findings of the research should be reliable, meaning they can be consistently verified by others. Furthermore, the findings should be valid, accurately measuring what they are intended to measure.

Ethical Considerations: Research must follow ethical guidelines to ensure the well-being of participants and protect their privacy. This includes obtaining informed consent and maintaining confidentiality.

Original Contribution: A good research article should contribute something new to the field. This could involve testing existing theories in a new dimension, developing new ones, or providing fresh insights.

Clear Communication: Research findings should be communicated clearly and effectively. This involves using appropriate language, organizing information in a sequence, and providing enough evidence to support conclusions.

Relevance and Significance: The research should be pertinent to the field and hold practical or theoretical importance. It should tackle a meaningful question or problem and enhance the already existing knowledge in the subject.

Research encompassing the above said characteristics is deemed to be of high-quality and make a significant contribution to the field.

Types of Research:

Research involves logical thinking and a scientific temperament. This approach varies from discipline to discipline, the theme or philosophy that underpins the research, and from expert to expert. This can also differ according to the perspective of objective, application and the enquiry mode employed.

Based on Objective- When a research study is approached from the perspective of objective, it can be classified as Descriptive, Correlational, Exploratory or Explanatory.

- **Descriptive Research:** This research aims to outline characteristics or phenomenon like perceptions over an issue, living conditions of a community etc. It involves collecting data to answer questions about what, who, when, where, and how. Common methods used in descriptive research include survey, Case studies, and observational studies.
- **Exploratory research:** This type of research is done when the objective is to explore an area where very little is known or that which requires further investigation. This method can assist researchers in identifying potential research questions and formulating research methods.

- **Correlational research:** The prime emphasis in correlational research is to investigate if there is a relationship, interdependence, or association between two or more variables taken into account.
- **Explanatory Research:** This type of research is done to explore a new or unfamiliar topic and attempts to clarify the why, what, and how of a phenomenon or a situation. It is often used to gather initial information and generate hypotheses for further investigation. Experimental research is a typical approach in explanatory research, as it allows researchers to manipulate variables and assess their impact.

Based on Application-

- **Basic Research:** This type of research mainly focuses on enhancing our understanding of fundamental principles and theories. As this research springs from motivation and curiosity it is often exploratory. While basic research may not have immediate practical applications, it lays the groundwork for future advancements.
- **Applied Research:** Applied research focuses on addressing specific problems or developing practical applications. It directly targets real-world issues and aims to improve our quality of life. Examples include medical research aimed at creating new treatments or technological research designed to develop innovative products.

Based on Enquiry mode– The core difference in the following types is mainly the liberty which the researcher has in the process of research.

* **Qualitative Research:** This type of research involves collecting and analyzing non-numerical data, such as interviews, observations, and documents. It focuses on understanding meanings, interpretations, and experiences, providing in-depth insights into complex phenomena.

* **Quantitative Research:** This type of research involves collecting and analyzing numerical data utilizing statistical methods to draw conclusions. This relates to the research that can be quantified or expressed in terms of numbers.

* **Mixed Methods:** In this type the researcher uses both qualitative and quantitative methods to devise solutions for the research question in hand. It deploys two or more research approaches to get the best outcome for a research study.

1.4 Research Methodology

Research methodology is a way to systematically solve the research problem. It may be defined as the science of studying how research is done systematically or refers to the principles and processes for conducting research. Research methodology is mainly influenced by the aims and objectives of a research study. It begins with the question of what your research is primarily, an explanatory or exploratory in nature. It involves identifying appropriate techniques for collecting and analyzing data to address a research

question/hypothesis. A methodology must be carefully considered in the area of Human Rights to develop a rigorous study while keeping ethical considerations in mind.

1.5. Research Design

Research design is your blueprint. It identifies how you will conduct the research, including what research methods you will use, what data collection procedures will occur, and how you will analyze the data. Methodologies applied to Human Rights can be qualitative, quantitative, or mixed methods.

Qualitative Research often includes interviews, focus groups, and case studies. Qualitative research aims to develop an in-depth understanding of human experiences and perceptions as they relate to an issue concerning rights. Qualitative research is valuable for understanding subjective experiences and cultural context.

Quantitative Research is research using statistical tools to analyze numerical data. Surveys and experiments are two common techniques to quantify and measure possible violations of rights and assess possible human impacts related to Human Rights.

Mixed-Methods Research is a combination of qualitative and quantitative methodologies. One conceptualizes mixed methods to have a more thorough understanding of the research problem. It allows researchers to gain numeric data alongside an in-depth narrative understanding of the research problem.

1.6 Data Collection

This involves gathering relevant information that points back to the research questions. Some forms for consideration are:

Analysis of documents: exploring legal texts, policy documents, and historical records.

Field work: directly engaging with community/stakeholders impacted by your Human Rights decision or situation.

Surveys and Questionnaires: Can amass data over a larger population to observe trends and regularities.

1.7. Data Analysis

After researchers collect data, they will analyze the data to develop a conclusion. Thematic analysis may be used for data analysis in qualitative research to identify patterns and themes. In quantitative research, researchers conduct statistical analysis to test hypotheses and explore relationships between the variables.

1.8. Ethical Considerations

Human Rights research frequently involves vulnerable populations. It is important to ensure informed consent, confidentiality, and take into account the rights and well-being of those involved.

1.9. Reporting and Dissemination

The final phase of the research process is writing and presenting research findings. In this, the researcher will conduct the writing of an in-depth report that addresses methodology, results, and implications. An important aspect of dissemination is to ensure that research gets to stakeholders, policymakers, and the broader public.

It is important to understand methodological principles and apply those principles in the process to produce credible, ethical, and impactful Human Rights research.

1.10. Difference between Research Methods and Research Methodology

Research methods and Research methodology are often confused terminologies, yet they refer to different aspects of the research process. Grasping this distinction is essential for postgraduate students aiming to design and execute effective research.

Research Methods	Research Methodology
This implies the methods adopted by the researcher to conduct the research. (Practical aspects)	This refers to the strategy implemented to solve the research problem in hand. (Theoretical aspects)
The scope of research method is lesser and emphasizes the practical elements of data collection and analysis.	This has a wider scope as it is grounded in theoretical concepts and offers a rationale for the selected methods and procedures.
This includes the tools and techniques employed to gather and analyze data.	It refers to the overarching framework or design that directs the research process.
It encompasses surveys, questionnaires, experiments or interviews.	This denotes the methods employed to interpret and derive conclusions from the data.
Research methods are the instruments used to create a blueprint.	while research methodology is the actual blueprint of the research.

1.11. Steps involved in the process of research

Research entails a systematic exploration of a specific topic or area of interest. Here's a comprehensive overview of the steps involved in the research process.

Identify a Research Topic or a Research Problem-

- Generate ideas based on your interest, emerging trends, and potential gaps in the research.
- Investigate the existing studies to trace unexplored gray areas.
- Talk about potential topics with the supervisors, and experts in the field.
- Clearly state the specific question or the problem your research tends to tackle.

Literature Review-

- * For a comprehensive literature review utilize the academic databases (e.g.JSTOR, Google Scholar, Pubmed, Scopus, Manupatra, lexis nexis etc.)
- * Use suitable key words to narrow down the search for better results.
- * Ensure that the data collected is updated, complete and from authentic sources.
- * Document the key findings with points along with the citations.

Develop a Research Proposal –

- * Create a skeletal framework including the Research Questions, Objectives, Methodology, Outcomes and way forward.
- * Mention a clear overview of the research topic and its importance.
- * Summarize the existing research and highlight the research gap.
- * Give a brief overview of the research design, data collection methods and analysis techniques.
- * Explain the potential contribution of your research and the timeline of your research.

Data Collection method-

- * Data collection could be done in any of the following methods including survey, interview, experiment, observations etc. this should be chosen as per the demand of the research question.
- * Collected data should be managed and arranged in a proper sequence to ensure easy access and analysis.

Research paper writing-

- * Clearly articulate the research question, objectives, and the importance of research.
- * Offer a comprehensive overview of your research design while identifying the gaps that the study proposes to fill.
- * Make a clear presentation of your findings, through tables, figures to enhance understanding.
- * Analyze your results and relate them to the existing literature and their broader implications.

Revise, Edit and Proofread –

- * Reread and review your work for grammatical errors, spellings and punctuation marks.
- * Check for the clarity in information and its coherence.
- * Get it checked by any expert in the field and the supervisor. Refine the manuscript if needed.

Final submission and defense-

- * Follow the instruction of the supervisor, prepare the presentation accordingly.
- * Get ready for the oral defense which includes presenting your research and responding to the questions from the panel of examiners.
- * Research process often keeps changing as your research evolves. Proper time management, organization and critical thinking are crucial for successful research.

1.12 Summary

Research is very crucial in uncovering new knowledge in a particular field, addressing challenges, and advancing progress in various fields. Systematic analysis of the gathered data paves way for a well-informed decision making and adapt to a changing world. The various types of research such as basic, applied, descriptive, analytical, quantitative, qualitative etc. provide the flexibility needed to meet particular objectives. Research is not only important in the field of academics, but also in areas like business, healthcare, policy making and social science. This paves way for innovation, and evidence-based practices that helps social and economic development. The authenticity and effectiveness of the research outcome depends on the integrity and ethical consideration of the research. Well conducted research fills the knowledge gap and helps the society to manage complicated issues.

1.13 Glossary

Critical thinking- One's ability to analyze a data or information without bias based on evidence and come to a reasonable conclusion is called as critical thinking. This includes an objective analysis based on evidence rather than emotions or personal opinion. This enhances an individual's out- of -the -box thinking, creativity and problem-solving skills.

Research Methodology- This is the systematic way of conducting research adopting proper techniques, analysis and interpretation. It includes the framework, tools and processes to answer a research question. This can be qualitative, quantitative, or mixed, based upon the need of the researcher.

Ethical considerations – This is to ensure the integrity and moral responsibility of the researcher towards the participants. It encompasses respecting the participants, getting their

consent and ensuring confidentiality. Ethical guidelines and IRBs promote honesty, accountability and fairness in the research process and outcomes as well.

1.14 SAQs

1. Short Questions and Answers

- a. Define Research.
- b. Explain the various types of research based on objectives.
- c. What do you mean by research methodology?

2. Fill in the blanks

- a.is the search for knowledge and an art of scientific investigation executed to discover new knowledge.
- b. Research must followto ensure the well-being of participants and protect their privacy.

3. True or False

- a. Research involves logical thinking and a scientific temperament.
(i) True (ii) False
- b. Research methodology does not refer to the strategy implemented to solve the research problem in hand.
(i) True (ii) False

1.15 References

- a. Research Methodology by C.R. Kothari, Newage publication.
- b. Research Methodology by Paneer Selvam, PHI learning.

1.16 Suggested Readings

- a. Research Methodology by Prasanta Sarangi, TAXmann.

1.17 Terminal Questions and Model Questions

- a. Mention few characteristics of research.
- b. Bring out the difference between research methods and research methodology.

Answers:

1. (a) Refer 1.3 (b) 1.3.4. (c) 1.4.
2. (a)Research (b) ethical guidelines
3. (a) True (b) False

Terminal Questions:

(a)Refer 1.3.2. (b) 1.10.

UNIT-2

RESEARCH PROBLEM; SURVEY OF AVAILABLE LITERATURE AND BIBLIOGRAPHICAL RESEARCH

- 2.1 INTRODUCTION
- 2.2 OBJECTIVES
- 2.3 SUBJECT
 - 2.3.1 MEANINGOFRESEARCH PROBLEM
 - 2.3.2 CRITERIAOFRESEARCHPROBLEM
 - 2.3.3 CONDITIONSCONDUCTIVEFORRESEARCHPROBLEM
 - 2.3.4 STUDYOF LITERATURE
 - 2.3.5 FORMULATIONOFPROBLEM
 - 2.3.6 SOCIALSURVEYOFAVAILABLELITERATUREANDBIBLIOGRAPHICALRESEARCH OBJECTS
 - 2.3.7 STEPSINSOCIALSURVEY
 - 2.3.8 KINDSOF SURVEYS
 - 2.3.9 UTILITYOFSOCIALSURVEY
 - 2.3.10 LIMITATIONSOFSOCIALSURVEY
- 2.4 SUMMARY
- 2.5 SUGGESTEDREADINGS
- 2.6 TERMINALQUESTIONS

2.1 INTRODUCTION

The formation of a topic into a research problem is the first step in a scientific enquiry. The term 'Problem' comes from the Greek word 'Proballein' which means anything through forward; a question proposed for solution; a Matter stated for examination. A problem, in simpler words, is some difficulty experienced by the Researcher in a theoretical or Practical Situation According to John Dewey; the Need of clearing up confusion, of straightening out an ambiguity, of overcoming obstacles, of covering the gap between things as they are and as they may be when transformed, is, in germ a problem.

2.2 OBJECTIVES

The objective of this lesson is to define the research problem and to explain different parts of research, what aspects should be considered by the researcher while opting for survey of literature. To describe different kinds of survey and bibliographical research and its importance in the research work.

2.3 SUBJECT

2.3.1 Meaning of Research Problem

R.S. Woodworth defines problem as a "Situation for which we have no ready and successful Response by instinct or by previously acquired habit we must find out what to do. A Problem can be called a legal research problem only when it satisfies the following conditions: Identification of Research Problem:

1. The Problem must be worth studying;
2. It must have social and Legal relevance;
3. There must be facts needed for Research'
4. It must come out with a Practical Solution to the issues;
5. It must be upto-date or relevant to the current social or legal happenings.
6. It must involve clarity of meaning and limited scope of study;
7. It must be explicit and original
8. It must be verifiable and testable

2.3.1 Criteria of Research Problem

Cochran and Cox suggested the following questions to be asked for the selection of a

research problem:

1. Is this type of problem than can be solved selectively throughout the process of Research?
2. Can relevant Data be gathered to test the theory or find the answer to the problem?
3. Is the problem anew one?Is an importance involved?Is he answering available?
4. Whether it can be able to carry out through a successful conclusion?

Only if a Research gets a positive answer for this entire question,he can select the problem for doing research.

2.3.2 Condition to Be Conductive To Formulation Of Significant Research Problem

Systematic immersion in the subject through first and observation.

The researcher must immerse himself thoroughly in the subject area within which he wishes to pose a special problem. For example if a research is interested in the broad problem of juvenile delinquency, he will have to visit Remand homes, Juvenile-centers, courts, families of the Juvenile and localities. This is called the formulation of the situation.

2.3.3 Study of Literature

To be able to pose a problem, the Researcher must knowthe relevant theories in the fields, Reports, Records. This would help him to know whether there are certain gaps in the theories.

Discussion with persons with practical experience in the field of study: Administrators social workers, community leaders etc. are persons who have a store of knowledge, often known as experience surveys. They can help andguide to sharpen his focus of attention on specific aspects within the broaderfield.

Components in the Progressive Formulation of a problem Merton distinguish three principle components which are applicable to the legal studies and progressive formulation of a social-research problem.

The Originating Questions (What one wants to know) the originating Questions represent the beginning of certain difficulties which attain the status of aResearch Problem. One class of these calls for discovering a particular body of social facts and another class directs attention to the search for uniformities of Relations between classes.

Rationale of Question (Why one wants to have Particular Questions and answer) The Rationale helps to effect a distinction between the scientifically consequential and trivial Questions.

Specifying Questions (Possible Answers to be originating questions in terms that satisfy the rationale) this is the stage of culmination in the process of formulating a Researchproblem. The originating Questions are Sometimes Quite Diffuse, some relatively more specific. The originating Question must still be recast to indicate clearly the observations that will provide an answer it.

2.3.5 Formulation of Problem

At the outset the researcher has to decide the area or aspect of a subject matter in which he is interested such a decision affords only a crude indication. Hence the Researcher needs to formulate a specific problem from within his general area of interest-before he can take any decision relating to collection and analysis of data. It is more difficult to find and to Formulate a Problem that to solve it. He has to Put a great deal of thought into the Formulation a problem he expects to get anything worth from his efforts to solve them. Research begins when the Researcher experience a difficulty or a challenge which is the Basic component of a Research Problem. There are no principles which can guide an investigation to pose significant problems for Research. A careful study of literature will guide him in his sensibility. Experience directs him to Formulate the Problem.

2.3.6 Social Survey of available literature and bibliographical research Survey of Available Literature and Bibliography:

The word survey has been derived from two words 'sur' or 'sor' and 'veir' or 'veior' which mean 'over' and see respectively. The literal meaning of survey is to see over something from a high place. The term is used for technique of investigation by direct observation of a phenomena or collection of information.

A survey consists of asking questions of a representative cross-section of the population at a given point of time. Surveys in legal investigations are called legal surveys. It is a process by which quantitative facts are collected about the legal aspects of a community and its activities. Legal survey is the method of data collection that utilizes questionnaires or interview schedules for recording the non-verbal behaviour of respondents.

The Researcher must acquaint himself with all the material available on the matter. He should collect the literature, he should find out the persons who have conducted research on similar problem and discuss with them on their findings and techniques used. This early preparation will make him more equipped.

At the end of a legal research all primary and secondary sources of data references books, Periodicals, Articles Report, Government documents, unpublished materials pamphlets, films, and records and other references must be listed under the title bibliography.

Bibliography means booklist. The purpose of a bibliography is to provide with a fair chance to estimate the thoroughness and exhaustiveness of the Research. Bibliography consists of the particulars of the literature Referred to an actually utilized in the preparation of Research.

Bibliography begins on a new page at the end of the Research. It follows the main text and is a separate part of the thesis. Page numbering is continuous and follows the page numbers of the text. A Bibliography is a list of Authors in alphabetical order. The following order is usually observed while writing the reference.

Name of the Author: Each entry of the bibliography should start with the author's last name at the list land margin. If the author is a woman her first name is given in full, when two or more authors names are to be reported for the same article or book, then except for the first author's name, the other author's name are to be given with the first names occur first and then second name. When there are two or more words by the same author, the author's name must be replaced by a series of eight dashes in the second and subsequent entries. If the book is edited by a person or persons his or their name is written and 'ed' or 'eds' is added within the Brackets at the end of his or their name, (s). A comma is placed after the name of the author.

Title of the Book: The name of the author is followed by the title of the Book. The title of the Book is usually given in single inverted commas and is followed by the edition number if any, in the Bibliography, a capital letter is used to begin all the key-words in the title of the Book and journals for Articles, Manuscripts thesis and unpublished papers, the procedure is to use a capital only to begin proper nouns and the first word of the title. A full stop mark or comma is placed at the end of the title of the Book.

If the Article is quoted, its title is also given in single or double inverted commas and is followed by the following information (i) the title of the journals/magazine (ii) volume number in Roman numbers followed by the date and publications; and the number of journal in parenthesis.

Publishers address: The name of the publishers of the book/journal will be given. Followed by its place of publication and if possible the full address of the publishers. A colon mark is placed after the place of publication and a comma is placed at the end of the publisher's address.

Year of the Publication: The year of publication may be given in parenthesis at the end of the references. A full-stop mark is placed at the end.

1. Page Number: Where possible, the page numbers referred to given.
2. Example Book by one author:
3. Chapin F.S. 'Experimental Design in sociological Research'. New York: Harper & Row, Publishers, (1947).

Review the Relevant Prior Literature: A good reading of primary and secondary source materials drawn from law-library is indispensable for an empirical research. This makes a researcher conversant with the earlier theories and important variables concerning the area of research.

The researcher has to review previous studies on the subject to critically examine the following.

To know about different areas as covered by various studies,

To get acquainted with the different meanings given to certain concepts in various studies.

To concentrate on the areas where little research has been carried out.

To look into different merits and shortcomings of their search designs followed in different studies; and

To verify the present findings with the previous findings.

Legislative Materials Including Subordinate Legislation:

Bentham and Austin signify by the term Legislation 'any form of law-making. The term is, however, restricted to a particular form of law-making; viz. the declaration in statutory form of rules of law by a competent authority. Legislation is the most potent and sovereign source of law making. It is the only source which has all the power of enacting laws. Repealing old laws and modifying current laws. It is, therefore, to be distinguished from law derives from judicial decisions, for though the judicial may be said to have power to make law, it has no power to lay down general rules.

Legislation may be divided into supreme and subordinate legislation. Supreme legislation is that which proceeds directly from the Supreme or sovereign power in the state it is Supreme because no authority can annul, modify or control it. Legislation by any other authority is subordinate legislation and is capable of being controlled by the Supreme authority, the subordinate forms of legislation derive their authority to legislate only by delegation, express or implied of the Supreme. Power, municipal corporations, universities, Railway –companies and clubs have got power to make rules and orders governing themselves and their members; but such bodies are subject to the control of the sovereign—

legislature. The chief forms of subordinate—legislation, according to Salmond, are the following :

Colonial Legislation:

Legislations by the legislatures of the colonies or other dependencies of the crown enjoying the power of self government are subject to the control of the imperial legislature.

Executive—Legislation:

It is the legislation by the executive for conducting the administrative departments of a state, where the Act does not contain the whole legislation but delegated to a foreign authority to legislate in the matter, it is subordinate legislation.

Judicial Legislation:

It is the rule making power of the Superior courts for the regulation of their own procedure. It is a true form of legislation except that it can not create new law by way of precedent.

Municipal Legislation:

The bye-law-making power of municipal authorities is another form of subordinate-

legislation. The law entrusts to municipal authorities the limited power of making special law for the district under their control.

Autonomous Legislation:

Legislation by autonomous bodies like universities or railway companies is also termed subordinate legislation.

Constitution of Legislative measures:

Opinion of executive is not relevant the Bye laws of a co-operative society framed in pursuance of the provisos of the relevant Act can not be held to be law or to have the force of law. They are neither statutory in character may they have statutory flavour so as to be raised to the status of law. Now if there is any conflict between a statute and the subordinate legislation, it does not require elaborate reasoning to firmly state that the statute prevails over subordinate legislation and the bye laws of not in conformity with the statute, in order to give effect to the statutory provision, the rule of by-law and must be complied with. It is the function of the court to construe legislative Measures and in reaching the correct meaning of a statutory provision opinion of executive branch is hardly relevant. Nor can the court abdicate in favour of such opinion. (Baboji Kondaji Garad v. Nosik Merchants cooperative Bank Ltd., AIR 1984, SC 192).

Decisional Material:

For a legal Researcher Material source of law that source which law derives not its validity but the matter of which it is composed. Material sources are divided into legal and historical. Legal sources of law are those sources which are authoritative. They are recognized as such by the law itself. These are the immediate sources of law. Decisions given by judges marked a very important source of law, for on the law —Material of customs the judges fashioned up rules of law each rule of law came to be a thread in the 'Reticulated Fabric' of the Law. Like the sculptors who work with chisel and marble or bronze and make beautiful works of Art, did the judges work on the raw material of custom supplied by Merchants or other satisfactory evidence well reasoned were the judicial decisions, and these formed a valuable contribution to the law of the land which was, in early times very scant indeed.

For some-time past certain judges of Supreme Court have been adopting an activist approach to the conflicts that affect the citizens of the country, particularly in regard to their socio-economic conditions. The Bihar under trials, the Bhagalpur Bindings, Agra protection hone case and other such litigation have given scope to the activist judges of the Supreme Court to espouse the cause of afflicted citizens. So a legal researcher should keep in mind available decisional material on the topic which he is pursuing.

Normally the decisions which have been followed for a long. Period of time and have been acted upon by persons in the formulation of contracts or in disposition of that property or other legal processes should generally be followed afterwards but this rule is not inexorable inflexible and universally applicable in all situations.

Another one case law consists of the rules and principles states and acted upon the judges in giving decision. The case laws are the necessary subject matter in any doctrinal enquiry because the law declared by the Supreme Court and High Court binding the subordinate courts. The Indian law is largely a system of law. That is, the decision in a particular case. Constitute precedent. According to the doctrine of Precedent it is not everything and by a Judge when giving judgment that constitutes precedent. But only the reasons for the decision given in the judgment constitute precedent. So, the reason stated in the judgment of an appeal case becomes a necessary subject matter of inquiry and analysis by a lawyer. Case laws are the secondary source of data to the researches. While reading the case-laws the researcher may come across a problem of legal issue and he can from a hypothesis, run an empirical inquiry and thus conduct the research.

In a dynamic society, the lawn on social welfare has placed great Burden on courts of law. Generally, there will be gaps in statutes and the courts have to evolve doctrinal principles, standards and norms. Further, there will be ambiguity in the statutory language. A word which appears to clear during the enactment of law may become vague during its application to a particular case.

An example of the legislative covering the description on the court is that art 19 of the Constitution of India. Many a times the Supreme Court has used its discretion regarding the words 'public order', 'Reason to Believe'. 'Reasonable time' 'Reasonable ness of restriction' etc. in he same way in administrative laws the phrases like 'Executive delegation' and 'ultra-virest are vague and Flexible. The above decisions of the courts regarding the analyzing the existing statutory provisions are he examples joy the doctrinal research.

The empirical research is mainly concerned with legal. Decision process i.e. researcher's attention is on variables what influence the decision and the impact of the decisions on the society. The empirical research may be defined as research into relationship of law with other behavioural sciences. Here, more importance is given to people, social values and social institutions and not to the legal aspects doctrines usually a researcher undertakes some aspects of legal decisions and his approach is always broader and decisional materials contain a lot of information to be used by the researcher because it is concerned with the particular doctrine of law say and not as what made the authority to say so or what has been the impact of that say. According to S.N. Jain, decisionalmaterials involves analysis of case law arranging ordering and systematizing legal propositions and study of legal institutions through legal reasoning or rational deduction. Ascertaining a legal rule for the purpose of solving a problem is one of the purposes of the legal research. This law has been achieved by original sources of law. The acts of parliament ones the act passed by the legislature fall under this category of legislation. The case laws decided by Supreme Court and High Court which are binding on lower courts fall under the category of precedents.

In modern context the researcher has to find out an a propose those principles, rules and

regulations which can serve the purpose what Roscoe Pound has termed as social engineering as well as the existing doctrine/Principle of law may become certain and stable so that social goals may be achieved. If the researcher happens to be a judge he can give concrete shape and stability to the legal principles by applying the principle of review or revisions or overruling. A good number of cases may be cited substantiate this point of view e.g. Shankar Prasad. (1951) and Sajjan Singh's case were overruled by Golak-Nath case which was subsequently overruled in Keshwanand Bharate case. Similarly a definite shape was provided by the Supreme Court to the Right of personal liberty as given in Art 21 of the Constitution in A.K. Gopalan's case but its scope was widened in Menka Gandhi and in subsequent cases because the court was convinced that with the passage of time the meaning and scope of the right to personal liberty has considerably widened since its decision in A.K. Gopalan case.

The Court has introduced changes not only in the area of the Constitution Law, but also in the area of Labour-Law criminal law as well as property law. The courts have held that death sentence should not be imposed in all cases in which the offence of murder is established, but only in the rarest of rare cases.

Death penalty is now an exception life imprisonment is the rule (Jagmohan Singh V. Uttar Pradesh) AIR, 1973, SC. 947). Not only this execution of death sentence in public has been held to be a Barbaric act, and that the person sentenced to death is also entitled to procedural fairness till the last Breath of his life.

Courts through judicial decision reflect important social, economic and political goals and needs of the society in which they function. This is possible only if a great deal of thinking and research is carried on in the area of law. Rules of law reflect the society and the time in which they operate growth of law has been pragmatic developing from society's need for research and flexibility in its day to day working.

Judicial Writings:

When pursuing a legal research the person should keep in mind the importance of judicial writings on the concerned subject or topic. There are number of books of foreign and Indian Authors who influenced the legislatures to make law, rules and policies. Judges like Justice Krishna Iyer P.N. Bhagwati on Human Rights. Upendra Bakshi, Subba Rao judicial writing of Gajender Gadkar on Public interest litigation Patanjali Shastri on Constitutional matters and the views and opinion in the form of writing play a very important role in Research work. Different commentaries and Digests like 'Edward Coke', 'Mensfield', Bentham, Austin, Salmond also good source to gain 'knowledge for a Research. The documents express the inner-most feelings of the heart of the writer and at times. These documents throw light on such aspects of high as would have been difficult to know through observation or interview. They, generally are more realizable both as regards one description of the subject as well as the feelings of the writer. They contain the perfect type of socio-legal material necessary to characterize the life of social group. A legal writing is anything that contains

matters of socio-legal importance. Most of the writings are written in the past when the phenomenon took place and are not specially prepared for the study of the present problem. Not only judicial writings but personal documents include all such written material is written by an individual to narrate his views upon personal, relationship or social phenomena. Most of these writings are from personal point of view. But & researcher should take proper precautions to understand it and its consequences because there are some draw-backs of the writings which are mentioned below. Unreliability of the data may be there due to personal bias of the writer. Writings do not provide a representative sample and the documents should not be considered as a valid one. The availability of writing may be difficult if they contain some confessions which are likely to damage his reputation. Judicial documents also supply a huge fund of information. They deal with different subjects and are usually published by various institutions, organizations and associations records, parliamentary debates, judgments etc. are regarded as important public documents. These writings are easily available and to a large extent, also reliable. A good deal of information regarding socio-legal problems is now collected and released for publication by the Government. These personal documents including life-histories of the people in general and important persons in particular, public and private documents like diaries, confidential files, literature, newspapers etc. are important sources. Apart from this, articles, papers and books on legal history and constitutional history are equally important. Compilation of List of Reports or Special Studies: The Legal Research Report is the statement that contains in brief the procedure adopted and the findings aimed at by the researcher of a legal problem. A legal report is not a complete description of work done by the researcher. It is only a brief statement of most significant facts that are necessary for understanding the generalization drawn by the investigator. After the collected data have been analyzed and interpreted and various generalizations have been drawn, the report has to be prepared. It is the last phase of the research.

A vast planning and preparation is necessary for writing the report. Writing the report requires considerable thought, effort, patience and penetration. Writing a legal research report is a technical activity which demands skill and patience from the researcher. The report should focus on the target audience; report should be simple, interesting and lucid. Only hard and patient work on the facts, careful and critical assessment and intelligent planning of the organization of the report can facilitate the communication. There is no standard criterion for organization of legal research report.

Reporting the research requires an order of skills quite different from those needed in the earlier phases of research. The chief purpose of a report is communication with the readers. It should contain the following aspects:

Reporting the research requires an order of skills quite different from those needed in the earlier phases of research. The chief purpose of a report is communication with the readers. It should contain the following aspects.

- A. The problem of research.
- B. There search procedure
- C. The result of outcome
- D. The importance of findings

R.L. Ackoy offered a model representing the process of inquiry which illustrates both the problem salvation and communicative phases. The communication model of inquiry involves four communicants (1) The consumer who has a problem (2) The research scientists, (3) The observer (4) The observed. These four communicants need not be four distinct individuals; rather they refer to four communicative roles.

The report representation makes it quite clear that the problem solving phases of inquiry are —

1. Existence of a problem
2. Formulation of the problem and designing
3. Movement into the environment in which observations one to be made (data-collection)
4. Recording of data
5. Treatment of data(Analysis and interpretation)
6. Reporting the results.
7. Action based on there ported results to solve the problem.

Purposeor Importance of a Report:

the purpose of a report is to the interested persons the whole result of the studyin sufficient details in orderly manner. The main aim of the thesis writer is accuracy and truth. He should himself to the validity of conclusions the purpose of report is thus the spread of knowledge. Broadcasting of generalizedso is to ensure their widest use.

Report also crates grown & for hypotheses and leads to further research on the same or allied problems the report will generally be conformed to the objects of the study of the problem. Suggestions will be given to researcher to studies the items of gaps on additional items which are traced out in the present study.

The Research is sometimes undertaken at the instance of third parts which are interested in the problem. The report of such problem is not meant for general public and for their practical purposes. The sponsored persons are simply interested in the results and findings only.

Objects

To examine social aspects of acommunity-The primary aim of social survey is the collection of facts about certain definite aspects of a community in order to obtain scientific and well ordered information. For this purpose the social survey or makes use of various techniques to gather information data has both qualitative and quantitative aspects. Prior to

undertaking investigation, the aim or purpose of investigation is well-defined and established. In as much as there are varieties of aspects about a community, their aims and purpose are different. The land use survey, the political or geographical surveys are about different aspects of a community. A social survey is called social with a view to distinguish it from other types and also in order to stress the fact that in it only the social aspects of a community are considered. The social survey is both descriptive and statistical; besides, it aims at ameliorations. To examine problems and the condition of working classes- A glance at the history of social surveys reveals that social survey is mainly, if not exclusively, concerned with the problems of society and the socio-economic conditions of the working classes and other depressed and under privileged groups in the society.

The social survey aims at the study of the conditions and factors of social retardation or backwardness. It aims at the removal of reactionary forces from society and thereby helps release of social energies into progressive channels. After making social survey and knowing the cause of backwardness, plans are formulated to remove these conditions. The socio-economics level of working classes is much lower than other groups in a society. All kinds of social problems and dysfunctions abound in working classes. The problems of disease, epidemics, unemployment, juvenile delinquency, unhygienic conditions of living, moral depravity, sexual polymorphy etc., are far more acute among industrial labour than in any other social class. Due to paucity of accommodation and low moral sense, children of workers are constantly exposed to immoral and drunken behaviour of their elders. As a consequence of this, sexual is blunted. In order to improve their conditions social surveys are a prerequisite. Most of the problems are inter-related. Unemployment and poverty, illiteracy and unhygienic seem to be inter-related. Social survey studies social problems and tries to see relationship among them. To examine practical and utilitarian approach- The motivation of social survey is practical and utilitarian. All survey of natural curiosity and urge to know and aims at pure theoretical knowledge; but social survey, on the contrary, is utilitarian. It is undertaken for the purposes of social welfare and betterment. In social survey, facts relevant to problem in hand are collected and upon their basis remedial measures are recommended or suggested. As a result of social surveys, government passes various laws to protect the under privileged against exploitation. Many other measures are taken to help in a practical way the depressed and downtrodden. The special privileges granted to scheduled castes and backward tribes are a case in point.

The above aims of social survey have been graphically defined by an eminent sociologist C.A. Moser's in the following words,—The sociologist should look upon the survey as way, and a supremely useful one of exploring the fields of collecting data around as well as directly on the subject of study, so that the problem is brought into focus and points worth pursuing are suggested.

2.3.7 Steps in social Survey

Following are the steps in a social survey-

Selecting the problem- As we have seen in the foregoing definitions of social survey, it deals with social problems. Accordingly, the first step of social survey is the selection of the problem. As long as the nature and character of the problem is not clear in the mind of surveyors, they would not know how to make a start and will grope in dark; therefore clarity and definiteness about the problem is a sine qua non of any social survey. The social surveyor is not merely a spectator who can afford to tally with any and every problem he comes across in a community. His approach is practical and motivated by utilitarian considerations. Therefore he must choose a problem which is significant and whose solution would make some practical differences to the life of the community. A social surveyor should choose his problem keeping in view the importance of the problem of community and the actual of tangible benefits to the community consequent its removal.

Defining the Aim- Following the selection of the problem, the aim and purpose of social survey must be well defined and made crystal clear because without the knowledge of goals social survey would be like a ship on sea without rudders. Social survey will lack direction in the absence of knowledge of goals. Moreover, the efficiency of a social surveyor can be measured only in relation to achievement of goals and if we do not know a goal, we shall have no criterion to judge the success of survey. These goals may be specialized or generic. For example, collection of census data is for general purposes. The social survey of living conditions of laborers of the statistics regarding indebtedness of labour, nature of landholding, nature of tax structure are survey having specific aims. At times the aim of survey is to bring out into general notice the facts which are known by some only. Whatever may be the aim of social survey, it may be generic or specific, but it must be well defined.

Defining the problem under the study- Now the nature of the problem selected should be defined. This will determine the scope of the problem and also its nature and character. For example, if we wish to study the problem of alcoholism among labour, then first of all we should define what we mean by the term alcoholism. We have to be clear in mind as to what quantity of liquor consumed per day indicates alcoholism. Likewise if one wishes to study the effect of alcohol and drug on the commission of crime and the quantum and nature of punishment therefore, he will have to take into account the quantity of alcohol and drug quantity consumed and effect produced by it. **Making a schedule-** After the problem is defined; we have to analyze the various elements, constituents or factors involved in the problems so that a detailed and systematic list of these may be formulated. It is only when a detailed list of the problems is available that the relevant information can be systematically gathered. **Constituting a commission for survey-** The official surveys are always undertaken after constituting a commission to make surveys and this commission is

empowered to elicit various types of data and also an access to classified material relevant to the study. Having constituted these limit, and scope of the inquiries, it is also provided with both financial and personnel assistance. The commission also acts as processor of complaints received from surveyors or public and can redress grievances. It can and does from time to time issue instructions and determine code of conduct for surveyors. Having done fieldwork, the surveyors file all the data with the office of the commission where it is processed, classified and analyzed. The director and the members are responsible for all policy decisions. They determine the policy itself into various committees and sub-committees to deal with specialized matters. In the event of controversy, commission members may give dissenting notes, though normally an attempt at consensus is made. In the event of dissenting notes the majority report is considered to be the verdict of the commission.

Determining of scope- In science the study of a problem implies systematic investigation into a limited and well-defined subject matter. Without setting limits, no phenomenon can be studied. Accordingly, before the beginning of a survey, it is imperative to determine the scope of the problem. In determining the scope of a problem the following techniques are made use of: Political and administrative division, such as Nation, State, Town, City, Locality etc.

Professional class such as rich and poor people, labourers etc. This means limiting the problem on the basis of economic levels or considerations.

Child, young, old etc. This involves determination of the problem on biological basis.

Married, unmarried, literate, illiterate, that is determination on the basis status.

Hilly areas, plains, deserts etc. determination of the scope of a problem upon geographical basis.

Status in society president, Governor, Minister, I.A.S. & I.P.S. Officer, judges of Supreme Court, High court. Social division upper caste, backwards, scheduled caste and scheduled tribe. Nature of flaws remedial penal enabling repealing etc. Nature of climate polluted non-polluted, highly polluted etc. Determining of Time- Limits- Social survey requires the services of trained investigators and considerable amount of money. Accordingly, it is essential to set a time limit for it. Some problems are of topical importance and such problems undergo gradual change. In both cases, if the results of survey take too long a period to be determined, the validity of results may be doubtful on account of change of conditions or the problem may no longer be quite relevant. For example, the social problems arising out of war conditions like displacement of populations etc must be immediately tackled if the solution is to be effective. But if the government takes too long to come to conclusion about the nature and the extent of relief needed, the problems will be changed and the results of it will be inapplicable. Certain statistics cease to be relevant to survey after a lapse of some period. For example, if Census Commission submits its report in 5 to 6 years, the Census data collected by it will cease to be very relevant, because

pollution of certain areas may have radically changed in number and character. While fixing the time limit, the time needed for each stage of social survey is determined and, therefore delay in one stage will easily indicate that there is delay into the completion of the survey. While fixing the time it has to be kept in mind that time and money consumed should not be excessive; it should not also of course be too short. In the first event the character of problem may energy would be wasted. If the time is very short, the result may lack reliability on account of sufficient care, absence of check and cross-check. At times the time limit has to be fixed to suit the convenience of persons giving information. For example, different amount of time is taken by questionnaire, interview, biographical records, and observations techniques. The well trained and competent surveyors will take less time than the ordinary surveyor. Therefore, while fixing time limit the above consideration should be borne in mind.

1. **Examining of the means of Information-** After arranging survey, the next requirement is to decide about the means of information. The sources of information must be accessible and free from duplicity and mischief. If the survey is being made for the first time it is called primary survey and upon its basis there can be further advance. The data gathered through primary survey is called preliminary data. If the survey is being made second time it is called secondary survey and its data called secondary data. In different types of survey different techniques of survey are employed. Mostly the information is obtained through schedule, questionnaire and direct interview of individuals. Secondary data are obtained through published or unpublished material of primary survey and also from official and non-official report.

2. **Determining of the Unit of survey-** Before launching survey, its unit should be determined. On account of this determination field workers are free from doubts and can easily gather the relevant information. The unit should be definite, unambiguous, stable, harmonized, simple and capable of being surveyed. In order to formulate a representative unit it is necessary to define and well formulate the sample. If all units are to be surveyed there is very little difficulty in the survey; but owing to unwieldiness and vastness of the area of survey; usually only representative units can be investigated. The units have to be determined keeping the time and money available for the survey. Their number and form depend upon the nature of the material. The sample technique can be employed only where there is no deficiency of material or incoherence of time.

3. **Determination of the amount of refinement of material-** Before undertaking the actual survey it has to be made clear as to what extent refinement of the data is to be expected. In quantification, accuracy to the last percentile is considered a sine qua non. Accordingly, in qualitative survey the surveyor has to accuracy and refinement is proportionate to the availability of time, fund and able personnel. However, it has to be borne in mind that in the area of legal study so far as qualitative survey is concerned 100% accuracy can not be obtained because the social factors constantly hammer the society compelling the people

to change their attitudes.

4. Selecting and training of Researchers and data collections- Research requires a well trained staff of researchers and field workers. The selection of researchers and field workers should be made keeping in view the nature of the scope of social survey. Having selected them they have to be trained for the job; they must become acquainted with their respective duties and manner of performance of them. In selection not only the intellectual qualities should be emphasized but the personal qualities like amiability, good humour, pleasant appearance and tactfulness have to be particularly stressed because the field workers have to deal with various types of persons and their personal qualities and resourcefulness will be much in demand.

5. Preparedness of Informers- In different types of survey the individuals from different classes are used for collecting information. Before undertaking the survey it is essential to create responsiveness and preparedness for cooperation among individuals from whom the information is needed. For example, in the Indian Census of 1971, government publicized through various media to make people aware of the need and importance of Census and the responsibility of public to give accurate information to field workers without any fear because all information of personal nature will be kept strictly confidential. Educated public can be informed by post or through radio, television, cinema slides and various leaders of the community aspects of a survey. Sometimes hand bills are distributed and to approach uneducated persons illustrated brochures are made available. If the individuals to be interviewed are persuaded to feel the importance of their cooperation, they will become responsible and give information easily.

6. Determining of survey Technique- Before starting, it should be made clear that techniques are to be used in survey. The choice of technique depends upon the scope and the nature of the survey. The determination of techniques facilitates survey. In questionnaire technique and the schedule to be set by post, the list of questions is prepared beforehand.

7. Field work- Having completed the above formalities field workers go to respective individuals to gather information. In this they have to keep in view the conveniences of persons to be interviewed. This work requires great resourcefulness and tact because the cooperation of respondents can be secured only if they are approached in the right manner. The field work is done under the supervisor. After collecting information the field workers file it with their respective departments.

8. Organization of material, classification and statistical analysis- The collected material is organized, classified and statistically analyzed.

9. Elucidation of conclusions- Having analyzed the data, competent and able researchers draw conclusions from them and elucidate these conclusions.

10. Presentation through Graphs- Lastly, the conclusions of a survey is graphically represented. Some schedules and charts are also given to aid the understanding of these

conclusions.

When the conclusions of a social survey are made definite and have been well formulated, the recommendations are treated with respect as they have the backing of scientific inquiry. Upon the basis of these recommendations official and non-official agencies take the necessary steps to implement them and since these recommendations are based on realistic scientific studies their implementation usually yields desirable results. If there are repeated surveys in a particular field, the later surveys act as verifiers to earlier surveys.

2.3.8 Kinds of Surveys

Usually social surveys are of two kinds (a) general and (b) specialized. In the general survey the entire community is studied in a general way. A specialized survey, on the contrary, seeks to study some particular aspect of the community such as hygienic attitude, child-welfare, etc. of these any one is studied at one time in a single survey.

Besides the above two types there are some other kinds of social surveys. The important ones and their basic nature are treated below.

1. Direct or indirect survey- Indirect surveys quantification is possible whereas quantitative description is not possible in indirect surveys. For instance the demographic surveys are direct; but, on the other hand, the surveys of health conditions and level of nutrition are indirect. Both types of social surveys have their place in social study.
2. Census survey or sample survey- In the Census all units are counted separately and the sum of all units is computed. On the other hand, in sample survey, only some representative unit is studied. Compared to total or Census survey, the representative surveys are of less time and energy consuming, but they are valid only if the sample is really representative and the entire field is harmonious. If the units are heterogeneous, sample survey is not possible.
3. Primary or secondary survey- In the primary survey, the task of survey is taken up afresh and the surveyor himself sets the goals and collects relevant facts, but if some facts are already available and there is no need to examine them afresh by a new survey then the survey is called secondary. Primary survey is far more reliable than the secondary survey.
4. Initial or Repetitive survey- If in any area the survey is being made for the first time it is called initial but if it is being made second or third time it is called Repetitive.
5. Official, Semi official or Private survey- As is clear from the names, official surveys are conducted by the government, and the surveys conducted by quasi government institution like university, corporations, boards etc, are semi-official. If the survey is conducted by some non government persons or agency, it is called private survey.
6. Wide spread or limited survey- The widespread survey takes a very large area or multiple aspects for survey purposes, while a limited survey is confined to a small area and usually deals with some specific question. Obviously, limited survey has greater reliability than the

widespread survey.

7. Public or confidential survey- Some surveys are of general types and their data are not of highly personal nature. Accordingly, no secrecy is maintained in the collection of data or publication of result. These surveys are therefore known as public surveys. Against this if the nature of the survey is such that the information called is not to be revealed to public, the survey is confidential.
8. Postal or personal survey- If the means of collecting data are dispatch of questionnaires and schedules by post, it is called postal survey; but if the information is collected by means of direct interview of respondents, it is called personal survey.
9. Regular or Ad-hoc survey- Regular surveys are made periodically without fail while ad-hoc surveys are conducted for specific purpose and are not periodically revised.
In social survey in town and country areas, Herman V. Morse has enumerated ten phases of survey which are being listed here-under for the sake of comparison:
 1. Definition of the purpose or object.
 2. Definition of the problem to be studied.
 3. The analysis of this problem in a schedule.
 4. The delimitation of area or scope.
 5. Field work.
 6. The arrangement, tabulation and statistical analysis of the data.
 7. Examination of all documentary sources.
 8. The interpretation of results.
 9. Deduction.
 10. Graphic expression.

2.3.9 Utility of Social Survey

The various types of survey and different techniques used in survey have their respective significance and value. In a general way it may be said that the surveys throw useful light on the various aspects of the social problems and help in understanding the causes of the problems and the mutual interplay of the causes. On the strength of a survey practical remedies are normally efficacious because they are the outcome of scientific study and analysis. A general or widespread survey helps us to get an overall idea of the multiple aspects of the problem gaining over a very wide field, and this, in turn, can indicate depth survey because it studies threadbare a particular problem in a limited range. The conclusions of a specialized survey are much more reliable than those of general or widespread survey. Accordingly, specialized survey is more important from the scientific point of view. The postal survey is less expensive than personal survey, but the postal survey can be conducted only where all the respondents are literate. Moreover in

case of doubt in the respondent's mind postal survey fails whereas personal survey can take care of all such contingencies. While personal survey is undoubtedly reliable and therefore desirable, its negative features are its expansiveness and various types of lures and temptations to which a field worker is exposed. There is a well known case of an American who distorted information about a poor family because the mother offered him the sexual services of her comely daughter. Public survey can be made only in a situation where the information is of general type and not of personal nature. But in survey of problems of disorganization, homosexuality, lesbianism, marital discord, smuggling, crime etc, the survey has to be confidential. In regular surveys, the reliability of conclusion increases. The value of a primary survey is directly dependent upon the technique used. Here, there is lack of comparative material and this proves a stumbling-block. However, primary surveys are highly important because through them a first attempt is made to gather well-organized information on a subject and these prove to be stepping stones for repetitive surveys. The Census and income data can be kept reliable only through regular surveys. In Census survey, much money, time and staff is needed. The surveys of this type are used countrywide and their conclusions are reliable and precise. But on account of being less expensive, sample surveys are widely used in social sciences. Official surveys are initiated and conducted by government to gather accurate data on some problem confronting the government. As the government has large funds and large brigade of trained personnel's, official surveys are quite reliable and accurate. But government is liable to suppress information unpalatable and offensive to it and which may arouse people's resentment against it. Therefore private surveys, in spite of their obvious limitations, are very useful. The direct surveys, being quantitative in character, are more reliable than the quantitative indirect surveys.

It is evident from the above that the utility and importance of survey cannot be determined in abstract. It is only in relation to the nature of the problem; its scope, the aim and object of survey, the availability of funds, staff and other facilities that one can know which type of survey will be useful under the given circumstances. Each type has its own pros and cons and the choice of type is very crucial in order to derive full benefits from the survey.

2.3.10 Limitations of Social Survey

The study of human behaviour in a scientific manner is the aim of sociology. Social research is the activity engaged in by the social scientists to break down the complexity of human behaviour into predictable and universally applicable formulae. Human behaviour being complex phenomena, social research purports to be of an equally indeterminate and essentially a time consuming affair. To rectify immediate anomalies in the system of social life and point out to the causes that are responsible for such problematic situations, one has to resort to the popular survey methods. Pauline Young called this method a short term

analysis of a particular aspect of society in an isolated manner so as to arrive at definite cause effect formulations; thus providing the social worker with a set of analytical references to put into gainful effect in the human affairs. Surveys regarding the market situation, the opinions of consumers regarding specific products, communications etc, are common enough. Though pertaining to immediate problems the survey method has been criticized from various points of view because of inherent limitations. Some more important limitations are as follows:

1. **Absence of Theoretical Framework-** The aim of scientific method or for that matter —science itself is the accumulated systematic knowledge. Scientific facts are placed on top of another and thus related to a definite base or theoretical framework. Any hypothesis which is related to a previous body of knowledge, is —scientific. But social survey does not fulfil this characteristic of requiring urgent remedial measures, not necessarily based on any type of previous experience or theoretical framework.
2. **Lack of Hypothesis-** One of the prime steps in a research design is the formulation of a hypothesis related to a body of theory not one in isolation. Surveys are only tentative superficial analysis in this context and are seriously do not start from any hypothesis as to research methods. Likewise unlike the research methods surveys do not always lead to hypothesis. A hypothesis may be formulated only when numerous surveys pertaining to a common field yield some results.
3. **Lack of clarity and Reliability-** Clarity and reliability are the tents of a successful research design. When surveys are conducted with a pre- conceived notion, or to find out any implied explanation for a given problem, one may doubt the clarity of the design. Also, surveys tend to be biased by the preconceived notions of the sponsoring authority be it political, economic or culture.
4. **Lack of Depth study-** Surveys are in turn quantitative and short term events. Quality and depth have been regarded all through the ages as necessary requisites of a method. Surveys fall short of this requirement. Limited by cost fact or like time and money, surveys can in no terms stand in comparison to the depth studies under taken by the social researchers.
5. **Lack of validity Surveys are pre-planned and executed in a not so leisurely fashion and hence pre-tests are almost impossible.** Such being the case, how can surveys meet the requirement of validity?
6. **Lack of training-** Survey being a quick answer-oriented affair; untrained workers are recruited to conduct the quantitative work. This violates the principle of any scientific research namely, trained workers and systematic collection of data.
7. **No progress in scientific knowledge-** Finally, social survey can only provide an answer to immediate social problems under a conditional framework. It is not concerned with the formulation or the definition of an existing theory. Hence it cannot contribute much to the progress of evaluation of scientific knowledge.

2.4 SUMMARY

The formation of a topic into a research problem is the first step in a scientific enquiry. The term 'Problem' comes from the Greek word 'Proballein' which means anything through forward; a question proposed for solution; a Matter stated for examination. A problem, in simpler words, is some difficulty experienced by the Researcher in a theoretical or Practical Situation According to John Dewey; the Need of clearing up confusion, of straightening out an ambiguity, of overcoming obstacles, of covering the gap between things as they are and as they may be when transformed, is, in germ a problem.

R.S. Woodworth defines problem as a "Situation for which we have no ready and successful Response by instinct or by Previously acquired habit we must find out what to do. A Problem can be called a legal research problem only when it satisfies the following conditions: Identification of Research Problem:

The Problem must be worth studying: It must have social and Legal relevance; There must be facts needed for Research' It must come out with a Practical Solution to the issues;

It must be upto-date correlative to the current social or legal happenings. It must involve clarity of meaning and limited scope of study; It must be explicit and original It must be verifiable and testable At the outset the researcher has to decide the area or aspect of a subject matter in which he is interested such a decision affords only a crude indication. Hence the Researcher needs to formulate a specific problem from within his general area of interest-before he can take any decision relating to collection and analysis of data. It is more difficult to find and to Formulate a Problem that to solve it. He has to Put a great deal of thought into the Formulation a problem he expects to get anything worth from his efforts to solve them. Research begins when the Researcher experience a difficulty or a challenge which is the Basic component of a Research Problem. There are no principles which can guide an investigation to pose significant problems for Research. A careful study of literature will guide him in his sensibility. Experience directs him to Formulate the Problem.

The word survey has been derived from two words 'sur' or 'sor' and 'veir' or 'veior' which mean 'over' and see respectively. The literal meaning of survey is to see over something from a high place. The term is used for technique of investigation by direct observation of a phenomena or collection of information.

A survey consists of asking questions of a representative cross-section of the population at a given point of time. Surveys in legal investigations are called legal surveys. It is a process by which quantitative facts are collected about the legal aspects of a community and its activities. Legal survey is the method of data collection that utilizes questionnaires or interview schedules for recording the non-verbal behaviour of respondents.

The Researcher must acquaint himself with all the material available on the matter. He

should collect the literature, he should find out the persons who have conducted research on similar problem and discuss with them on their findings and techniques used. This early reparation will make him more equipped.

At the end a legal research all primary and secondary sources of data references book, Periodicals, Articles Report, Government documents, unpublished materials pamphlets, films, records and other references must be listed under the title bibliography.

Bibliography means booklist. The purpose of a bibliography is to provide with a fair chance to estimate the thoroughness and exhaustiveness of the Research.

Bibliography consists of the particulars of the literature Referred to an actually utilized in the preparation of Research. Bibliography begins on a new page at the end of the Research. It follows the main text and is a separate part of the thesis. Page numbering is continuous and follows the page numbers of the texts. A Bibliography is a list of Authors in alphabetical order. The following order is usually observed while writing the reference.

Name of the Author:

Each entry of the bibliography should start with the author's last name at the list land margin. If the author is a woman her first name is given in full, when two or more authors names are to be reported for the same article or book, then except for the first author's name, the other author's name are to be given with the first names occur first and then second name. When there are two or more words by the same author, the author's name must be replaced by a series of eight dashes in the second and subsequent entries. If the book is edited by a person or persons his or their name is written and 'ed' or 'eds' is added within the Brackets at the end of his or their name, (s). A comma is placed after the name of the author.

Title of the Book:

The name of the author is followed by the title of the Book. The title of the Book is usually given in single inverted commas and is followed by the edition number if any, in the Bibliography, a capital letter is used to begin all the key-words in the title of the Book and journals for Articles, Manuscripts thesis and unpublished papers, the procedure is to use a capital only to begin proper nouns and the first word of the title. A full stop mark or comma is placed at the end of the title of the Book.

If the Article is quoted, its title is also given in single or double inverted commas and is followed by the following information (i) the title of the journals/magazine

(ii) volume number in Roman numbers followed by the date and publications; and the number of journal in parenthesis.

Publishers address:

The name of the publishers of the book/journal will be given. Followed by its place of publication and if possible the full address of the publishers. A colon mark is placed after the place of publication and a comma is placed at the end of the publisher's address.

Year of the Publication:

The year of publication may be given in parenthesis at the end of the references. A full-stop mark is placed at the end.

1. Page Number: Wherever possible, the page numbers referred to given.
2. Example Book by one author:
3. Chapin F.S. 'Experimental Design in sociological Research'. New York: Harper & Row, Publishers, (1947).

Bentham and Austin signify by the term 'Legislation' any form of law-making. The term is, however, restricted to a particular form of law-making; viz. the declaration in statutory form of rules of law by a competent authority. Legislation is the most potent and sovereign source of law making. It is the only source which has all the power of enacting laws. Repealing old laws and modifying current laws. It is, therefore, to be distinguished from law derives from judicial decisions, for though the judicial may be said to have power to make law, it has no power to lay down general rules.

Legislation may be divided into supreme and subordinate legislation. Supreme legislation is that which process directly from the Supreme or sovereign power in the state it is Supreme because no authority can annul, modify or control it. Legislation by any other authority is subordinate legislation and is capable of being controlled by the Supreme authority, the subordinate forms of legislation derive their authority to legislate only by delegation, express or implied of the Supreme. Power, municipal corporations, universities, Railway –companies and clubs have got power to make rules and orders governing themselves and their members; but such bodies are subject to the control of the sovereign — legislature. The chief forms of subordinate —legislation, according to salmond, are the following:

For a legal Researcher Material source of law that source which law derives not its validity but the matter of which it is composed. Material sources are divided into legal and historical. Legal sources of law are those sources which are authoritative. They are recognized as such by the law itself. These are the immediate sources of law.

Decisions given by judges marked a very important source of law, for on the law — Material of customs the judges fashion ed up rules of law each rule of law came to be a thread in the 'Reticulated Fabric' of the Law. Like the sculptors who work its chisel and marble or bronze and make beautiful works of Art, did the judges work on the raw material of custom supplied by Merchants or other satisfactory evidence well reasoned were the judicial decisions, and these formed a valuable contribution to the law of the land which was, in early times very scant indeed.

For some-time past certain judges of Supreme Court have been adopting an activist approach to the conflicts that affect the citizens of the country, particularly in regard to their socio-economic conditions. The Bihar under trials, the Bhagalpur Bindings, Agra protection hone case and other such litigation have given scope to the activist judges of the Supreme Court to espouse the cause of afflicted citizens. So a legal researcher should keep

in mind available decisional material on the topic which he is pursuing. Normally the decisions which have been followed for a long, period of time and have been acted upon by persons in the formulation of contracts or in disposition of that property or other legal processes should generally be followed afterwards but this rule is not inexorable inflexible and universally applicable in all situations.

Another one case law consists of the rules and principles states and acted upon the judges in giving decision. The case laws are the necessary subject matter in any doctrinal enquiry because the law declared by the Supreme Court and High Court binding the subordinate courts. The Indian law is largely a system of law. That is, the decision in a particular case. Constitute precedent. According to the doctrine of Precedent it is not everything and by a Judge when giving judgment that constitutes precedent. But only the reasons for the decision given in the judgment constitute precedent. So, the reason stated in the judgment of an appeal case becomes a necessary subject matter of inquiry and analysis by a lawyer. Case laws are the secondary source of data to the researches. While reading the case-laws the researcher may come across a problem of legal issue and he can from a hypothesis, run an empirical inquiry and thus conduct the research.

In a dynamic society, the lawn on social welfare has placed great Burden on courts of law. Generally, there will be gaps in statutes and the courts have to evolve doctrinal principles, standards and norms. Further, there will be ambiguity in the statutory language. A word which appears to clear during the enactment of law may become vague during its application to a particular case.

An example of the legislative covering the description on the court is that art 19 of the Constitution of India. Many a times the Supreme Court has used its discretion regarding the words 'public order', 'Reason to Believe'. 'Reasonable time' 'Reasonable ness of restriction' etc. in he same way in administrative laws the phrases like 'Executive delegation' and 'ultra-virest are vague and Flexible. The above decisions of the courts regarding the analyzing the existing statutory provisions are he examples joy the doctrinal research.

The empirical research is mainly concerned with legal. Decision process i.e. researcher's attention is on variables what influence the decision and the impact of the decisions on the society. The empirical research may be defined as research into relationship of law with other behavioral sciences. Here, more importance is given to people, social values and social institutions and not to the legal aspects doctrines usually a researcher undertakes some aspects of legal decisions and his approach is always broader and decisional materials contain a lot of information to be used by the researcher because it is concerned with the particular doctrine of law say and not as what made the authority to say so or what has been the impact of that say. According to S.N. Jain, decisional materials involves analysis of case law arranging ordering and systematizing legal propositions and study of legal institutions through legal reasoning or rational deduction. Ascertaining a legal rule for the purpose of solving a problem is one of the purposes of the legal research. This law has been achieved

by original sources of law. The acts of parliament ones the act passed by the legislature fall under this category of legislation. The case laws decided by Supreme Court and High Court which are binding on lower courts fall under the category of precedents.

In modern context the researcher has to find out an a propose those principles, rules and regulations which can serve the purpose what Rosso Pound hastermed as social engineering as well as the existing doctrine/Principle of law may become certain and stable so that social goals may be achieved. If there researcher happens to be a judge he can give concrete shape and stability to the legal principles by applying the principle of review or revisions or overruling. A good number of cases may be cited substantiate this point of view e.g Shankair Prasad. (1951) and Sajjan Singh's case were overruled by Golak-Nath case which was subsequently overruled in Keshwanand Bharate case. Similarly a definite shape was provided by the Supreme Court to the Right of personalliberty as given in Art 21 of the Constitution in A.K. Gopalan's case but its scope was widened in Menka Gandhi and in subsequent cases because the court was convened that with the passage of time be meaning and scope of the right to personal liberty has considerably widened since its decision in A.K. Gopalan case. The Court has introduced changes not only in the area of the Constitution Law, but also in the area of Labour-Law criminal law as well as property law. The courts have held that death sentence should not be imposed in all cases in which the offence of murder is established, but only in the rarest of rare cases.

Death penalty is now an exception life imprisonment is the rule (Jagmohan Singh V. Uttar Pradesh) AIR, 1973, SC. 947). Not only this the execution of death sentence in public has been held to be a Barbaric act, and that the person sentenced to death to also entitled to procedural fairvers fill the last Breath of his life. Courts through judicial decision reflect important social, economic and political goals and seeds of the society in which they function. This is possible only if a great deal of thinking and research is carried on in the area of law. Rules of law reflect the society and the time in which they operate growth of law has been pragmatic developing from society's need for researcher and flexibility in its dayto day working.

When pursuing a legal research the person should keep in mind the importance of judicial writings on the concerned subject or topic. There are number of books of foreign and Indian Authors who influenced the legislatures to make law, rules and policies. Judges like justice Krishna Iyer P.N. Bhagwati on Human Rights. Upendra Bakshi, Subba Rao judicial writing of Gajender Gadkar on Public interest litigation Patanzali Shastri on Constitutional matters and the views and opinion in the form of writing play a very important role in Research work. Different commentaries and Digest Just like 'Edward Coke'. Mensfield, Bentham, Austin salmond also good 'source to gain' knowledge for a Research. The documents express the inner-most feelings of theheart of the writer and at times. These documents throw light on such aspects of high as would have beendifficult to know through observation or interview. They, generally are more realizablebothas regards one

description of the subject as well as the feelings of the writer. They contain the perfect type of socio-legal material necessary to characterize the life of social group.

A legal writing is anything that contains matters of socio-legal importance. Most of the writings are written in the past when the phenomenon took place and are not specially prepared for the study of the present problem. Not only judicial writings but personal documents include all such written material is written by an individual to narrate his views upon personal. Relationship or social phenomena. Most of these writings are from personal point of view. But & researcher should take proper precautions to understand it and its consequences because there are some draw-backs of the writings which are mentioned below.

Unreliability of the data may be there due to personal Bias of the writer. Writings do not provide a representative sample and the documents not be considered as a valid one. The availability of writing may be difficult if they contain some confessions which are likely to damage his reputation.

Judicial documents also supply a huge fund of information. They deal with different subjects and are usually published by various institutions, organizations and associations records, parliamentary debates, judgments etc one regarded important public documents. These writings are easily available and to a large extent, also reliable. A good deal of information regarding socio-legal problems is now collected and released for publication by the Government.

These personal documents including life-histories of the people in general and important persons in particular, public and private documents like diaries, confidential files. Literature, Newspapers etc. is important sources. Apart from this, Articles, Papers and Books on legal history and Constitutional history are equally important.

Compilation of List of Reports or Special Studies: The Legal Research Report is the statement that contains in Brief the procedure adopted and the findings aimed at by the researcher of a legal. Problem a legal report is not a complete description of work done by the researcher. It is only a brief statement of most significant facts that are necessary for understanding the generalization drawn by the investigator. After the collected data have been analyzed and interpreted and various generalizations have been drawn, the report has to be prepared. It is the last phase of the research.

A vast planning and preparation is necessary for writing the report. Writing the report requires considerable through effort patience and penetration. Writing a legal research report is a technical activity which demands skill and patient from the researcher. The report should focus on the target audience; report should be simple, interesting and lucid. Only hard and patient work on the facts, careful and critical assessment and intelligent planning of the organisation of the report can facilitate the communication. There is no standard criterion for organisation of legal research report.

Reporting the research requires on order of skills come what different from these needed

in the earlier phases of research. The chief purpose of a report is communication with the readers. It should contain the following aspects:

Following are the steps in a social survey-

1. Selecting the problem- As we have seen in the foregoing definitions of social survey, it deals with social problems. Accordingly, the first step of social survey is the selection of the problem. As long as the nature and character of the problem is not clear in the mind of surveyors, they would not know how to make a start and will grope in dark; therefore clarity and definiteness about the problem is a sine qua non of any social survey. The social surveyor is not merely a spectator who can afford to tally with any and every problem he comes across in a community. His approach is practical and motivated by utilitarian considerations. Therefore he must choose a problem which is significant and whose solution would make some practical differences to the life of the community. A social surveyor should choose his problem keeping in view the importance of the problem of community and the actual of tangible benefits to the community consequent its removal.

2. Defining the Aim- Following the selection of the problem, the aim and purpose of social survey must be well defined and made crystal clear because without the knowledge of goals social survey would be like a ship on sea without rudders. Social survey will lack direction in the absence of knowledge of goals. Moreover, the efficiency of a social surveyor can be measured only in relation to achievement of goals and if we do not know a goal, we shall have no criterion to judge the success of survey. These goals may be specialized or generic. For example, collection of census data is for general purposes. The social survey of living conditions of labourers of the statistics regarding indebtedness of labour, nature of landholding, nature of tax structure are survey having specific aims. At times the aim of survey is to bring out into general notice the facts which are known by some only. Whatever may be the aim of social survey, it may be generic or specific, but it must be well defined.

3. Defining the problem under the study- Now the nature of the problem selected should be defined. This will determine the scope of the problem and also its nature and character. For example, if we wish to study the problem of alcoholism among labour, then first of all we should define what we mean by the term alcoholism. We have to be clear in mind as to what quantity of liquor consumed per day indicates alcoholism. Likewise if one wishes to study the effect of alcohol and drug on the omission of crime and the quantum and nature of punishment therefore, he will have to take into account the quantity of alcohol and drug quantity consumed and effect produced by it.

4. Making a schedule- After the problem is defined; we have to analyze the various elements, constituents or factors involved in the problems so that a detailed and systematic list of these may be formulated. It is only when a detailed list of the problems is available that the relevant information can be systematically gathered.

5. Constituting a commission for survey- The official surveys are always undertaken after constituting a commission to make surveys and this commission is empowered to elicit

various types of data and also an access to classified material relevant to the study. Having constituted these limit, and scope of the inquires, it is also provided with both financial and personnel assistance. The commission also acts as processor of complaints received from surveyors or public and can redress grievances. It can and does from time to time issue instructions and determine code of conduct for surveyors. Having done fieldwork, the surveyors file all the data with the office of the commission where it is processed, classified and analyzed. The director and the members are responsible for all policy decisions. They determine the policy itself into various committees and sub-committees to deal with specialized matters. In the event of controversy, commission members may give dissenting notes, though normally an attempt at consensus is made. In the event of dissenting notes the majority report is considered to be the verdict of the commission.

6. Determining of scope- In science the study of a problem implies systematic investigation into a limited and well-defined subject matter. Without setting limits, no phenomenon can be studied. Accordingly, before the beginning of a survey, it is imperative to determine the scope of the problem. In determining the scope of a problem the following techniques are made use of:

- Political and administrative division, such as Nation, State, Town, City, Locality etc.
- Professional class such as rich and poor people, labourers etc. This means limiting the problem on the basis of economic levels or considerations.
- Child, young, old etc. This involves determination of the problem on biological basis.
- Married,unmarried,literate,illiterate,that is determination on the basis status.
- Hillyareas, planes, deserts etc. determination of thescope of a problem upon geographical basis.
- Status in society president, Governor, Minister, I.A.S. & I.P.S. Officer, judgesof Supreme Court, High court.
- Social division upper caste,backwards,scheduled caste and scheduled tribe.
- Nature of laws remedial penal enabling repealing etc.

Nature of climate, polluted,non-polluted,highly polluted etc.

7. Determining of Time Limits- Social survey requires the services of trained investigators and considerable amount of money. Accordingly, it is essential to set a time limit for it. Some problems are of topical importance and such problems undergo gradual change. In both cases, if the results of survey take too long a period to be determined, the validity of results may be doubtful on account of change of conditions or the problem may no longer be quite relevant. For example, the social problems arising out of war conditions like displacement of populations etc must be immediately tackled if the solution is to be effective. But if the government takes too long to come to conclusion about the nature and

the extent of relief needed, the problems will be changed and the results of it will be inapplicable. Certain statistics cease to be relevant to survey after a lapse of some period. For example, if Census Commission submits its report in 5 to 6 years, the Census data collected by it will cease to be very relevant, because pollution of certain areas may have radically changed in number and character. While fixing the time limit, the time needed for each stage of social survey is determined and, therefore delay in one stage will easily indicate that there is delay into the completion of the survey. While fixing the time it has to be kept in mind that time and money consumed should not be excessive; it should not also of course be too short. In the first event the character of problem may energy would be wasted. If the time is very short, the result may lack reliability on account of sufficient care, absence of check and cross-check. At times the time limit has to be fixed to suit the convenience of persons giving information. For example, different amount of time is taken by questionnaire, interview, biographical records, and observations techniques. The well trained and competent surveyors will take less time than the ordinary surveyor. Therefore, while fixing time limit the above consideration should be borne in mind.

8. Examining of the means of Information- After arranging survey, the next requirement is to decide about the means of information. The sources of information must be accessible and free from duplicity and mischief. If the survey is being made for the first time it is called primary survey and upon its basis there can be further advance. The data gathered through primary survey is called preliminary data. If the survey is being made second time it is called secondary survey and its data called secondary data. In different types of survey different techniques of survey are employed. Mostly the information is obtained through schedule, questionnaire and direct interview of individuals. Secondary data are obtained through published or unpublished material of primary survey and also from official and non-official report.

9. Determining of the Unit of survey- Before launching survey, its unit should be determined. On account of this determination field workers are free from doubts and can easily gather the relevant information. The unit should be definite, unambiguous, stable, harmonized, simple and capable of being surveyed. In order to formulate a representative unit it is necessary to define and well formulate the sample. If all units are to be surveyed there is very little difficulty in the survey; but owing to unwieldiness and vastness of the area of survey; usually only representative units can be investigated. The units have to be determined keeping the time and money available for the survey. Their number and form depend upon the nature of the material. The sample technique can be employed only where there is no deficiency of material or incoherence of time.

10. Determination of the amount of refinement of material- Before undertaking the actual survey it has to be made clear as to what extent refinement of the data is to be expected. In quantification, accuracy to the last percentile is considered a sine qua non. Accordingly, in qualitative survey the surveyor has to accuracy and refinement is

proportionate to the availability of time, fund and able personnel. However, it has to be borne in mind that in the area of legal study so far as qualitative survey is concerned 100% accuracy cannot be obtained because the social factors constantly hammer the society compelling the people to change their attitudes.

11. Selecting and training of Researchers and data collections- Research requires a well trained staff of researchers and field workers. The selection of researchers and field workers should be made keeping in view the nature of the scope of social survey. Having selected them they have to be trained for the job; they must become acquainted with their respective duties and manner of performance of them. In selection not only the intellectual qualities should be emphasized but the personal qualities like amiability, good humour, pleasant appearance and tactfulness have to be particularly stressed because the field workers have to deal with various types of persons and their personal qualities and resourcefulness will be much in demand.

12. Preparedness of Informers- In different types of survey the individuals from different classes are used for collecting information. Before undertaking the survey it is essential to create responsiveness and preparedness for cooperation among individuals from whom the information is needed. For example, in the Indian Census of 1971, government publicized through various media to make people aware of the need and importance of Census and the responsibility of public to give accurate information to field workers without any fear because all information of personal nature will be kept strictly confidential. Educated public can be informed by post or through radio, television, cinema slides and various leaders of the community aspects of a survey. Sometimes handbills are distributed and to approach uneducated persons illustrated brochures are made available. If the individuals to be interviewed are persuaded to feel the importance of their cooperation, they will become responsible and give information easily.

13. Determining of survey Technique- Before starting, it should be made clear that techniques are to be used in survey. The choice of technique depends upon the scope and the nature of the survey. The determination of techniques facilitates survey. In questionnaire technique and the schedules to be set by post, the list of questions is prepared before hand.

Field work- Having completed the above formalities field workers go to respective individuals to gather information. In this they have to keep in view the conveniences of persons to be interviewed. This work requires great resourcefulness and tact because the cooperation of respondents can be secured only if they are approached in the right manner. The field work is done under the supervisor. After collecting information the field workers file it with their respective departments.

- **Organization of material, classification and statistical analysis-** The collected material is organized, classified and statistically analyzed.

- **Elucidation of conclusions-** Having analyzed the data, competent and able researchers draw conclusions from them and elucidate these conclusions.
- **Presentation through Graphs-** Lastly, the conclusions of a survey are graphically represented. Some schedules and charts are also given to aid the understanding of these conclusions.

When the conclusions of a social survey are made definite and have been well formulated, the recommendations are treated with respect as they have the backing of scientific inquiry. Upon the basis of these recommendations official and non-official agencies take the necessary steps to implement them and since these recommendations are based on realistic scientific studies their implementation usually yields desirable results. If there are repeated surveys in a particular field, the later surveys act as verifiers to earlier surveys.

The various types of survey and different techniques used in survey have their respective significance and value. In a general way it may be said that the surveys throw useful light on the various aspects of the social problems and help in understanding the causes of the problems and the mutual interplay of the causes. On the strength of a survey practical remedies are normally efficacious because they are the outcome of scientific study and analysis. A general or widespread survey helps us to get an overall idea of the multiple aspects of the problem gaining over a very wide field, and this, in turn, can indicate depth of survey because it studies threadbare a particular problem in a limited range. The conclusions of a specialized survey are much more reliable than those of general or widespread survey. Accordingly, specialized survey is more important from the scientific point of view. The postal survey is less expensive than personal survey, but the postal survey can be conducted only where all the respondents are literate. Moreover in case of doubt in the respondent's mind postal survey fails whereas personal survey can take care of all such contingencies. While personal survey is undoubtedly reliable and therefore desirable, its negative features are its expansiveness and various types of lures and temptations to which a field worker is exposed. There is a well known case of an American who distorted information about a poor family because the mother offered him the sexual services of her comely daughter. Public survey can be made only in a situation where the information is of general type and not of personal nature. But in survey of problems of disorganization, homosexuality, lesbianism, marital discord, smuggling, crime etc, the survey has to be confidential. In regular surveys, the reliability of conclusion increases. The value of a primary survey is directly dependent upon the technique used. Here, there is lack of comparative material and this proves a stumbling-block. However, primary surveys are highly important because through them a first attempt is made to gather well-organized information on a subject and these prove to be stepping stones for repetitive surveys. The Census and income data can be kept reliable only through regular surveys.

In Census survey, much money, time and staff is needed. The surveys of this type are used countrywide and their conclusions are reliable and precise. But on account of being less expensive, sample surveys are widely used in social sciences. Official surveys are initiated and conducted by government to gather accurate data on some problem confronting the government. As the government has large funds and large brigade of trained personnel's, official surveys are quite reliable and accurate. But government is liable to suppress information unpalatable and offensive to it and which may arouse people's resentment against it. Therefore private surveys, in spite of their obvious limitations, are very useful. The direct surveys, being quantitative in character, are more reliable than the quantitative indirect surveys.

It is evident from the above that the utility and importance of survey cannot be determined in abstract. It is only in relation to the nature of the problem; its scope, the aim and object of survey, the availability of funds, staff and other facilities that one can know which type of survey will be useful under the given circumstances. Each type has its own pros and cons and the choice of type is very crucial in order to derive full benefits from the survey.

2.5 SUGGESTED READINGS

1. Dr. H.N. Tiwari, *Legal Research Methodology*, Reprint, 2006.
2. Dr. S.N. Myaneni *Legal Research Methodology*, Reprint, 2008.
3. C.R. Kothari *Research Methodology: Methods and Techniques*. Reprint, 1994.
4. S.K. VERMA, *Legal Research Methodology* Indian Law Institute publication.

2.6 TERMINAL QUESTIONS

1. How research problem is formulated Discuss?
2. What are the criteria of research problem?
3. How bibliographical survey is made? Discuss.
4. How many kinds of survey are there?
5. Discuss in detail about the utility and limitations of social survey.

Unit-3

Legislative materials including subordinate legislation, notification and policy Statements

STRUCTURE

3.1 INTRODUCTION

3.2 OBJECTIVES

3.3 SUBJECT

3.3.1 Legislative materials including subordinate legislation, notification and policy Statements

3.3.2 Collection of Material

3.3.3 Academic Law Journals

3.3.4 Codification

3.3.5 Subordinate Legislation

3.3.6 Legislative Materials Including Subordinate Legislation

3.3.7 Colonial, Executive, Judicial, Municipal and Autonomous Legislations

3.3.8 Constitution of Legislative measures

3.3.9 Decisional Material

3.3.10 Judicial Writings

3.4 SUMMARY

3.5 SUGGESTED READINGS

3.6 TERMINAL QUESTIONS

3.1 INTRODUCTION

The Researcher must acquaint himself with all the material available on the matter. He should collect the literature, he should find out the persons who have conducted research on similar problem and discuss with them on their findings and techniques used. This early preparation will make him more equipped.

At the end a legal research all primary and secondary sources of data references book. Periodicals, Articles Report, Government documents, unpublished materials pamphlets,

films, records and other references must be listed under the title bibliography.

3.2 OBJECTIVES

The present chapter deals with the major steps involved in doing legal research. It also describes selection or formulation of legal research problem or topic and collection of data in Legislative materials including subordinate legislation, notification and policy Statements. An imperative is made to discuss the important issues related with the subordinate legislation.

3.3 SUBJECT

3.3.1 Legislative materials including subordinate legislation, notification and policy Statements

Material source of law is that source from which law derives not its validity but the matter of which it is composed. Material sources are divided into legal and historical. Legal source of law are those sources which are authoritative. They are recognized as such by the law itself. These are the immediate sources of law. The law which comes through the legal source may be divided into the following classes:

(1) Enacted law, having its source in legislation: The supreme legislation is made by the so power of the nation. In democratic countries Parliament is sovereign. It is considered not only supreme but legally omnipotent. But there may be certain constitutional restrictions upon its power.

Subordinate legislation is made by any other authority than the supreme authority in the nation. It is made under the powers delegated by the supreme authority. Such legislation is also considered as law. Subordinate laws are executive made laws and local laws by local bodies.

(2) Case law, having its source in precedent: Precedent is defined as —a previous instance or case which is, or may be taken as an example of rule for subsequent cases, or by which some similar act or circumstances may be supported or justified. In the judicial field it means the guidance or authority of past decisions for future cases. Only such decisions as lay down some new rule or principle are called judicial precedents. The first general rule of doctrine precedent is that each court is absolutely bound by the decisions of the courts above it. The second rule is that to a certain extent higher courts are bound by

their own decisions.

(3) Customary law, having its source in custom: Customs are the most important source of law. But with the progress of the society, they gradually diminish and legislation and judicial precedents become the main sources. In every legal system and at all the stages of legal development there are some customs accepted by the society, The customs having sanction are those customs which are enforced by the state. Legal customs operate on a binding rule of law. They have been recognised by the courts and have become a part of the law of the land. They are enforced by the courts.

(4) Conventional law, having its source in agreement: The con law are those customs which govern the parties to an agreement. Parties agree to them. Such customs are binding not due to any legal authority independently possessed by them, but because it has been the contract between the parties to it. There is a bulk of conventional law in every country.

(5) Statutory interpretation: The law which comes into being through legislation is called enacted or statute law. It is for the courts to apply these formulas to specific cases. The court has to ascertain the meaning of the letters and expressions of the enactment for its application. This process of ascertaining the meaning of the letters and expressions by the court is called 'interpretation'. In this process the judge exerts a very considerable influence on the statute law. The interpretation is mainly of two kinds: (i) literal and (ii) liberal. The principle of literal interpretation is that the judge should not go beyond the letters of the law. The liberal interpretation is that the judges should go beyond the letters of the statute in order to ascertain the true intention.

(6) Codifications: Codification means promulgation, compilation, collection and systematization of the body of law in a coherent form by an authority in a state competent to do so. In India, there is the code of **Manu, Yajnavalkya, Brihaspathi, Narada, Parashara** etc. These various codes applied in different parts of the country. In modern times the Indian Law Commission drafted a number of codes such as Indian Penal Code, the Civil Procedure Code etc. The Law Commission made comprehensive and voluminous recommendations of which many have been implemented

There are other Sources of law like (1) morals and equity and (2) opinions of experts. All these sources are available in documentary form in general and legal libraries.

After designing the research assignment the researcher turns to the implementation part of it. He attends to the formulation the instruments such as questionnaire, interview schedule etc. Keeping in view the techniques of analysis he is going to implement. To make the data Reliable and Free from Bias, he has to select the mode of administering the instruments.

3.3.2 Collection of Material

Collection of Material is regarded as Fascinating phase of research. Through the collection

and handling of information, the researcher begins to feel the actual excitement of research. A researcher can either collect the material himself or rely on others for their collected material or information available with them.

In legal research public —documents also supply huge fund of information. They deal with different subjects and are usually published by various institutions. Organizations and Association records, parliamentary debates Judgments etc. are regarded important public-document. These documents are easily available and to a large extent also reliable. So a researcher should survey of available literature and have knowledge of bibliography concerned with the topic.

Generally all current legislative materials such as Bills Acts. Rules notification etc. is published in the Gazette of India. The relevant portions of the 'Gazette of India' dealing with legislative material can be of much use for a researcher.

Official publication central Acts: 'Indian Code' is one of official publication containing all the acts in force in India. Acts of Parliament is another official publication containing all the Bare Acts Parsea in Particular years.

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The Publication: Like 'Constituent Assembly Debates'. Lok Sabha and Rajya Sabha debates' may offer information regarding the Pre-legislative Discussions in the Research area.

The Federal Courts Reports (1939-50), and Supreme Court Reports (Since 1950) Published the cases decided by them. Private Publications like 'All India Reporter', Supreme Court Journal', 'Supreme Court cases' also report the case decisions' of the Supreme Court, the case decisions of High Courts are also published in 'All India Reporter' Madras Law Journal, Bombay Law Reporter etc.

Specialized Law Reports:

The following are reports specialized on certain Branches giving information on

specialized Branches:

1. Labour law Journal
2. Labour and Industrial case
3. Industrial court reporter
4. Criminal Law Journal
5. Income Tax Reports
6. Company cases and sales tax cases etc.

3.3.3 Academic Law Journals

"The Journal of Indian Institute' Indian Journal of International Law' are some of the journals which carry, Research articles. 'Academy Law Review'. 'The administrator', Banaras Law Review', Civil and Military Law Journal etc. are some belong to this category. **citators'and ges a researcher to locate topic-wise materials.**

"Index to legal periodical' and 'Index to Foreign Legal Periodicals' may rearcher to find the Article relevant to his Research and locate the name of the Journal, volume and number in which that has been published.

Law Libraries are the workshops to the legal researcher Law Library are not justa place where books and periodicals are housed, but it is a place where books are classified and placed in an orderly manner so as to provide easy access to the Researcher.

Case Laws: are the evidential sources for the arguments in deductive analysis case laws are the secondary sourceof data to the Researcher.While reading the case-law, the Researcher may come across a problem of legal issue and he can form a hypothesis, Run an empirical inquiry and thus conduct the Research. The lawyers, Judges and Researchers use case-laws for their logical argumentation. Thus the case laws become the documentary source of material in legal studies.

3.3.4 Codification

Means promulgation compilation collection and systematization of the body if law in a coherent form by an authority in a state competent to do so. In Modern times the Indian Law commission drafted a number of codes such as Indian Penal Code, the civil procedure code etc.

3.3.5 Subordinate Legislation

Is made by any other authority than the Supreme Authority in the nation. It is made under the powers delegated by the Supreme authority, such legislation is also considered as law, subordinate laws are executive made laws and local laws by local bodies. But such bodies are subject to the control of the sovereign legislature. The Researcher may gain knowledge by Municipal Legislation in which the power is entrusted to municipal authorities making special law for the district under their control.

Another form of subordinate legislation is autonomous legislation in the form of university, Railway companies bodies, corporations and clubs.

3.3.6 Legislative Materials Including Subordinate Legislation

Bentham and Austin signify by the term Legislation 'any form of law-making. The term is, however, restricted to a particular form of law-making; viz. the declaration in statutory form of rules of law by a competent authority. Legislation is the most potent and sovereign source of law making. It is the only source which has all the power of enacting laws. Repealing old laws and modifying current laws. It is, therefore, to be distinguished from law derived from judicial decisions, for though the judicial may be said to have power to make law, it has no power to lay down general rules.

Legislation may be divided into supreme and subordinate legislation. Supreme legislation is that which proceeds directly from the Supreme or sovereign power in the state it is Supreme because no authority can annul, modify or control it. Legislation by any other authority is subordinate legislation and is capable of being controlled by the Supreme authority, the subordinate forms of legislation derive their authority to legislate only by delegation, express or implied of the Supreme. Power, municipal corporations, universities, Railway –companies and clubs have got power to make rules and orders governing themselves and their members; but such bodies are subject to the control of the sovereign legislature. The chief forms of subordinate legislation, according to Salmond, are the following:

3.3.7 Colonial Legislation

Legislations by the legislatures of the colonies or other dependencies of the crown enjoying the power of self government are subject to the control of the imperial legislature.

Executive Legislation:

It is the legislation by the executive for conducting the administrative departments of a state, where the Act does not contain the whole legislation but delegated to a foreign authority to legislate in the matter, it is subordinate legislation.

Judicial Legislation:

It is the rule making power of the Superior courts for the regulation of their own procedure. It is a true form of legislation except that it can not create new law by way of precedent.

Municipal Legislation:

The bye-law-making power of municipal authorities is another form of subordinate-legislation. The law entrusts to municipal authorities the limited power of making special law for the district under their control.

Autonomous Legislation:

Legislation by autonomous bodies like universities or railway companies is also termed subordinate legislation.

3.3.8 Constitution of Legislative measures

Opinion of executive is not relevant the Bye laws of a co-operative society framed in pursuance of the provisos of the relevant Act cannot be held to be law or to have the force of law. They are neither statutory in character may they have statutory flavor so as to be raised to the status of law. Now if there is any conflict between a statute and the subordinate legislation, it does not require elaborate reasoning to firmly state that the statute prevails over subordinate legislation and the bye laws of not in conformity with the statute, in order to give effect to the statutory provision, the rule of by-law and must be complied with. It is the function of the court to construe legislative. Measures and in reaching the correct meaning of a statutory provision opinion of executive branch is hardly relevant. Nor can the court abdicate in favour of such opinion. (Baboji Kondaji Garad v. Nosik Merchants cooperative Bank Ltd., AIR 1984, SC 192).

3.3.9 Decisional Material:

For a legal Researcher Material source of law that source which law derives not its validity but the matter of which it is composed. Material sources are divided into legal and historical. Legal sources of law are those sources which are authoritative. They are recognized as such by the law itself. These are the immediate sources of law.

Decisions given by judges marked a very important source of law, for on the law—Material of customs the judges fashioned up rules of law each rule of law came to be a thread in the 'Reticulated Fabric' of the Law. Like the sculptors who work with chisel and marble or bronze and make beautiful works of Art, did the judges work on the raw material of custom supplied by Merchants or other satisfactory evidence well reasoned were the judicial decisions, and these formed a valuable contribution to the law of the land which was, in early times very scant indeed.

For some-time past certain judges of Supreme Court have been adopting an activist approach to the conflicts that affect the citizens of the country, particularly in regard to their

socio-economic conditions. The Bihar under trials, the Bhagalpur Bindings, Agra protection hone case and other such litigation have given scope to the activist judges of the Supreme Court to espouse the cause of afflicted citizens. So a legal researcher should keep in mind available decisional material on the topic which he is pursuing.

Normally the decisions which have been followed for a long. Period of time and have been acted upon by persons in the formulation of contracts or in disposition of that property or other legal processes should generally be followed afterwards but this rule is not inexorable inflexible and universally applicable in all situations.

Case laws are the secondary source of data to the researches. While reading the case-laws the researcher may come across a problem of legal issue and he can from a hypothesis, run an empirical inquiry and thus conduct the research.

In modern context the researcher has to find out an a propose those principles, rules and regulations which can serve the purpose what Rosso Pound has termed as social engineering as well as the existing doctrine/Principle of law may become certain and stable so that social goals may be achieved. If the researcher happens to be a judge he can give concrete shape and stability to the legal principles by applying the principle of review or revisions or overruling. A good number of cases may be cited substantiate this point of view e.g Shankair Prasad.(1951)and Sajjan Singh's case were over ruled by Golak-Nath case which was subsequently overruled in Keshwanand Bharate case. Similarly a definite shape was provided by the Supreme Court to the Right of personalliberty as given in Art 21 of the Constitution in A.K. Gopalan's case but its scope was widened in Menka Gandhi and in subsequent cases because the court was convened that with the passage of time be meaning and scope of the right to personal liberty has considerably widened since its decision in A.K. Gopalan case.

The Court has introduced changes not only in the area of the Constitution Law, but also in the area of Labour-Law criminal law as well as property law. The courts have held that death sentence should not be imposed in all cases in which the offence of murder is established, but only in the rarest of rare cases.

3.3.10 Judicial Writings

When pursuing a legal research the person should keep in mind the importance of judicial writings on the concerned subject or topic. There are number of books of foreignandIndian Authors who influencedthe legislaturestomakelaw, rulesand policies. Judges like justice Krishna Iyer P.N. Bhagwati on Human Rights. Upendra Bakshi, Subba Rao judicial writing of Gajender Gadkar on Publicinterest litigation Patanzali Shastri on Constitutional matters and the views and opinion in the form of writing play a very important role in Research work. Different commentaries and Digest Just like 'Edward Coke'. Mensfield, Bentham,

Austin salmond also a good 'source to gain' knowledge for a Research. The documents express the inner-most feelings of the heart of the writer and at times. These documents throw light on such aspects of high as would have been difficult to know through observation or interview. They, generally are more realizable both as regards one description of the subject as well as the feelings of the writer. They contain the perfect type of socio-legal material necessary to characterize the life of social group.

A legal writing is anything that contains matters of socio-legal importance. Most of the writings are written in the past when the phenomenon took place and are not specially prepared for the study of the present problem.

Not only judicial writings but personal documents include all such written material is written by an individual to narrate his views upon personal relationship or social phenomena. Most of these writings are from personal point of view. But & researcher should take proper precautions to understand it and its consequences because there are some draw-backs of the writings which are mentioned below.

3.4 SUMMARY

The Researcher must acquaint himself with all the material available on the matter. He should collect the literature, he should find out the persons who have conducted research on similar problem and discuss with them on their findings and techniques used. This early reparation will make him more equipped.

At the end a legal research all primary and secondary sources of data references book. Periodicals, Articles Report, Government documents, unpublished materials pamphlets, films, records and other references must be listed under the title bibliography.

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3.5 SUGGESTED READINGS

1. Dr.H.N.Tiwari, Regal Research Methodology, Reprint, 2006.
2. Dr.S.N.Myaneni Legal Research Methodology, Reprint, 2008.
3. C.R.Kothari Research Methodology: Methods and Techniques. Reprint, 1994

3.6 TERMINAL QUESTIONS

1. Write an essay on legislative material for research.
2. What is the utility of legislative material in research?
3. Explain about the relevancy of legislative material in exploring the legal problems for research.
4. What is the utility of judicial writings in research?

UNIT-4

Compilation of list of Reports or special studies conducted relevant to the problem

STRUCTURE

4.1 INTRODUCTION

4.2 OBJECTIVES

4.3 SUBJECT

4.3.1 Legal writing of reports and compilation

4.3.2 Most common utilization of reports

4.3.3 How should students approach primary sources?

4.3.4 What distinguishes legal argument from other kinds of arguments?

4.3.5 Evaluate the law in light of policy objectives.

4.4 SUMMARY

4.5 SUGGESTED READINGS

4.6 TERMINAL QUESTIONS

4.1 INTRODUCTION

Legal writing is distinguished by a number of features. It should be as clear and concise and as precise as possible. Good legal writing is reasonably formal but not archaic. For example, it is not acceptable to use contractions such as won't or isn't, or to write in a chatty style. But at the same time, students should avoid using words such as a for mentioned and here to fore, as well as avoiding the use of we instead of I. The tone should be measured (rather than involving excessive use of hyperbole, for instance) and the writing should be reasonably objective. Legal writing is often in the third person. For example, instead of writing "I would argue that ..." it is more acceptable to write "it is arguable that ..." Sometimes the first person might be preferable, such as in the introduction where you might say "In this essay, I will argue that ...". While students should develop their own views, they should also acknowledge and deal with any counter arguments. Adherence to conventions of grammar, spelling, etc., and also to requirements of style is very important – a lawyer's skills are very dependent upon his/her ability to make effective use of language. (A misplaced comma can alter the meaning of a clause, and documents that do not comply with required formalities may be rejected by a court.

4.2 OBJECTIVES

The objective of this lesson is to study the how to compile an excellent report and how reports are used: as a basis for criminal cases; as a basis for civil cases, including insurance, health department, risk management, environmental (AQMD), etc., a source of statistical information, to supply information to newspapers and the media, to evaluate the officer, by various reviewing audiences, to document different types of incidents.

4.3 SUBJECT

What makes an excellent report

An excellent report is one that is well written, and is identified by six basic, necessary qualities. A well written report is:

- Accurate
- Clear
- Concise
- Complete
- Timely

Deficiency in any of these areas cast doubts upon the capabilities of the officer who wrote the report. Report writing ability refers not just to writing skills, but to the totality of skills perceptual, analytical, information processing and language that work together to produce a written document.

4.3.2 Most common utilization of reports

Reports are written to document events. For law enforcement agencies, such documentation is important for future criminal prosecution as well as for liability in future civil litigation. In their original form, the reports are reviewed by detectives and supervisors and read by the prosecuting attorney and the defense attorney. Typically, the district attorneys base their decisions to file criminal charges on the contents of the original reports. These reports are also used to coordinate additional criminal investigations. Reports can assist detectives in identifying methods of operations (M.O.), certain crime trends, and can link similar or related crimes and criminal activity together in an attempt to identify the perpetrator. Reports are frequently used to assist officers and other participants to refresh their memories for testifying in court. For private security companies, reports most often tend to be used to document events by which the client could or would be affected. Incidents such as slip and fall accidents, crimes, internal losses, etc., are issues that cost the client money, and therefore, are directly affected by the effectiveness of the security company and its personnel. Adequate documentation in such cases can save both the client and the security company time and money. Of course, similar investigation and documentation are requirements in other professions, too. Professionals such as insurance investigators, private investigators, risk management investigators, human resources personnel, health department inspectors, code enforcement officers, etc., all deal with volatile incidents that could potentially expose an organization or individual to financial liability as well as harm the reputation of that organization or individual. Statistical Information Statistics compiled weekly, monthly, and yearly help local law enforcement agencies determine how to better allocate resources, and to justify their activities. States collect their own crime statistics, which are then published yearly. Nationally, law enforcement agencies report certain criminal incidents to the Federal Bureau of Investigation, which then publishes a yearly report on all criminal activity within the country. This statistical information, along with the actual reports, provides evidence that the agency is meeting the needs of the

community

Legal writing is usually less discursive than writing in other humanities subjects, and precision is more important than variety. Sentence structure should not be too complex; it is usually unnecessary to make extensive use of adjectives or adverbs, and consistency of terms is often required. For example, when describing a case, the plaintiff should always be referred to as "the plaintiff". Using multiple descriptions of a person by referring to him/her with a variety of terms (*the plaintiff*, *the person aggrieved*, *Mr. X*, and so on) may cause confusion. Generally the most important characteristic of the person in a legal argument is his/her legal role (i.e. the plaintiff, defendant, judge, or whoever). Students need to refer to primary sources (statutes and common law judgments) and not solely rely on secondary sources (expert commentaries on the law). Even if the secondary source is accurate, it is possible the law has since changed.

4.3.3 How should students approach primary sources?

- Usually, students will begin with secondary sources, and develop a sense of what the issues are and a framework for their approach to the assignment task. But then they need to check the current state of the law. The module on legal research teaches students how to go about such research.
- Secondary sources play an important role in helping students understand the kinds of issues surrounding any area of legislation and the arguments that are brought to these issues. This is especially important for students with very little or no background knowledge about an area of law and the policy or social or legal issues relating to it.
- Students may cite course materials when writing their assignments, but usually the first-year research assignment in Legal Process is deliberately set in such a way that the substantive content of the essay will not have been dealt with in lectures. Students will need to engage in extensive research in order to complete the assignment satisfactorily.
- be clear
- demonstrate an understanding of the law
- give reasons for the case being made

4.3.4 What distinguishes a legal argument from other kinds of arguments?

A most important part of a student essay is that they demonstrate that they understand the law. This usually involves students in identifying the current state of the law. However, they then need to discuss that law in terms of what is required by the task. For instance, students might be asked to discuss whether the law in that area should be relaxed, or made more restrictive. They would need to summarise and evaluate reasons given for and

against. Reasons may be of different sorts (moral, social, a need to change the law to meet policy objectives, a need to change the law to create better consistency with other laws, and so on). These reasons would be evaluated, and a conclusion reached on which position seems most persuasive.

1. Students may be asked to compare the law in Australia with the law in another country. Sometimes international students make a comparison with their own country, which can be very useful if it is done well, but sometimes this is a problem because students do not have the legal resources to quote. But where it is done well, it can offer them quite a lot of insight.
2. Although qualities such as clarity, conciseness, and the logical development of an argument are important in many forms of writing, they do seem to have a greater premium in legal writing. Being a lawyer is very much about describing, analysing, and generally communicating clearly. The ability to use language well is therefore regarded as a more important quality than it might be in many other disciplines.
3. In law, the actual words used perhaps have a greater significance than they do in many other disciplines. It is possible that in some other disciplines it is enough to demonstrate that you have grasped the concepts. But in law the actual wording can be critical. (This is perhaps obvious in the drafting of wills, or court documents, and other such legal documents. It is very important to avoid ambiguity. People may easily lose confidence in a lawyer whose language is perceived as poor.)
4. Time is at a premium for practising lawyers. But also important is the ability to get to the heart of a matter very quickly, to be able to recognise what is central and what is not. Therefore, discussion should be limited to only that which is necessary for the purpose at hand.
5. This focus on clarity can also lead to some stylistic differences between legal writing and other forms of writing. For example, as noted above, it is better to use one term consistently, such as "the plaintiff" when describing the person bringing a case.
6. When a client comes to see you they really do want some fairly precise advice. They want the law explained to them in a way they can understand, but which eliminates the superfluous. A common problem in assignments is that students include all the things that could possibly be related. What is important is that the student sifts through the legal material to determine what is relevant and irrelevant, and distils it down to its core element, and then applies it to produce reasoned advice. Reasoned advice includes identifying the arguments for and against, making clear the risks in proceeding with litigation or whatever.
7. Legal argument can be visualized in linear terms. You explain where you are coming from, develop your case step by step, and then come to your conclusion. You're trying to build up a chain in a very structured, straight-line fashion.

Legal reasoning is sometimes compared to mathematical reasoning. There is a kind of linearity: you begin with step one, go to step two, three, etc. But you have to demonstrate that reasoning too. In math's it is not just the conclusion that matters, but how you get there and the steps you took. There is an element of that in Law.

However, not only are there a number of different ways of getting to a possible answer, there is seldom only one possible answer. Student originality may partly lie in finding a slightly different way of dealing with an issue, but what is important is that the reasoning and the steps taken in doing that are made clear.

- Make sure your reasoning is clearly demonstrated
- Deal with the different arguments that might be brought to bear
- Although it may seem to students that much legal writing concerns the application of the law to a given scenario, this does not mean that critical thinking is not important. Some areas of law are exceptionally difficult in the sense that it is hard to work out what the legal position might be. You might have different scenarios and it might not be at all apparent what would be the outcome if they were litigated. The task may simply be to try and work that out and argue it out.

Your argument may then take the following form: You might first argue that a similar approach was taken in a previous case on a related issue; and that if you extrapolate to the present scenario, then the law might actually apply in this way here too. Such an approach may be required in some tasks. But you would also need to show alternative interpretations of the law, and then decide with reasons which approach in your view is most persuasive.

- In other areas, it is much more apparent what the law actually is, and so in a hypothetical scenario it might be clear what the outcome should be. But you might need to look at the broader critiques that have been made. It might be argued that the law as it stands does not produce a sensible result. For example, negligence cases where people are able to sue might have had a negative policy impact.

For instance, doctors might have stopped treating patients they see lying on the road because they could be sued for negligence. So there you are looking at the ramifications of the law. Thus, the form your critical thinking takes does depend very much on the nature of the task and the law you are looking at.

Dealing with the arguments against - as well as presenting one's argument for - a particular proposition is the process used in the courtroom; and it translates more generally into legal reasoning and argument. Thus, when you are writing an article for lawyers to read, and trying to convince them, they would think poorly of the article if they see that you have neglected to deal with the counter arguments.

4.3.5 Evaluate the law in light of policy objectives

What we are really looking for is the rationale for the legislation or the objectives it is trying to meet, and the competing arguments for and against reform. In the case of an issue such as reform of euthanasia laws, people will hold a number of quite different views (some think the current state of the law is quite good, some think the laws should be tightened, and others think they should be relaxed).

It's a question of a student identifying what the current state of the law is, and then going on to evaluate the suggestions for how it might be changed. The question will make it clear as to what approach should be taken. It might be to evaluate suggestions for relaxing the law, or evaluate reasons or policy arguments for making it more restrictive. These could be looked at from a range of perspectives, such as political, sociological, or whatever, according to the context. Those arguments then need to be evaluated, but with reference to what the law is, not simply stating in broad terms whether euthanasia is a good idea. So students need to be clear on what exactly the position of the law is at the moment, and the basis of the criticisms, and then determine whether they agree or disagree with the criticisms, and why.

Students are often told that their essays will be judged in part on its "originality". What kind of originality are students expected to demonstrate? What we are looking for is some unique input by the student: originality can be talked of in terms of "value added". You are trying to add something to the totality of what's been written before, putting your own personal stamp on it.

It is not necessarily something as radical as coming up with a new solution to the problem of, say, euthanasia. It is more a matter of how you sift through the existing sources and make sense of them, how you evaluate the arguments that have been raised, and how you organise the material and your perspective on the material. To the extent you do that well, you would rate high on originality.

A common trap is finding an excellent article and using that as your guide, and - while not exactly copying chunks out - rewriting and reorganizing them and presenting that as your essay. I think a lot of students who are a bit unsure tend to think that if they quote extensively from someone they are attributing properly - or if they simply say this is what some people have said about this - that they will be on safe ground. They are not confident enough to have a view point, or they fear their viewpoint is not a valid one.

In addressing the task, the student must make a case that will be supported with evidence from those sources, but the answer itself will not be found in any of those sources. Originality could be as minimal as sorting out which is the worth while from the less worth while, and adding a perspective or approach. Thus, originality in students' writing is not necessarily a matter of coming up with new ideas. Originality is demonstrated most usually

perhaps in thoughtfulness about the texts read and issues discussed. This goes beyond simply reproducing material and ideas we find in texts. So what comes out is a product of what's gone in; it acknowledges what has gone in, but it is assembled and thought of and linked together in a new way. It has something of the student's voice in it, as opposed to being simply reproduction.

- Students are strongly advised to read a lot of examples of good legal writing (e.g. articles published in the Monash Law Review, which uses an identical style guide). Looking at these might at first be a little discouraging to students - given that they may reflect months or even years of research experience - but they do assist students to understand what is looked for in their writing. As they read some examples of good legal writing, students should read in terms of thinking about the structure of writing, and not simply for the content.
- If you read articles and look at how the authors use footnotes, you soon recognize what sorts of things are put in footnotes, and how they are used. Students need to understand that footnotes are an easy way of showing their research without cluttering up the body of the text. The inclusion of an interesting side point may not fit in the word limit, but a reference to it can be put in a footnote. Reading good articles is helpful for other sorts of things, such as noticing how the author structures the article, at the way they introduce the topic, and how they build up and work through to the conclusion.
- The most important advice for students is to prepare adequately. This means that they should read the question carefully and give themselves sufficient time to undertake research, and to read and digest materials. Then they need to plan the essay structure before commencing writing. They should also think carefully about what is required in terms of writing style and formal requirements (e.g. use of footnotes) before writing. Ideally the essay should be completed a few days before it is due so that it can be put aside and then checked over with a fresh eye.

4.4 SUMMARY

An excellent report is one that is well written, and is identified by six basic, necessary qualities. A well written report is:

- Factual
- Accurate
- Clear
- Concise
- Complete
- Timely

Deficiency in any of these areas cast doubts upon the capabilities of the officer who wrote the report.—Report writing ability refers not just to writing skills, but to the totality of skills perceptual, analytical, information processing and language that work together to produce a written document.

Reports are written to document events. For law enforcement agencies, such documentation is important for future criminal prosecution as well as for liability in future civil litigation. In their original form, the reports are reviewed by detectives and supervisors and read by the prosecuting attorney and the defense attorney. Typically, the district attorneys base their decisions to file criminal charges on the contents of the original reports. These reports are also used to coordinate additional criminal investigations. Reports can assist detectives in identifying methods of operations (M.O.), certain crime trends, and can link similar or related crimes and criminal activity together in an attempt to identify the perpetrator. Reports are frequently used to assist officers and other participants to refresh their memories for testifying in court. For private security companies, reports most often tend to be used to document events by which the client could or would be affected. Incidents such as slip and fall accidents, crimes, internal losses, etc., are issues that cost the client money, and therefore, are directly affected by the effectiveness of the security company and its personnel. Adequate documentation in such cases can save both the client and the security company time and money. Of course, similar investigation and documentation are requirements in other professions, too. Professionals such as insurance investigators, private investigators, risk management investigators, human resources personnel, health department inspectors, code enforcement officers, etc., all deal with volatile incidents that could potentially expose an organization or individual to financial liability as well as harm the reputation of that organization or individual. Statistical Information Statistics compiled weekly, monthly, and yearly help local law enforcement agencies determine how to better allocate resources, and to justify their activities. States collect their own crime statistics, which are then published yearly. Nationally, law enforcement agencies report certain criminal incidents to the Federal Bureau of Investigation, which then publishes a yearly report on all criminal activity within the country. This statistical information, along with the actual reports, provides evidence that the agency is meeting the needs of the community.

Legal writing is distinguished by a number of features. It should be as clear and concise and as precise as possible. Good legal writing is reasonably formal but not archaic. For example, it is not acceptable to use contractions such as *won't* or *isn't*, or to write in a chatty style. But at the same time, students should avoid using words such as *forementioned* and *heretofore*, as well as avoiding the use of *we* instead of *I*. The tone should be measured (rather than involving excessive use of hyperbole, for instance) and the writing should be reasonably objective. Legal writing is often in the third person. For example, instead of writing “I would argue that ...” it is more acceptable to write “it is

arguable that ...”, Sometimes the first person might be preferable, such as in the introduction where you might say “In this essay, I will argue that ...”. While students should develop their own views, they should also acknowledge and deal with any counter arguments. Adherence to conventions of grammar, spelling, etc., and also to requirements of style is very important – a lawyer’s skills are very dependent upon his/her ability to make effective use of language. (A misplaced comma can alter the meaning of a clause, and documents that do not comply with required formalities may be rejected by a court.)

Legal writing is usually less discursive than writing in other humanities subjects, and precision is more important than variety. Sentence structure should not be too complex; it is usually unnecessary to make extensive use of adjectives or adverbs, and consistency of terms is often required. For example, when describing a case, the plaintiff should always be referred to as “the plaintiff”. Using multiple descriptions of a person by referring to him/her with a variety of terms (*the plaintiff, the person aggrieved, Mr. X*, and so on) may cause confusion. Generally the most important characteristic of the person in a legal argument is his/her legal role (i.e. the plaintiff, defendant, judge, or whoever).

Students need to refer to primary sources (statutes and common law judgments) and not solely rely on secondary sources (expert commentaries on the law). Even if the secondary source is accurate, it is possible the law has since changed.

How should students approach primary sources?

- Usually, students will begin with secondary sources, and develop a sense of what the issues are and a framework for their approach to the assignment task. But then they need to check the current state of the law. The module on legal research teaches students how to go about such research.
- Secondary sources play an important role in helping students understand the kinds of issues surrounding any area of legislation and the arguments that are brought to these issues. This is especially important for students with very little or no background knowledge about an area of law and the policy or social or legal issues relating to it.
- Students may cite course materials when writing their assignments, but usually the first-year research assignment in Legal Process is deliberately set in such a way that the substantive content of the essay will not have been dealt with in lectures. Students will need to engage in extensive research in order to complete the assignment satisfactorily.
- be clear.
- demonstrate an understanding of the law.
- give reasons for the case being made.

Legal reasoning is sometimes compared to mathematical reasoning. There is a kind of linearity: you begin with step one, go to step two, three, etc. But you have to demonstrate that reasoning too. In math's it is not just the conclusion that matters, but how you get there and the steps you took. There is an element of that in Law.

However, not only are there a number of different ways of getting to a possible answer, there is seldom only one possible answer. Student originality may partly lie in finding a slightly different way of dealing with an issue, but what is important is that the reasoning and the steps taken in doing that are made clear.

- Make sure your reasoning is clearly demonstrated.
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- Although it may seem to students that much legal writing concerns the application of the law to a given scenario, this does not mean that critical thinking is not important. Some areas of law are exceptionally difficult in the sense that it is hard to work out what the legal position might be. You might have different scenarios and it might not be at all apparent what would be the outcome if they were litigated. The task may simply be to try and work that out and argue it out.

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trying to convince them, they would think poorly of the article if they see that you have neglected to deal with the counter arguments.

Students are quite frequently asked to evaluate the law in light of policy objectives. But what does this mean?

What we are really looking for is the rationale for the legislation or the objectives it is trying to meet, and the competing arguments for and against reform. In the case of an issue such as reform of euthanasia laws, people will hold a number of quite different views (some think the current state of the law is quite good, some think the laws should be tightened, and others think they should be relaxed).

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4.5 SUGGESTED READINGS

1. Dr.S.N.Myaneni Legal Research Methodology, Reprint,2008.
2. C.R. Kothari Research Methodology:Methods and Techniques. Reprint, 1994.
3. S.K.VERMA,Legal Research Methodology Indian Law Institute publication.
4. Mona Sirohi, Legal Education and Research Methodology.
5. <http://hiredbypolice.com/repbk.pdf>.

4.6 TERMINAL QUESTIONS

- [How law reports are compiled?](#)
- What makes an excellent report?
- How reports are utilized?Discuss.

Unit-5

Socio Legal Research

STRUCTURE

5.1 INTRODUCTION

5.2 OBJECTIVES

5.3 SUBJECT

5.3.1 Collection of Data in Socio-Legal Research

5.3.2 Primary and Secondary Sources of Data Collection

5.3.3 Relationship between Primary and Secondary Sources

5.3.4 Case Law as A Source of Law

5.3.5 Documentary Sources of Data

5.4 SUMMARY

5.5 SUGGESTED READINGS

5.6 TERMINAL QUESTIONS

5.1 INTRODUCTION

Research work is not something which can be completed in one stroke or in one step. It consists of a number of closely related activities which very often overlap. At the very outset the researcher must choose the area in which he wants to carry on research. In the field of Law the researcher has a very wide scope. He can select any area. After selecting the area he is required to select topic or subject for his study.

A research cannot be said to be duly carried out unless the relevant materials have been examined. The collection of relevant materials is most difficult and comprehensive work and requires a lot of energy, attention as well as patience. The collection of material depends

upon the research design, selected by the research. In this chapter we will discuss various tools and techniques for the collection of data, with Pros x cons of each method so that the data be analysed.

5.2 OBJECTIVES

Research in common parlance refers to a research for knowledge. Research is a scientific and systematic search for pertinent information of a specific topic. Infact research is an art of scientific investigation. In the field of law, research occupies a very significance portion. The purpose of research is to discover answers to questions through application of scientific procedures. The objective of this lesion is to define the research design. One of the design decision will be the what types of tools and techniques can be used for the collection of data and seeking answers to the question which will be useful in the research or study of a specific topic.

5.3 SUBJECT

5.3.1 Collection of Data in Socio-Legal Research

Collection of data is regarded as fascinating phase of research. Through the collection and handling of information, the researcher begins to feel the actual excitement of research. A researcher can either collect the data himself or relyon others for their collected data or information available with them. In both the cases, there is a great need for data of high quality. The selection of data requires great skill and experience.

Data is based on our sense-observations. The word observation‘ as used here includes all forms of perception used in recording responses as they impinge upon our senses. But response is not a datum. A response is some manifest kind of action, whereas a datum is the product of the process of recording the response.

In data collection stimuli (questions, tests, pictures or other objects) is presented to the respondent (subject). The stimuli may be classified as systematic stimuli, and unsystematic stimuli. By systematic stimuli, we mean those that are kept constant while objects are changed. The unsystematic stimuli are those which lack standardization e.g., questions asked in informal interviews.

The responses of the subjects (i.e., respondents) to the stimuli may also be classified as systematic and unsystematic responses. Systematic responses have a reference to constant (definite, standardized) response categories. Thus, the responses of subject to a

stimulus are recorded. The unsystematic responses are those which are recorded verb at im with due regard to all possible individual variations and character logical nuances. Bringing these categories of stimuli and responses, we can decide the settings for the collection of data as:—

- (i) Informal,
- (ii) Formal unstructured, and
- (iii) Formal structured.

The responses of the subjects may be called as ‘acts’. Acts may be classified as verbal and non-verbal. The verbal acts may be sub-divided into oral and written. Verbal acts are acts where verbal symbols are used to communicate. The non-verbal acts are the signals like bowing, clapping, etc. The oral-verbal acts consist of the subject replying to a stimulus by the word of the mouth. The other kind of verbal acts consist in writing out the responses to the stimulus.

The main forms of data collection responses can be presented in the following break-down table -

Settings	Responses		
	Non-verbal	Oral-verbal	Written-verbal
Formal	Participant observation	Conversations	Letters, articles, biographies
Formal	Systematic	Unstructured	Open-ended
Unstructured	Observation	Interviews	Questionnaires
Formal structured	Experiments	Structured interviews	Structured questionnaires

Data collection is related to : (i) Primary and secondary sources of data, (ii) Census and sampling techniques, and (iii) Methods of data collection.

The sources of legal data can be classified on several grounds, such as, reliability, personal efforts, availability and so on. On the basis of reliability they may be broadly divided into two categories: Primary data, and secondary data. Some divided the sources of data into documentary source and, field sources. Lundberg classified them as historical source and field sources.

5.3.2 Primary and Secondary Sources of Data Collection

Primary source of data.—it is original information collected for the first time. It is also called as internal source of data as the data is collected directly from the subjects. They are

obtained from

living persons directly related to the problem or through observation. This primary sources can again be sub-divided into: (a) Direct Primary, and (b) Indirect Primary

(a) Direct primary sources: The researcher personally goes and observes events, things, behaviour, activities and so on. He has to display great skill and objectivity. Observation can be of three sub-types: (i) participant observation, (ii) non-participant observation, and (iii) quasi-participant observation. Direct observation is the best, but difficult. In some cases it may be either legally inadmissible or physically impossible.

(b) Indirect primary sources : As the researcher cannot observe things which occurred long back, he needs to contact those persons who have made observations relevant to his research. This can be done through interviews, questionnaires or schedules.

Secondary source of data—This information is obtained from outside either a published source or from someone else who has already worked on the subject. They save a researcher's labour of collecting data again and prevent necessary expenditure. They can be broadly divided into two types:

(a) Personal documents, and (b) Published documents. Personal documents

consist of life histories, diaries, letters, and memories. It is very difficult to obtain them or put them to proper use. Public documents come from public bodies, government and private organizations. Apart from books, available in libraries, this category includes records, published statistics, reports of newspapers and journals and special reports, film or T.V. programmes, tapes and so on. Unpublished documents are not easily available. Documentary sources are very important because past events can be known only through them. They may reveal certain secrets. They can help to save time, money and energy. But a researcher should verify the contents with the help of other sources. The secondary materials of law possess only on persuasive value but not authoritative value.

5.3.3 Relationship between Primary and Secondary Sources

The primary data once collected will become secondary data for others. The researcher collecting primary data knows the reality and the limitations, of the problem. Second-hand data provides hypotheses for the problem. These hypotheses can be tested or verified on the basis of first-hand data. Secondary data become third-hand data if they are mentioned by someone else. Primary data can be considered as being most reliable. The secondary sources are available in a Law Library.

Original Material Sources of Law

Material source of law is that source from which law derives not its validity but the matter of which it is composed. Material sources are divided into legal and historical. Legal source

of law are those sources which are authoritative. They are recognized as such by the law itself. These are the immediate sources of law. The law which comes through the legal source may be divided into the following classes

1. Enacted law, having its source in legislation.—

The supreme legislation is made by the sovereign power of the nation. In democratic countries, Parliament is sovereign. It is considered not only supreme but legally omnipotent. But there may be certain constitutional restrictions upon its power. Subordinate legislation is made by any other authority than the supreme authority in the nation. It is made under the powers delegated by the supreme authority. Such legislation is also considered as law. Subordinate laws are executive made laws and local laws by local bodies.

2. Case law, having its source in precedent.—

Precedent is defined as —a previous instance or case which is, or may be taken as an example of rule for subsequent cases, or by which some similar act or circumstances may be supported or justified. In the judicial field, it means the guidance or, authority of past decisions for future cases. Only such decisions as lay down some new rule or principle are called judicial precedents. The first general rule of doctrine of precedent is that each court is absolutely bound by the decisions of the courts above it. The second rule is that to a certain extent higher courts are bound by their own decisions.

3. Customary law, having its source in custom.—

Customs are the most important source of law. But with the progress of the society they gradually diminish and legislation and judicial precedents become the main sources. In every legal system and at all the stages of legal development there are some customs accepted by the society. The customs having sanction are those customs which are enforced by the State. Legal customs operate on a binding rule of law. They have been recognized by the courts and have become a part of the law of the land. They are enforced by the courts.

4. Conventional law, having its source in agreement.—

The conventional law are those customs which govern the parties to an agreement. Parties agree to them. Such customs are binding not due to any legal authority independently possessed by them, but because it has been the contract between the parties to it. There is a bulk of conventional law in every country.

5. Statutory interpretation.—

The law which comes into being through legislation is called enacted or statute law. It is for the courts to apply these formulas to specific cases. The court has to ascertain the meaning of the letters and expressions of the enactment for its application. This process of ascertaining the meaning of the letters and expressions by the court is called 'interpretation'. In this process the judge exerts very considerable influence on the statute law. The

interpretation is mainly of two kinds : (i) literal and (ii) liberal. The principle of literal interpretation is that the judge should not go beyond the letters of the law. The liberal interpretation is that the judges should go beyond the letters of the statute in order to ascertain the true intention.

6. Codifications.—

Codification means promulgation, compilation, collection and systematization of the body of law in a coherent form by an authority in a State competent to do so. In India, there are the codes of Manu, Yajnavalkya, Brihaspathi, Narada, Parashara, etc. These various codes are applied in different parts of the country. In modern times, the Indian Law Commission drafted a number of codes such as Indian Penal Code, The Civil Procedure Code, etc. The Law Commission made comprehensive and voluminous recommendations of which many have been implemented.

There are other sources of law like: (1) morals and equity and (2) opinions of experts. All these sources are available in documentary form in general and legal libraries.

5.3.4 Case Law as a Source of Law

The legal practitioner, judge, researcher of law have to involve in search of law to be applied to a case in hand because —no lawyer knows more than a relatively infinitesimal part of the law, nor does any judge. But they have to know how to find law and where to find law. Lawyers draw relevant proposition of law to be applied in a case in hand from two important sources: the judgments made by higher courts, i.e., the precedents and the legislations. One cannot find out a law applicable to a fact situation covered by a single source of law. Often the legal proposition to be applied in a fact situation cannot be drawn from a particular source of law. A sound knowledge in substantive and procedural laws enables a lawyer to identify relevant facts of a case from a mountain of facts made available to him by client. On the identification of relevant facts and the law to be applied there to a lawyer uses his logic to correlate them.

A precedent is primarily a case law which serves as an authority for deciding a similar case. In many instances, case-laws have played an important part in the interpretation of statutes. Case-law consists of the rules and principles stated and acted upon by judges in giving decisions. In a system based on case-law, a judge in a subsequent case has to decide the case before him in the same way as that in which the previous case was decided unless he can give a good reason for not doing so. That means, cases must be decided in the same way when their material facts are the same. Of course, it does not require that all the facts should be the same.

Case law consists of the rules and principles stated and acted upon by the judges in giving decisions. The case laws are the necessary subject-matter in any doctrinal enquiry because

the law declared by Supreme Court and High Courts binding the subordinate courts. The Indian law is largely a system of case law. That is, the decision in a particular case constitutes precedent'. According to the doctrine of precedent, it is not everything and by a judge when giving judgment that constitutes precedent. But only the reason for the decision given in the judgment constitutes precedent. So, the reason stated in the judgment of an appeal case becomes a necessary subject-matter of inquiry and analysis by a lawyer. Case laws are the secondary source of data to the researchers. While reading the case laws, the researcher may come across a problem of legal issue and he can form a hypothesis, run an empirical inquiry and thus conduct the research.

Case laws are the evidential source for the arguments in deductive analysis. The lawyers, judges and researchers use case laws for their logical argumentation. Thus, the case laws become the documentary source of data in legal studies.

5.3.5 Documentary Sources of Data

Data can be made available from different sources. P.V. Young has classified the data into two groups : (1) Documentary and (2) Field sources. Documentary sources include material already collected whether published or unpublished. Such data can be obtained from libraries and from persons and public documents.

A legal document is anything that contains matters of socio-legal importance. Most of the documents are written in the past when the phenomena took place and are not specially prepared for the study of the present problem. Documents can be divided into two categories: (i) Primary, and (ii) Secondary. Primary documents provide primary data collection and compiled by the same authority that originally prepared those documents. Secondary documents provide data that has been transcribed or compiled from original sources. The published documents were categorized by John Madge into:

(i) personal documents, and (ii) public or official documents.

Personal documents (direct source) —

Personal documents include all such written material as is written by an individual to narrate his views upon personal relationship or social phenomena. Most of these documents are written from personal point of view. There are many kinds of personal documents such as : (i) life histories, (ii) diaries, (iii) letters and (iv) memories. Life histories include all biographical material, even auto biographies. The author of a life history records his personal views about contemporary happenings. Such writings prove a useful source of material for researchers. Diaries are another important source of information. In a diary, events are recorded in a regular manner. In a diary the author's personal experiences are

reflected. Letters are another valuable tool of the socio-legal researcher. They contain the facts of the phenomena. But letters have their own limitations. Some persons write their memories in which they record some of the main events of their social life.

The personal documents express the inner-most feelings of the heart of the writer and at times, these documents throw light on such aspects of life as would have been difficult to know through observation or interview. They, generally, are more reliable both as regards the description of the subject as well as the feelings of the writer. They contain the perfect type of socio-legal material necessary to characterize the life of social group.

Limitations of Personal Documents

1. The availability of personal documents may be difficult if they contain some confessions which are likely to damage his reputation.
2. Unreliability of the data may be there due to errors on the part of the writer.
3. Personal documents do not provide a representative sample and the document may not be considered as a valid one.

Public Documents or Official Documents

Public documents also supply a huge fund of information. They deal with different subjects and are usually published by various institutions, organisations and associations. Records, parliamentary debates, judgments, etc. are regarded as important public documents. These documents are easily available and, to a large extent, also reliable. The public documents may be in the form of unpublished records and published documents. A good deal of information regarding socio-legal problems is now collected and released for publication by the Government.

Documentary Sources of Legal Material

(1) Central Legislative Material in Gazettes of India.—

Generally, all current legislative materials such as Bills, Acts, Rules, Notifications, etc. are published in the Gazette of India. The relevant portions of the Gazette of India dealing with legislative material can be of much use for a researcher.

(2) Official Publications of Central Acts—

‘Indian Code’ is one of official publications containing all the Acts in force in India.

Acts of Parliament is another publication containing all the Acts passed in a particular year. General Statutory Rules and Orders is the official publication of all the Rules, Orders and Notifications issued by the Central Government which are in force. To trace the material, the subject heading should be traced by consulting the Index to Indian Code.

The Union Government publishes the reports of Various Committees and Commissions such as Law Commission of India, Commission for Scheduled Castes and Scheduled Tribes, Committee on Public Undertakings, Pay Commission, Finance Commission, Sarkaria Commission etc.

(3) State Gazettes—

The State statutes are published in the respective State gazettes. Some States have published State Codes.

(4) Private Publications-

The privately published case reports may have a section dealing with Central as well as State legislative materials. The All India Reporter' is one of such reputed legal periodicals. The publishers of All India Reporter' have published AIR Manuals' in multiple volumes. These volumes contain Central and State legislative materials. Madras Law Journal has also published a manual known as Civil Court Manual.

(5) Departmental Publications—

A few Government Departments do publish manuals from time to time giving the rules and notifications on the respective subjects. Central Excise Manual', Civil Services Manual', Customs Manual', Income Tax Manual', Foreign Exchange Manual' are some of them to be mentioned.

(6) Delegated legislation—

Statutory materials concerning delegated legislation can be found in the Gazette of India' and State Gazettes.

The publication like Constituent Assembly Debates', Lok Sabha and Rajya Sabha Debates' may offer information regarding the pre-legislative discussions in the research area.

The Federal Court Reports, (1939-50) and Supreme Court Reports' (since 1950) published the cases decided by them. Private publications like All India Reporter', Supreme Court Journal', Supreme Court Cases' also report the case decisions of the Supreme Court. The case decisions of High Courts are also published in All India Reporter', Madras Law Journal, Bombay Law Reporter, etc.

(7) Specialized Law Reporter.—

The following are reports specialized on certain branches giving information on specialized branches

- Labour Law Journal
- Labour and Industrial Cases
- Industrial Court Reporter
- Criminal Law Journal
- Income Tax Reports
- Company cases and Sales Tax cases, etc.

(8) Contribution of Individual Academicians—

Such as— (i) Indian Legal Materials (1970) and Law Library Administration and Reference (1972) by H.C. Jain published by Indian Law Institute, New Delhi.

(9) Academic Law Journals—The Journal of Indian Law Institute, Indian Journal of International Law' are some of the journals which carry research articles. Academy Law Review', The Administrator', Banaras Law Review', Civil and Military Law Journal', etc. also belong to this category.

(10) Citators and Digests

help a researcher to locate topic-wise materials. The A.I.R. published Fifty Years Digests (1901-1950) and Fifteen Years Digests (1951-1965) etc. Income Tax Digest, Company Law Digest, Labour Law Digest etc. are some of the Digests which are specialized in the particular fields.

(11) Index to Legal Periodical and Index to Foreign Legal Periodicals

may help the researcher to find the article relevant to his research and locate the name of the journal, volume and number in which that has been published.

(12) Law Libraries are the workshops to the legal researchers.

Law library is not just a place where books and periodicals are housed, but it is a place where books are classified and placed in an orderly manner so as to provide easy access to the researchers.

Importance of Documents

- They can help to save time, money and energy. There is no need to purchase books. There is no need to go from place to place as they are available in a library
- Data is collected periodically, making the establishment of trends over time possible.
- The documentary sources does not require the cooperation of the individuals about whom the information, is desired.
- There will be no scope for the bias of the investigator.
- Available records may be used to supplement or to check information gathered specifically for the purpose of a given investigation.
- Past event can be known from the documentary source.
- They can be quoted as authoritative.

5.4 SUMMARY

A research cannot said to be duly carried out unless the relevant materials have been examined. The collection of relevant materials is most difficult and comprehensive work and requires lot of energy, attention as well as patience. The collection of material depends upon the research design, selected by the research. In this chapter we will discuss various tools and techniques for the collection of data, with Pros x cons of each method so that the data be analyses.

Collection of data is regarded as fascinating phase of research. Through the collection and handling of information, the researcher begins to feel the actual excitement of research. A researcher can either collect the data himself or rely on others for their collected data or information available with them. In both the cases, there is a great need for data of

high quality. The selection of data requires great skill and experience.

Data is based on our sense-observations. The word 'observation' as used here includes all forms of perception used in recording responses as they impinge upon our senses. But response is not a datum. A response is some manifest kind of action, whereas a datum is the product of the process of recording the response.

In data collection stimuli (questions, tests, pictures or other objects) is presented to the respondent (subject). The stimuli may be classified as systematic stimuli, and unsystematic stimuli. By systematic stimuli, we mean those that are kept constant while objects are changed. The unsystematic stimuli are those which lack standardization e.g., questions asked in informal interviews.

The responses of the subjects (i.e., respondents) to the stimuli may also be classified as systematic and unsystematic responses. Systematic responses have a reference to constant (definite, standardized) response categories. Thus, the responses of subject to a stimulus are recorded. The unsystematic responses are those which are recorded verbatim with due regard to all possible individual variations and character logical nuances. Bringing these categories of stimuli and responses, we can decide the settings for the collection of data as:—Informal, Formal unstructured, and Formal structured.

Material source of law is that source from which law derives not its validity but the matter of which it is composed. Material sources are divided into legal and historical. Legal source of law are those sources which are authoritative. They are recognized as such by the law itself. These are the immediate sources of law. The law which comes through the legal source may be divided into the following classes

(1) Enacted law, having its source in legislation.—

The supreme legislation is made by the sovereign power of the nation. In democratic countries, Parliament is sovereign. It is considered not only supreme but legally omnipotent. But there may be certain constitutional restrictions upon its power.

Subordinate legislation is made by any other authority than the supreme authority in the nation. It is made under the powers delegated by the supreme authority. Such legislation is also considered as law. Subordinate laws are executive made laws and local laws by local bodies.

(2) Case law, having its source in precedent—

Precedent is defined as a previous instance or case which is, or may be taken as an example of rule for subsequent cases, or by which some similar act or circumstances may be supported or justified. In the judicial field, it means the guidance or, authority of past decisions for future cases. Only such decisions as lay down some new rule or principle are called judicial precedents. The first general rule of doctrine of precedent is that each court is absolutely bound by the decisions of the courts above it. The second rule is that to a certain extent higher courts are bound by their own decisions.

(3) Customary law, having its source in custom—

Customs are the most important source of law. But with the progress of the society they gradually diminish and legislation and judicial precedents become the main sources. In every legal system and at all the stages of legal development there are some customs accepted by the society. The customs having sanction are those customs which are enforced by the State. Legal customs operate on a binding rule of law. They have been recognised by the courts and have become a part of the law of the land. They are enforced by the courts.

(4) Conventional law, having its source in agreement—

The conventional law are those customs which govern the parties to an agreement. Parties agree to them. Such customs are binding not due to any legal authority independently possessed by them, but because it has been the contract between the parties to it. There is a bulk of conventional law in every country.

(5) Statutory interpretation—

The law which comes into being through legislation is called enacted or statute law. It is for the courts to apply these formulas to specific cases. The court has to ascertain the meaning of the letters and expressions of the enactment for its application. This process of ascertaining the meaning of the letters and expressions by the court is called 'interpretation'. In this process the judge exerts very considerable influence on the statute law. The interpretation is mainly of two kinds : (i) literal and (ii) liberal. The principle of literal interpretation is that the judge should not go beyond the letters of the law. The liberal interpretation is that the judges should go beyond the letters of the statute in order to ascertain the true intention.

(6) Codifications—

Codification means promulgation, compilation, collection and systematization of the body of law in a coherent form by an authority in a State competent to do so. In India, there are the codes of Manu, Yajnavalkya, Brihaspathi, Narada, Parashara, etc. These various codes are applied in different parts of the country. In modern times, the Indian Law Commission drafted a number of codes such as Indian Penal Code, The Civil Procedure Code, etc. The Law Commission made comprehensive and voluminous recommendations of which many have been implemented.

There are other sources of law like: (1) morals and equity and (2) opinions of experts. All these sources are available in documentary form in general and legal libraries.

The legal practitioner, judge, researcher of law have to involve in search of law to be applied to a case in hand because —no lawyer knows more than a relatively infinitesimal part of the law, nor does any judge. But they have to know how to find law and where to find law.

Lawyers draw relevant proposition of law to be applied in a case in hand from two important sources: the judgments made by higher courts, i.e., the precedents and the legislations. One can not find out a law applicable to a fact situation covered by a single

source of law. Often the legal proposition to be applied in a fact situation cannot be drawn from a particular source of law. A sound knowledge in substantive and procedural laws enables a lawyer to identify relevant facts of a case from a mountain of facts made available to him by a client. On the identification of relevant facts and the law to be applied thereto a lawyer uses his logic to correlate them.

A precedent is primarily a case law which serves as an authority for deciding a similar case. In many instances, case-laws have played an important part in the interpretation of statutes. Case-law consists of the rules and principles stated and acted upon by judges in giving decisions. In a system based on case-law, a judge in a subsequent case has to decide the case before him in the same way as that in which the previous case was decided unless he can give a good reason for not doing so. That means, cases must be decided in the same way when their material facts are the same. Of course, it does not require that all the facts should be the same.

Case law consists of the rules and principles stated and acted upon by the judges in giving decisions. The case laws are the necessary subject-matter in any doctrinal enquiry because the law declared by Supreme Court and High Courts binding the subordinate courts. The Indian law is largely a system of case law. That is, the decision in a particular case constitutes precedent'. According to the doctrine of precedent, it is not everything and by a judge when giving judgment that constitutes precedent. But only the reason for the decision given in the judgment constitutes precedent. So, the reason stated in the judgment of an appeal case becomes a necessary subject-matter of inquiry and analysis by a lawyer.

Case laws are the secondary source of data to the researchers. While reading the case laws, the researcher may come across a problem of legal issue and he can form a hypothesis, run an empirical inquiry and thus conduct the research.

Case laws are the evidential source for the arguments in deductive analysis. The lawyers, judges and researchers use case laws for their logical argumentation. Thus, the case laws become the documentary source of data in legal studies.

Data can be made available from different sources. P.V. Young has classified the data into two groups : (1) Documentary and (2) Field sources. Documentary sources include material already collected whether published or unpublished. Such data can be obtained from libraries and from persons and public documents.

A legal document is anything that contains matters of socio-legal importance. Most of the documents are written in the past when the phenomena took place and are not specially prepared for the study of the present problem. Documents can be divided into two categories : (i) Primary, and (ii) Secondary. Primary documents provide primary data collection and compiled by the same authority that originally prepared those documents. Secondary documents provide data that has been transcribed or compiled from original sources. The published documents were categorized by John Madge into : **(i) personal**

documents, and (ii) public or official documents.

Personal documents include all such written material as is written by an individual to narrate his views upon personal relationship or social phenomena. Most of these documents are written from personal point of view. There are many kinds of personal documents such as: (i) life histories, (ii) diaries, (iii) letters and (iv) memories.

Life histories include all biographical material, even autobiographies. The author of a life history records his personal views about contemporary happenings. Such writings prove a useful source of material for researchers. Diaries are another important source of information. In a diary, events are recorded in a regular manner. In a diary the author's personal experiences are reflected. Letters are another valuable tool of the socio-legal researcher. They contain the facts of the phenomena. But letters have their own limitations. Some persons write their memories in which they record some of the main events of their social life.

The personal documents express the inner-most feelings of the heart of the writer and at times, these documents throw light on such aspects of life as would have been difficult to know through observation or interview. They, generally, are more reliable both as regards the description of the subject as well as the feelings of the writer. They contain the perfect type of socio-legal material necessary to characterise the life of social group.

- (1) The availability of personal documents may be difficult if they contain some confessions which are likely to damage his reputation.
- (2) Unreliability of the data may be due to personal bias of the writer.
- (3) Personal documents do not provide a representative sample and the document may not be considered as a valid one.

Public documents also supply a huge fund of information. They deal with different subjects and are usually published by various institutions, organisations and associations. Records, parliamentary debates, judgments, etc. are regarded as important public documents. These documents are easily available and, to a large extent, also reliable. The public documents may be in the form of unpublished records and published documents. A good deal of information regarding socio-legal problems is now collected and released for publication by the Government.

- Central Legislative Material in Gazettes of India.
- Official Publications of Central Acts
- State Gazettes.
- Private Publications..
- Departmental Publications
- Delegated legislation..
- Specialized Law Reporter

5.5 SUGGESTED READINGS

- Dr.H.N.Tiwari,Regal Research Methodology,Reprint,2006.
- Dr.S.N.Myaneni Legal Research Methodology,Reprint,2008.
- C.R. Kothari Research Methodology:Methods and Techniques.Reprint, 1994

5.6 TERMINALQUESTIONS

1. Write a brief Essay on Socio Legal research
2. How data is collected in Socio-Legal Research?
3. How Case Law is used inresearch?

Unit-6

Doctrinal and Non-Doctrinal

STRUCTURE

6.1 INTRODUCTION

6.2 OBJECTIVES

6.3 SUBJECT

6.3.1 Doctrinal and Non-Doctrinal Legal Research

6.3.2 Sociology of law

6.3.3 Certain Heresies

6.4 SUMMARY

6.5 SUGGESTED READINGS

6.6 TERMINAL QUESTIONS

6.1 INTRODUCTION

Law is a normative science that is a science which lays down norms and standards for human behavior in a specific or situations enforceable through the sanction of the state. What distinguishes law from, other social sciences (and law is a social science on account of the simple fact that it regulates human conduct and relationship) is its normative character. This fact along with the fact that stability and certainly of law are desirable goals and social values to be pursued, make doctrinal research to be of primary concern to a legal researcher. Doctrinal research of course involves analysis of case law, arranging ordering and systematizing legal propositions and study of legal institutions, but it does more it creates law and its major tool (but not the only tool) to do so is through legal reasoning or rational deduction. Even during the period when analytical positivism held its sway and the dominant legal philosophy was that judges did not create law but merely declared it, the truth was that much judicial creativity was going on. The development of common law by the judges is a clear example of law making by the judges. It has been commented upon the traditional view.

6.2 OBJECTIVES

The present chapter deals with the major steps involved in doing legal research. It also describes doctrinal and non doctrinal legal research problem or topic and collection of data in social-legal research and how to use it for reporting.

6.3 SUBJECT

6.3.1 Doctrinal and Non-Doctrinal Legal Research

The traditional theory may appear plausible in a period characterized by relatively stable conditions, as opposed to one in which great changes and developments are clearly evident, it is still difficult to see how one could literally believe the law to be a coherent and complete system, and the judicial process to be only a logical application of existing rules of law. Professor Cooper Rider has made the plausible suggestion that the traditional theory was not intended as an accurate descriptive account of the judicial process: I am also inclined to doubt that it is sound to think of it as a conscious attempt at scientific description. It did, however, represent a view which at one time was generally held as to

the attitude which the judge should bring to his task: that it should be his objective to deal with the case before him in that way which was indicated by an interpretation of existing authorities, rather than in that way which seemed to him on the facts to be the fairest or most desirable from a social point of view. It is called for the subordination of his judgment to that of the collectivity of his predecessors, for a primary reliance on a reasoned extrapolation of accumulated experience. According to this interpretation the traditional theory represents more a practical regulative ideal of how the judicial process ought to be conceived by the judiciary than a theoretical analysis of its actual structure and functioning. That even in that case-law method of research much creativity goes on is shown by Cardozo in his work, —The Nature of the judicial process. His thesis is that law or legal propositions are not final or absolute but are in the state of becoming. He quotes Munroe Smith. The rules and principles of case law have never been treated as final truths, but as working hypotheses, continually retested in those great laboratories of the law, the courts of justice. Every new case is an experiment: and if the accepted rule which seems applicable yields a result which is felt to be unjust, the rule is reconsidered. It may not be modified at once, for the attempt to do absolute justice in every single case would make the development and maintenance of general rules impossible: but if a rule continues to work injustice, it will eventually be for if the rules derived from a principle do not work well, the principle itself must ultimately be re-examined.

He himself says:

Hardly a rule of today but may be matched by its opposite of yesterday... These changes or most of them have been wrought by judges. The men who wrought them used the same tools as the judges of today. The changes as they were made in this case or that may not have seemed momentous in the making. The result however when the process was prolonged throughout the years, has been not merely to supplement or modify: it has been to revolutionize and transform. The two outstanding examples of the where none had hitherto existed is social achievement. It is an achievement not to be underestimated. It also serves as a reminder that at particular periods in the history of law the creative working out of legal doctrine is both necessary and critical and justifiably a paramount concern of legal research. It may not be out of place to mention that in India it was the pioneering work of A.T. Marko's on judicial control of Administrative action and the seminars organized and the work done by the Indian law institute in the area of administrative law which had created an awareness of the importance of the subject for the legal system. With the emergence of the socio logical school, the creative role of lawyers and judges has come to be recognized explicitly. The writings of the sociological jurists coincided with the change in political philosophy from the laissez faire to the welfare state of the were rather the result of this metamorphosis. One can see the seeds of the conception of law as a catalytic agent o advance human welfare in the following famous remarks of **Justice Holmes:** The life of the has not been logic: it has been experience .The felt necessities of the times, the prevalent

moral and political theories, institutions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The writings of Dean Roscoe Pound however, depict more clearly and forcefully the task of law to be the adjustment of human relationship in society to the best possible advantage. Thus, he says: For the purpose of understanding the law of today I am content with a picture of satisfying as much of the whole body of human wants as we may with the least sacrifice. I am content to think of law as a social institution to satisfy wants- the claims and demands and expectations involved in the existence of civilized society- by giving effect to as much as we may with the least sacrifice, so far as such wants may be satisfied or such claims given effect by an ordering of human conduct through politically organized society. For present purposes I am content to see in legal history the record of a continually wider recognizing and satisfying of human wants for claims or desires through social control, a more embracing and more effective securing of social interests: a continually more complete and effective elimination of waste and precluding of friction in human enjoyment of the goods of existence- in short, a continually more efficacious social engineering.

At an other place he says:

As the saying is, we all want the earth. We all have a multiplicity of desires and demands which we seek to satisfy. There are very many of us but there is only one earth. The desires of each continually conflict with or overlap those of his neighbors. So there is, as one might say, a great task of social engineering. There is a task of making the goods of existence, the means of satisfying the demands and desires of men living together in a politically organized society, if they cannot satisfy all the claims that men make upon them, at least go round as far as possible. This is what we mean when we say that the end of law is justice... we mean such as adjustment of relations and order in go conduct as well makes the goods of existence, the means of satisfying human claims to have things and do things, go round as far as possible with the least friction and waste.

The task of law as that of social engineering has come to be accepted as a dogma by the civilized societies all over the world including India. The chapters on fundamental rights and directive principles of state policy of the constitution of India embody this philosophy. The concern of law as an instrument of economic and social justice has grown to such an extent that there is hardly any human conduct which has been left untouched by law. The result is that there has been an explosion of laws and the law has become all pervading. We have come to live in an age of laws. The legislative mill has been constantly pouring out laws. This is not the only factory for producing statutory laws. The executive made law (delegated legislation) has become much more important both quantitatively and qualitatively.

In evaluating such elusive factors and forming their own conception of what is reasonable in all the circumstances of a given case, it is inevitable that the social philosophy and the

scale of values of the judges participating in the decision should play an important part, and the limit to their interference with legislative judgment in such cases can only be dictated by their sense of responsibility and self restraint and the sobering reflection that thinking but for all, that the majority of the elected representatives of the people have, in authorizing the imposition of the restrictions, considered them to be reasonable.

In considering reasonableness of a restriction the task before the courts is to judge the objective of public interest to be served by the restriction against fairness to the individual. The Indian fairness book is replaced with provisions where the legislative has given to the courts to develop the law from case to case.

Thus the objective and philosophy of doctrinal researcher has to be the same as that of sociologist jurisprudence, that is social engineering through it is true that his liberty of operation is restricted to some extent by the statutory language, existing doctrines and also the consciousness that a sound legal system should move forwards certainly and stability of law which are social values to be desired. But as seen above, the law in modern times leaves a large scope, a large leeway, and the leeway may be more in some cases and less in others but it is there, for molding and adapting it to the society and to social change. This has been additionally facilitated in India by the Supreme Court expressly agreeing as a principle to review its own decisions, and a number of instances can be cited where the court has done so. The process began with the Court overruling the United Motors case. In the Bengal Immunity case and its high watermark was reached when in the famous *Golak Nath* case, it overruled its consistent holding in the two earlier cases- *Shankari Prasad* and *Sajjan Singh*. A few other instances of such overruling are: *Director of Rationing of legal Affairs v. Corporation of Calcutta*. *Indian Airlines Corporation v. Sukhdeo Rai* by *Sukhdev Singh v. Bhagatram*, *Sardarilal v. Union of India* by *Shamsher Singh of Punjab*. Any number of cases can be cited when the court without expressly overruling its earlier decisions departed from these them or weakened their authority or modified the principles laid down. Such cases are demonstrative of the fact that the language of the statute is not petrified for all times to come and its meaning and impact change in the catalytic hands of the judge. The author is not unmindful of the fact that sometimes a doctrinal researcher may lack a utilitarian approach, and his sole concern may be to test the logical consistency and technical soundness of a case or a legal proposition by analyzing it with reference to the precedential symmetry and on the anvil of strict literal meaning. Technical soundness of the law is not unimportant but it should not operate in vacuum and ought to be balanced, whenever there is scope against social policy and mores of the society.

6.3.2 Sociology of law

From where does a doctrinal researcher get this social policy, social facts and social values? The answer is his; own experience, observation, reflection and study of what others have done before him in a similar or same kind of situation. However, it will certainly add values to his research if he gets an opportunity to test his ideas by sociological data. And this is what the author understands by the sociology of law. In other words, the sociology of law tries to investigate through empirical data how law and legal institutions affect human attitudes and what impact on society they create. It seeks answers to such questions as- are law and legal institutions serving the needs of the society? Are they suited to the society in which they are operating? What factors influence the decisions of adjudicators? Are the laws properly administered and enforced? The sociology of law also concerns itself with the identification and creating an awareness of the new problems which need to be tackled through law.

Though sociology of law may have great potentialities, yet a few caveats must be entered here. Firstly, socio logical research is extremely time consuming and costly. It has been stated: —socio-legal research is more expensive, it calls for additional training; and it entails great commitments of time and energy to produce meaningful results, either for policy-makers or theory-builders. The decisions in human affairs however, cannot await the findings of such studies and must constantly be made, and here in comes the value and utility of doctrinal research. Thus, —Doctrinal legal research... has had the practical purpose of providing lawyers, judges and other with the tools needed to reach decisions on an immense variety of problems, usually with very limited time at disposal.

In this context K.C.Davis observed:

It may be a hundred or several hundred years before we get truly scientific answers to some of the questions. I am trying to explore, and we need to make some judgments in the meantime. Some of the most useful thinking can be unscientific, impressionistic, intuitive based on inadequate observation or insufficient data or wild guesses or imagination. Scientific findings are obviously the long term objective, but a good many judgments which fall short of scientific findings are valuable, respectable and urgently needed. Secondly, law –sociology research needs a strong base of doctrinal research. Upendra Baxi rightly points out that —law society research cannot thrive on a weak infra-structure base of doctrinal type analyses of the authoritative legal materials. The reason is simple. The primary objectives of the sociology of law are to reveal, by empirical research, how law and legal institutions operate in society, to improve the structure and functioning of legal institutions whether engaged in law administration, law enforcement, or settlement of disputes, and these objectives cannot be achieved unless the researcher has in-depth knowledge of the legal doctrines, case law and legal institutions. Further, such knowledge is essential for identifying issues, delimiting areas, keeping the goals in view, and determining the hypotheses on which to proceed. In the absence of these, the sociological research will be like a boat without a rudder and a compass, left in the open sea. The whole

exercise may be fruitless. The authors of the monograph on Law and Development were perhaps conscious of this when they said: should make clear that we do not denigrate doctrinal research, which has a tradition of outstanding scholarship. Nor do we seek to minimize the importance of doctrinal research to the establishment and functioning of a legal system and thus to society. We are also conscious that in many of the countries. We were concerned with; there is an absence of basic doctrinal research and indeed not infrequently the tools and raw materials of such research. While the situation varies between countries, we recognize that in some countries doctrinal research could claim a high priority in all occasions of the resources available for legal research. In India where we still lack the infra-structure of doctrinal research such a research will naturally have to claim high priority. Thirdly, sociological research may help in building general theories, but it seems inadequate where the problems are to be solved and the law is to be developed from case to case. For instance, as a matter of general theory it is axiomatic that governmental powers need to be checked as power corrupts and absolute power corrupts absolutely. But too much check may result in governmental ineffectiveness. This necessitates that when a case comes before a court in which abuse of power by the executive is alleged, pragmatic considerations ought to control the decision-making. Since the law to control theories that either there should be no control over government action or there should be adequate control. That is why it has been said about the ultra vires doctrine, which is the basis of judicial review in case of writs. The ultra vires doctrine provides a half way basis of judicial review between review in appeal and no review at all. The half way review, the extent of which is not always clear, creates uncertainty about judicial intervention in administrative action. Sometimes, the courts may feel like intervening because they feel strongly about the injustice of the case before them: deference to the expertise of the administration and uphold the decision. It is beyond the comprehension of the author how we can improve the contents of the ultra doctrine by sociological research. To illustrate the point by another example take the case of the concept of sale for purposes of sales tax. The tax is imposed only on sale and not on a contract for labor or service. Now every sale of commodity does involve some labor. Still there may be clear cases of sale and clear cases of labour contract but there may be innumerable particular transactions that fall. Fourthly, the function of law in society is not only to follow or adapt itself to public opinion but also to give a lead and mould public opinion. When the law should follow one course or the other may not always be answered on the basis of sociological data but on the basis of one's maturity of judgment, intuition, and experience, though sociological research may have some informational value to the decision-maker. Fifthly, on account of complicated settings and variable factors, we may again be thrown back to our own pre-conceived ideas, prejudices and feelings in furnishing solutions to certain problems. For instance, there has been the perennial problem of government control of business or non-government control, private enterprise or public enterprise and individual liberty or government powers. We

may not be able to answer these questions on a basis to any society through scientific study. Even if one were to attempt such a study, it would require such huge resources that one may not be able to have them at one's command. Coming to a lower plane, under part XIII of the constitution, states cannot discriminate whether there has been discrimination or not and an empirical study may not easily furnish the answer. Thus it is clear from the following extract from an article by the author.

In determining the validity of a law against a challenge on account of discrimination against commerce, multiple taxation or undue burdens on it, the judiciary has an important though a difficult role to play. Should the Court go merely by patent or formal discrimination? Should it cut deeper and go behind the avowed purpose of the law and attempt to find out its actual effects? Should it examine the law in question in the context of the entire economy? For example state A imposes a fifteen per cent tax on cost of alcoholic liquor manufactured in that case. Now state B, which is importing liquor from state A, imposes a tax of twenty per cent on liquor manufactured within it. How much tax should state B impose on imported liquor? One view could be that it should impose a tax of twenty per cent. Another view which could be taken is that it should impose a tax of only five per cent as a higher tax would put a burden on the imported liquor than the intrastate liquor and would be discriminatory against the former. There are several limitations in the latter approach. First, since the intrastate tax on liquor is likely to differ from state to state, the importing state will be required to impose different taxes on imported liquor depending on the state from which it is coming. It is doubtful whether such a tax would be possible to administer. Second, if the tax involved is other than excise, say, sales tax, it may be practically difficult for the importing state to know the amount of tax which an importing commodity has actually borne in the exporting state. In some states the system is multiple points, in some two points, in some states the system point on the first sale and in some single point on the last sale. The incidence of local sales tax on a commodity exported to another state will depend on the system of sales tax in that state the number of local states. If equality is to be achieved in the sense suggested above, then it would not only mean the different rates on the sale of the same imported commodity within state depending upon the state from which it is imported but also the rates would have to vary on a commodity from the same state upon the number of local sales in that state- a practical impossibility. Third, if real equality is to be attained in the example relating to liquor, why stop only at the excise duty. Why not consider all other taxes like the property tax and the taxes on the raw materials going into the manufacture of liquor which will have an impact on the cost of production of the liquor. Under the equality formula suggested above, these should also be taken into account by the importing state. In spite of the readiness of the United States Supreme Court to be receptive to economic and social data, the following quotation again is indicative of the difficulties in this regard: In the United States, in the non-tax area the supreme court usually goes deeper into various factors in order to determine whether the

law was placing an undue burden on interstate commerce which —frequently entails weighing evidence, drawing nice lines, and making close and difficult decision on important policy questions. However, in the tax area, probably because of greater difficulty in evaluating complicated economic factors involved, this has not been general approach. Sixthly, though law sociology research is of recent origin, yet it is common knowledge that even in the United States, where this kind of work has been done mostly, such researchers have yet to show their potentiality in terms of translating the findings into legal propositions and norms. Amongst others, one reason may have been the failure to select subjects with such potentialities. Any information has some value, but when huge resources are to be staked in collecting sociological data it may be better to use them on carefully planned subjects where the research may lead to ultimate improvement of the contents of the law. Thus with regard to decision- making research, Davis observes:

6.3.3 Certain heresies

The opportunity may be availed here to remove two heresies. It has often been expressed that the legal community has not been concerned with development or shown sufficient awareness about it. This criticism seems to be justified if the idea is to say that lawyers have not been associated with the development plans scheme by the planners and policy makers. But it does not seem correct to say that lawyers have not concerned themselves with the problems of development. The major problems created by development requiring solution by lawyers have been the growth of administrative power necessitating their control to avoid arbitrariness and equitable use and distribution of resources. That the legal community has been deeply involved with these problems is amply demonstrated by the inclusion of such courses in the legal pedagogy as administrative law, labour law, government regulation of business company law and taxation. Even legal research is not lagging behind in the area of development. A perusal of a few of the studies produced by the Indian law institute should dispel any doubt in this regard. These are:

(1) Contractual Remedies in Asian countries (2) Law of International trade Transactions (3) Law Relating to Irrigation; (4) Some problems of Monopoly and Company law; (5) Government Regulations of private enterprises (6) Interstate water disputes in India (7) Law regarding to flood control in India (8) Law and urbanization in India (9) Labour law and labour relations (10) Property Relations in independent India: Constitutional and legal implications (11) Case and Materials on Administrative law in India (12) Administrative process under the Essential commodities act (13) Interstate trade Barriers and sales tax laws in India (14) Administrative procedure followed in conciliation proceedings under the industrial disputes act.

The second heresy pertains to the research work done by the Indian law Institute. It has been assumed in certain quarters that the Institute has confined itself only to doctrinal

research. Though it is true to say that it has given priority to doctrinal research, yet it has not ignored non-doctrinal research altogether. A number of instances of the latter type of research can be cited: (1) Disciplinary Proceedings against Government Servants- A case study: This study is based on field work. —The Institute's staff studied in detail sixty files (twenty each from the years 1957, 1958 and 1959 which are consecutive files of closed cases for these years) in connection with part I and 150 files of closed cases of the quinquennial period from 1955 in connection with part II of the study. Thus data was further supplemented by more general reports on disposals formal by the department and by the information gathered from responsible officers of the department. The research team also attended formal disciplinary proceedings to gain insight in to the operation of the proceedings. (2) Administrative Procedure Followed in Conciliation Proceedings under the Industrial Disputes Act: This monograph is based on a study of 373 cases of failure of connection and 421 cases of settlement including award and mutual settlement to arrive at the conclusions made in the book. (3) Interstate Water Disputes in India: This study is again based on the actual case files of interstate water disputes interviews with the officials concerned at the level of the Central Government. With the help of these files and interviews the institute identified the issues requiring solution through law and also the real reasons for failure to settle these disputes through methods other than adjudication. (4) Interstate Trade Barriers and sales tax Laws in India: This study is based on economic data collected through a questionnaire from the agencies concerned regarding the impact of the present sales tax laws on interstate commerce. With the help of economic data it found economic justification for a law a few of the provisions in the Central Sales tax Act. The study also recommended the creation of an Interstate Taxation Co-ordination Council. This suggestion was implemented to some extent by the government when in 1968 the Central Government created four regional councils to discharge practically the same functions as were suggested in case of the inter state Taxation Co-ordination Council. (5) Presidential Assent to state Bills- A case study: This study (published as articles in the journal of the Indian law institute) is based on a study of about 300 state bills sent by the states to the centre for presidential assent during the years 1956 to 1965. (6) Assessing the Degree of Acceptance of the system of law in India in terms of (i) Awareness (ii) Value Compatibility and (iii) Pattern of Adaptation. Reference has already been made to this work in the earlier pages.

6.4 SUMMARY

Law is a normative science that is a science which lays down norms and standards for human behavior in a specific or situations enforceable through the sanction of the state. What distinguishes law from, other social sciences (and law is a social science on

account of the simple fact that it regulates human conduct and relationship) is its normative character. This fact along with the fact that stability and certainty of law are desirable goals and social values to be pursued, make doctrinal research to be of primary concern to a legal researcher. Doctrinal research of course involves analysis of case law, arranging ordering and systematizing legal propositions and study of legal institutions, but it does more it creates law and its major tool (but not the only tool) to do so is through legal reasoning or rational deduction. Even during the period when analytical positivism held its sway and the dominant legal philosophy was that judges did not create law but merely declared it, the truth was that much judicial creativity was going on. The development of common law by the judges is a clear example of law making by the judges. It has been commented upon the traditional view.

The traditional theory may appear plausible in a period characterized by relatively stable conditions, as opposed to one in which great changes and developments are clearly evident, it is still difficult to see how one could literally believe the law to be a coherent and complete system, and the judicial process to be only a logical application of existing rules of law. Professor Cooper Rider has made the plausible suggestion that the traditional theory was not intended as an accurate descriptive account of the judicial process: I am also inclined to doubt that it is sound to think of it as a conscious attempt at scientific description. It did, however, represent a view which at one time was generally held as to the attitude which the judge should bring to his task: that it should be his objective to deal with the case before him in that way which was indicated by an interpretation of existing authorities, rather than in that way which seemed to him on the facts to be the fairest most desirable from a social point of view. It is called for the subordination of his judgment to that of the collectivity of his predecessors, for a primary reliance on a reasoned extrapolation of accumulated experience. According to this interpretation the traditional theory represents more a practical regulative ideal of how the judicial process ought to be conceived by the judiciary than a theoretical analysis of its actual structure and functioning. That even in that case-law method of research much creativity goes on is shown by Cardozo in his work, —*The Nature of the judicial process*. His thesis is that law or legal propositions are not final or absolute but are in the state of becoming. He quotes Munroe Smith. The rules and principles of case law have never been treated as final truths, but as working hypotheses, continually retested in those great laboratories of the law, the courts of justice. Every new case is an experiment: and if the accepted rule which seems applicable yields a result which is felt to be unjust, the rule is reconsidered. It may not be modified at once, for the attempt to do absolute justice in every single case would make the development and maintenance of general rules impossible: but if a rule continues to work injustice, it will eventually be for if the rules derived from a principle do not work well, the principle itself must ultimately be re-examined.

The task of law as that of —social engineering has come to be accepted as a dogma by the

civilized societies all over the world including India. The chapters on fundamental rights and directive principles of state policy of the constitution of India embody this philosophy. The concern of law as an instrument of economic and social justice has grown to such an extent that there is hardly any human conduct which has been left untouched by law. The result is that there has been an explosion of laws and the law has become all pervading. We have come to live in an age of laws. The legislative mill has been constantly pouring out laws. This is not the only factory for producing statutory laws. The executive made law (delegated legislation) has become much more important both quantitatively and qualitatively.

Thus the objective and philosophy of doctrinal researcher has to be the same as that of sociologist jurisprudence, that is social engineering through it is true that his liberty of operation is restricted to some extent by the statutory language, existing doctrines and also the consciousness that a sound legal system should move forwards certainly and stability of law which are social values to be desired. But as seen above, the law in modern times leaves a large scope, a large leeway, and the leeway may be more in some cases and less in others but it is there, for moulding and adapting it to the society and to social change. This has been additionally facilitated in India by the Supreme Court expressly agreeing as a principle to review its own decisions, and a number of instances can be cited where the court has done so. The process began with the Court overruling the *United Motors* case. In the *Bengal Immunity* case and its high watermark was reached when in the famous *Golak Nath* case, it overruled its consistent holding in the two earlier cases - *Shankari Prasad* and *Sajjan Singh*. A few other instances of such overruling are: *Director of Rationing of legal Affairs v. Corporation of Calcutta*. *Indian Airlines Corporation v. Sukhdeo Rai* by *Sukhdev Singh v. Bhagatram*, *Sardarilal v. Union of India* by *Samsher Singh of Punjab*. Any number of cases can be cited when the court without expressly overruling its earlier decisions departed from these them or weakened their authority or modified the principles laid down. Such cases are demonstrative of the fact that the language of the statute is not petrified for all times to come and its meaning and impact change in the catalytic hands of the judge. The author is not unmindful of the fact that sometimes a doctrinal researcher may lack a utilitarian approach, and his sole concern may be to test the logical consistency and technical soundness of a case or a legal proposition by analyzing it with reference to the precedential symmetry and on the anvil of strict literal meaning. Technical soundness of the law is not unimportant but it should not operate in vacuum and ought to be balanced, whenever there is scope against social policy and mores of the society.

Though sociology of law may have great potentialities, yet a few caveats must be entered here. Firstly, sociological research is extremely time consuming and costly. It has been stated: —socio-legal research is more expensive, it calls for additional training: and it entails great commitments of time and energy to produce meaningful results, either for policy-makers or theory-builders. The decisions in human affairs however, cannot await

the findings of such studies and must constantly be made, and herein comes the value and utility of doctrinal research. Thus, Doctrinal legal research... has had the practical purpose of providing lawyers, judges and other with the tools needed to reach decisions on an immense variety of problems, usually with very limited time at disposal.

In determining the validity of a law against a challenge on account of discrimination against commerce, multiple taxation or undue burdens on it, the judiciary has an important though a difficult role to play. Should the Court go merely by patent or formal discrimination? Should it cut deeper and go behind the avowed purpose of the law and attempt to find out its actual effects? Should it examine the law in question in the context of the entire economy? For example state A imposes a fifteen per cent tax on cost of alcoholic liquor manufactured in that case. Now state B, which is importing liquor from state A, imposes a tax of twenty percent or manufactured with in it. How much tax should state B impose on imported liquor? One view could be that it should impose a tax of twenty per cent. Another view which could be taken is that it should impose a tax of only five per cent as a higher tax would put a burden on the imported liquor than the intrastate liquor and would be discriminatory against the former. There are several limitations in the latter approach. First, since the intrastate tax on liquor is likely to differ from state to state, the importing state will be required to impose different taxes on imported liquor depending on the state from which it is coming. It is doubtful whether such a tax would be possible to administer. Second, if the tax involved is other than excise, say, sales tax, it may be practically difficult for the importing state to know the amount of tax which an importing commodity has actually borne in the exporting state. In some states the system is multiple points, in some two points, in some states the system point on the first sale and in some single point on the last state. The incidence of local sales tax on a commodity exported to another state will depend on the system of sales tax in that state the number of local states. If equality is to be achieved in the sense suggested above, then it would not only mean the different rates on the sale of the same imported commodity within state depending upon the state from which it is imported but also the rates would have to vary on a commodity from the same state upon the number of local sales in that state- a practical impossibility. Third, if real equality is to be attained in the example relating to liquor, why stop only at the excise duty. Why not consider all other taxes like the property tax and the taxes on the raw materials going into the manufacture of liquor which will have an impact on the cost of production of the liquor. Under the equality formula suggested above, these should also be taken into account by the importing state. In spite of the readiness of the United States Supreme Court to be receptive to economic and social data, the following quotation again is indicative of the difficulties in this regard: In the United States, in the non-tax area the supreme court usually goes deeper into various factors in order to determine whether the law was placing an undue burden on interstate commerce which frequently entails weighing evidence, drawing nice lines, and making close and difficult decision on

important policy questions. However, in the tax area, probably because of greater difficulty in evaluating complicated economic factors involved, this has not been general approach. The opportunity may be availed here to remove two heresies. It has often been expressed that the legal community has not been concerned with development or shown sufficient awareness about it. This criticism seems to be justified if the idea is to say that lawyers have not been associated with the development plans scheme by the planners and policy makers. But it does not seem correct to say that lawyers have not concerned themselves with the problems of development.

The major problems created by development requiring solution by lawyers have been the growth of administrative power necessitating their control to avoid arbitrariness and equitable use and distribution of resources. That the legal community has been deeply involved with these problems is amply demonstrated by the inclusion of such courses in the legal pedagogy as administrative law, labour law, government regulation of business company law and taxation. Even legal research is not lagging behind in the area of development. A perusal of a few of the studies produced by the Indian law institute should dispel any doubt in this regard. These are:

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6.5 SUGGESTED READINGS

1. Dr.H.N.Tiwari, Regal Research Methodology, Reprint, 2006.
2. Dr.S.N.Myaneni, Legal Research Methodology, Reprint, 2008.
3. C.R.Kothari, Research Methodology: Methods and Techniques. Reprint, 1994.
4. Anwarue Yagin, Legal Research and Writing Methods, 2008.

6.6 TERMINAL QUESTIONS

1. What is the utility of doctrinal research?
2. What is the difference between doctrinal and non-doctrinal research?
3. How should a researcher do doctrinal research? Explain with examples.
4. How is social science reflected in doctrinal and non-doctrinal research?

Unit-7

Relevance of Empirical Research

STRUCTURE

INTRODUCTION

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7.6 TERMINAL QUESTIONS

7.1 INTRODUCTION

After the data have been collected and processed, the researcher shifts his attention to their analysis. Analysis of data involves a number of operations. **John Galtung** distinguishes between analysis of data and the processing of data. Processing of data refers to concentrating, recasting and dealing with data such that they become as amenable to analysis as possible. Analysis of data may be considered as having a reference to the process of viewing the data in the light of hypothesis or research questions, as also the prevailing theories and drawing conclusions that will make some contribution in the matter of theory formulation or modification. According to John Galtung, —Analysis of data involves a number of closely related operations that are performed with the purpose of summarizing the data obtained, and organizing them in such a manner that they will yield answers to the research questions.‡

Sellitz, Jahoda, etc. considered the processing as a part of analysis and for them analysis of data, as a comprehensive process involves processing, i.e., operations designed to facilitate and increase amenability of data for analysis, as also, the operations designed to draw generalization or test hypothesis. The purpose of analysis of data is to summarize the collected data and organize these in such a manner that they will yield answers to the research problems.

7.2 OBJECTIVES

After collection of data **Empirical Research** requires analysis and interpretation. The objective of the lesson is to highlight the stages of analysis, its meaning and kinds and interpretation of collected data.

7.3 SUBJECT

Empirical Research What is empirical research? Empirical research is defined as research based on observed and measured phenomena. It reports research based on actual observations or experiments using quantitative research methods and it may generate numerical data between two or more variables. When writing a research paper, you may need to read and analyze an empirical article. Published in an academic, scholarly, or professional journal? Popular magazines such as *Time* or *Newsweek* do not publish empirical research articles; academic journals such as *American Economic Review* or *Journal of Psychology* may publish empirical articles. Some professional journals, such as *JAMA: Journal of the American Medical Association* publish empirical research. Other professional journals, such as *Coach & Athletic Director* publish articles of professional interest, but they do not. Does the abstract of the

article mention a not publish research articles. Study, an observation, an analysis or a number of participants or subjects? Was data collected, a survey or questionnaire administered, an assessment or measurement used, an interview conducted? All of these terms indicate possible Empirical articles normally contain methodologies used in empirical research. these sections: o Introduction and literature review of related research o A statement of the research question(s) and method used to gather the data o Analysis of the results of the data gathered (quantitative or qualitative) o Discussion or conclusion o A substantial list of the references consulted throughout the article. The sections may be combined, and may have different headings or no headings at all; however, the information that would fall within these sections should be present in an empirical article. An empirical article is usually normally three or more pages long.

Search for Empirical Research A quick way to look for empirical research is to type your search terms into the database's search boxes, then type study or studies in the final search box to look for studies on your topic area.

7.3.1 Qualitative and Empirical Research Methods

Some disciplines require students to use peer-reviewed, empirical or qualitative research articles. What are these types of research? Although not exactly the same, both empirical and qualitative research methods are evidence-based research that is developed through precise experimentation and observation. They demonstrate causal relationships and are guided by practical measurements rather than theory. Generally, both qualitative and empirical researches are used to answer a specific question or to test a hypothesis, enhance understanding for certain areas of study, and combine detailed research with case studies. Often, the theories proven in empirical studies can work in a real world environment rather than just in a controlled situation.

7.3.2 Identification of Qualitative & Empirical Research Articles?

As previously stated, empirical and qualitative research articles are not exactly the same, but both can be found in refereed (peer-reviewed) journals and books. Various phrases or keywords can identify articles that

Analysis	Subjects
Sample size	Measure or measurement(s)
Outcomes	Qualitative Research
Usage	Findings
Statistics	Results
Survey	Methodology
Data	Original study
Experiment	Research study

Use empirical or qualitative research. These include:

Research articles that consist of empirical research are written in a specific manner. They are always divided into the following sections: title, abstract, introduction, methods, results,

discussion, and references. Each of these sections may be further divided into subsections. One quick way to determine if you are looking at an article that consists of empirical research is to see if it has these sections.

7.3.3 Stages of Analysis of Legal Research Data

1. Use of non-qualified data, determination, formulation and conceptualization;
2. Preparation of a tentative classificatory scheme;
3. The application of categories to the raw data through coding;
4. The tabulation of responses;
5. Statistical analysis of data;
6. Drawing of inferences about causal relations; and
7. Interpretation.

Thus, the analysis of data includes: (a) classification of data, (b) coding, (c) tabulation, (d) statistical analysis of data and (e) inferences about causal relations among variables when processing is considered as a part of analysis.

7.3.4 Statistical Analysis of Data

In order to estimate the reliability of generalizations to the population from the data, statistical methods are useful. The statistical methods that are used to summarize the obtained data go by the name of descriptive statistics, whereas the statistical methods utilized in making and evaluating generalizations from the data are known as sampling statistics.

The statistical methods used in describing or summarizing the mass of data are the central tendencies of distributions. Such measures are called averages and include among others the arithmetic mean, the median and the mode. The other general type of summary of a frequency distribution includes measures of dispersion such as the range, mean deviation, quartile deviation, standard deviation and the coefficient of variance. These measures are used to compare the relative wideness of spread in any two or more frequency distributions.

A common and simple method of comparing frequencies is the use of the ratio. A ratio is merely an indicator of actual quotient which relates the size of one number to another. Their main utility is to act as a relative measure and thus permits the comparison of otherwise unequal numbers.

A related method of comparing values is the proportion. This measure is a fraction such that the numerator is one of the two observed frequencies and the denominator the sum of observed frequencies. The purpose of using percentages, ratios and proportions is to simplify the problem of comparison. Percentages reduce two frequency distributions to a common base and thus make the comparisons simpler.

The more common problem arises when a cross tabulation is used. The cross tabulation of two

or more attributes or variables is merely a formal and economical method of arranging the data so that the logical methods of proof may be applied. The methods of agreement, difference, or concomitant variation (correlation) may be used in drawing conclusions from a cross tabulation.

The whole process of analysis is not so much a matter of manipulative techniques as it is of the rigorous application of the basic principles of scientific method. Some precautions have to be observed by researcher in analysis. First of all, the researcher himself should be particularly careful. He should use his insight in the process. He should first of all lay down the principles of analysis and then follow them faithfully. Thus, much depends upon the general knowledge, experience, insight and the intellectual honesty of the investigator.

7.3.5 Inferring Causal Relations

In ideal research design cause and effect relationships can be easily established but in socio-legal studies such ideal designs are very difficult to work out. Most of the studies of socio-legal research are non-experimental in character and certain empirical obstacles have to be faced in determining whether or not a relation between variables is causal. In the analysis of non-experimental studies there is always a possibility of interpreting spurious relationships as causal.

7.3.6 Interpretation of Data

The dividing line between analysis of data and interpretation is difficult to draw as the two processes are symbolical and merge imperceptibly. Interpretation is inextricably interwoven with analysis. It is a special aspect of analysis rather than being a distinct operation. Interpretation helps one understand what the given research finding really means and what the underlying abstract principles, of which the research finding is just one concrete manifestation or reflection at the concrete level of empirical observations.

Interpretation is the process which unravels the abstract that lies buried in the concrete. It makes it possible for us to appreciate why the relations between variables as expressed in the findings are what they are.

The researcher's task is incomplete if he stops by presenting his empirical findings in the form of generalizations which he is able to arrive at through the analysis of data. The researcher must show that his observation has a meaning. Interpretation is the search for broader and more abstract meanings of the research findings.

The interpretation serves a two-fold purpose. First, it gives an understanding of the general factors that seem to explain what has been observed in the course of a study and secondly, it provides a theoretical conception which can serve in turn as a guide for further research. It is the responsibility of researcher to interpret the relations he has observed carefully, thereby he gives correct findings. While interpreting, he has to avoid the following points

1. Failing to consider all significant facts;

2. Ignoring negative evidence;
3. Mistaking correlation for causation;
4. Comparing non-comparable data;
5. Generalizing only from few causes; and
6. Distorting interpretations to fit prejudice and pre-conceived ideas.

Sometimes, the researcher has to give evidence or support to his findings by subjective interpretation which is known as *post factum* interpretation but he has to be very careful in wording the interpretation. The important aim of interpretation is to bring real importance of findings. On the basis of interpretation, a new hypothesis can be formulated for the experimental research. With the help of interpretations, unconnected and isolated facts get meaningful explanations. It can be of use to further research by giving a theoretical model.

Thus, interpretation is so interwoven with analysis that it should more properly be conceived of a special aspect of analysis rather than a separate or distinct operation. After interpretation, the researcher generalizes the findings of his study.

7.3.7 Qualitative Data Analysis

The aim of qualitative research is to ascertain opinions, attitudes, behavior, or likes or dislikes. Its main purpose is to ascertain how people feel, what they think about a certain phenomenon or why they behave in a certain way. The main forms of qualitative research include field observation, content analysis, case studies, and in-depth interviews.

In qualitative research, the data collected are in the form of notes or some form of textual material. Qualitative research basically involves data in the form of words, descriptions or narratives. The goal of data analysis in qualitative research is to extract meaning from what the researcher has studied—what and how something happens or exists (such as how often child abuse occurs or how the abuse affects the victims or what causes people to abuse children). In qualitative social research, data are not converted into numerical format, unlike in quantitative analysis.

7.3.8 Quantitative Data Analysis

After the questionnaire or interview responses have been obtained, the next task of the researcher is to prepare the data for analysis. If, for example, the researcher has completed a survey using 300 questionnaires, the survey is of no use because the data in such a format are inconvenient for analysis and drawing conclusions from them. The collected data have to be reduced (often called data reduction), summarized and rearranged. The researcher has to follow certain steps before the raw data are transformed into information. The transformation of data into information requires that the data should be edited and coded, so that they can be transferred to a computer (entered into a computer file or into what is usually called data file or data set) or any other medium such as using files for storing data.

7.3.9 Editing

Usually the first step in analysis is to edit the collected data. Editing is the process of checking and adjusting the data for omissions, legibility and consistency. Editing detects errors and omissions and corrects them where it is needed, and ensures that certain minimum standards of data quality are maintained. The general purpose of editing is to ensure that data are accurate, complete, consistent with the intent of the question and other information in the survey and are arranged in such a way as to simplify coding and tabulation) Editing may be needed in a wide variety of situations, such as the following.

Editing for Correcting Mistakes

A researcher may commit a mistake and record, during the interview, an answer which is obviously impossible (e.g. birth year: 1850) or interviews a respondent who is not eligible (such as too young to qualify for being interviewed). The editor's job is to look for answers that are incomplete, answers that show the questions were misunderstood, answers that do not seem to be correct due to some error, and so on.

Editing for Removing Inconsistencies

Answers on a questionnaire may sometimes be inconsistent. The respondent, for example, might have inadvertently not answered whether or not she is married. In the column that asks for the number of years married, she might have responded 8 years; in the number of children column she might have marked 2, and for ages of children, she might have answered 4 and 2. The latter three responses would indicate that the respondent is married. It is, however, possible that the respondent deliberately omitted responding to the item because she is either a widow or has been separated by divorce. Uma Sekaran suggested that in such a case, supplying the omission by treating the answer as yes 'would be introducing a bias in the data. It would be better, wherever feasible, to follow up with the respondent and get the correct data while editing. There may be many more instances where the answers given by the respondent to one question are not consistent with those given to other related questions. For example, a respondent's yearly salary may be stated at Rs 24,000. However, in the occupational column, the respondent states his or her occupational status as executive vice president in a large company, whose salary most obviously be much higher. The researcher will find it highly unlikely that the answers to both questions could simultaneously be true. The researcher, during the editing process, should ensure that responses are logically consistent, and should eliminate such answers which are not.

7.4 SUMMARY

Empirical research is defined as research based on observed and measured phenomena. It reports research based on actual observations or experiments using quantitative research methods and it may generate numerical data between two or more variables. When writing a research article, you may need to read and analyze an empirical article. Published in an academic, scholarly, or professional journal? Popular magazines such as *Time* or

Newsweek do not publish empirical research articles; academic journals such as *American Economic Review* or *Journal of Psychology* may publish empirical articles. Some professional journals, such as *JAMA: Journal of the American Medical Association* publish empirical research. Other professional journals, such as *Coach & Athletic Director* publish articles of professional interest, but they do not publish research articles. Study, an observation, an analysis or a number of participants or subjects? Was data collected, a survey or questionnaire administered, an assessment or measurement used, an interview conducted? All of these terms indicate possible Empirical articles normally contain the following methodologies used in empirical research. these sections:

- o Introduction and literature review of related research
- o A statement of the research question(s) and method used to gather the data
- o Analysis of the results of the data gathered (quantitative or qualitative)
- o Discussion or conclusion
- o A substantial list of the references consulted throughout the article.

The sections may be combined, and may have different headings or no headings at all; however, the information that would fall within these sections should be present in an empirical article. An empirical article is usually normally three or more pages long.

Some disciplines require students to use peer-reviewed, empirical or qualitative research articles. What are these types of research? Although not exactly the same, both empirical and qualitative research methods are evidence-based research that is developed through precise experimentation and observation. They demonstrate causal relationships and are guided by practical measurements rather than theory. Generally, both qualitative and empirical researches are used to answer a specific question or to test a hypothesis, enhance understanding for certain areas of study, and combine detailed research with case studies. Often, the theories proven in empirical studies can work in a real world environment rather than just in a controlled situation.

In order to estimate the reliability of generalizations to the population from the data, statistical methods are useful. The statistical methods that are used to summarize the obtained data go by the name of descriptive statistics, whereas the statistical methods utilized in making and evaluating generalizations from the data are known as sampling statistics.

The statistical methods used in describing or summarizing the mass of data are the central tendencies of distributions. Such measures are called averages and include among others the arithmetic mean, the median and the mode. The other general type of summary of a frequency distribution includes measures of dispersion such as the range, mean deviation, quartile deviation, standard deviation and the coefficient of variance. These measures are used to compare the relative wideness of spread in any two or more frequency distributions.

A common and simple method of comparing frequencies is the use of the ratio. A ratio is merely an indicator of actual quotient which relates the size of one number to another. Their main utility is to act as a relative measure and thus permits the comparison of otherwise unequal numbers. A related method of comparing values is the proportion. This measure is a fraction such that the numerator is one of the two observed frequencies and the denominator the sum of observed frequencies. The purpose of using percentages, ratios and proportions is to simplify the problem of comparison. Percentages reduce two frequency distributions to a common base

and thus make the comparisons simpler.

The more common problem arises when a cross tabulation is used. The cross tabulation of two or more attributes or variables is merely a formal and economical method of arranging the data so that the logical methods of proof may be applied. The methods of agreement, difference, or concomitant variation (correlation) may be used in drawing conclusions from a cross tabulation. The whole process of analysis is not so much a matter of manipulative techniques as it is of the rigorous application of the basic principles of scientific method.

Some precautions have to be observed by researcher in analysis. First of all, the researcher himself should be particularly careful. He should use his insight in the process. He should first of all lay down the principles of analysis and then follow them faithfully. Thus, much depends upon the general knowledge, experience, insight and the intellectual honesty of the investigator. In ideal research design cause and effect relationships can be easily established but in socio-legal studies such ideal designs are very difficult to work out. Most of the studies of socio-legal research are non-experimental in character and certain empirical obstacles have to be faced in determining whether or not a relation between variables is causal. In the analysis of non-experimental studies there is always a possibility of interpreting spurious relationships as causal.

The dividing line between analysis of data and interpretation is difficult to draw as the two processes are symbolical and merge imperceptibly. Interpretation is inextricably interwoven with analysis. It is a special aspect of analysis rather than being a distinct operation. Interpretation helps one understand what the given research finding really means and what the underlying abstract principles, of which the research finding is just one concrete manifestation or reflection at the concrete level of empirical observations.

Interpretation is the process which unravels the abstract that lies buried in the concrete. It makes it possible for us to appreciate why the relations between variables as expressed in the findings are what they are. The researcher's task is incomplete if he stops by presenting his empirical findings in the form of generalizations which he is able to arrive at through the analysis of data. The researcher must show that his observation has a meaning. Interpretation is the search for broader and more abstract meanings of the research findings.

The interpretation serves a two-fold purpose. First, it gives an understanding of the general factors that seem to explain what has been observed in the course of a study and secondly, it provides a theoretical conception which can serve in turn as a guide for further research.

Sometimes, the researcher has to give evidence or support to his findings by subjective interpretation which is known as —*post factum interpretation* but he has to be very careful in wording the interpretation. The important aim of interpretation is to bring real importance of findings. On the basis of interpretation, a new hypothesis can be formulated for the experimental research. With the help of interpretations, unconnected and isolated facts get meaningful explanations. It can be of use to further research by giving a theoretical model.

Thus, interpretation is so interwoven with analysis that it should more properly be conceived of a special aspect of analysis rather than a separate or distinct operation. After interpretation,

the researcher generalizes the findings of his study.

The aim of qualitative research is to ascertain opinions, attitudes, behavior, or likes or dislikes. Its main purpose is to ascertain how people feel, what they think about a certain phenomenon or why they behave in a certain way. The main forms of qualitative research include field observation, content analysis, case studies, and in-depth interviews.

In qualitative research, the data collected are in the form of notes or some form of textual material. Qualitative research basically involves data in the form of words, descriptions or narratives. The goal of data analysis in qualitative research is to extract meaning from what the researcher has studied—what and how something happens or exists (such as how often child abuse occurs or how the abuse affects the victims or what causes people to abuse children). In qualitative social research, data are not converted into numerical format, unlike in quantitative analysis.

After the questionnaire or interview responses have been obtained, the next task of the researcher is to prepare the data for analysis. If, for example, the researcher has completed a survey using 300 questionnaires, the survey is of no use because the data in such a format are inconvenient for analysis and drawing conclusions from them. The collected data have to be reduced (often called data reduction), summarized and rearranged. The researcher has to follow certain steps before the raw data are transformed into information. The transformation of data into information requires that the data should be edited and coded, so that they can be transferred to a computer (entered into a computer file or into what is usually called data file or data set) or any other medium such as using files for storing data.

Usually the first step in analysis is to edit the collected data. Editing is the process of checking and adjusting the data for omissions, legibility and consistency. Editing detects errors and omissions and corrects them where it is needed, and ensures that certain minimum standards of data quality are maintained. The general purpose of editing is to ensure that data are accurate, complete, consistent with the intent of the question and other information in the survey and are arranged in such a way as to simplify coding and tabulation. Editing may be needed in a wide variety of situations, such as the following.

A researcher may commit a mistake and record, during the interview, an answer which is obviously impossible (e.g. birth year: 1850) or interview a respondent who is not eligible (such as too young to qualify for being interviewed). The editor's job is to look for answers that are incomplete, answers that show the questions were misunderstood, answers that do not seem to be correct due to some error, and so on, for example, might have inadvertently not answered whether or not she is married. In the column that asks for the number of years married, she might have responded 8 years; in the number of children column she might have marked 2, and for ages of children, she might have answered 4 and 2. The latter three responses would indicate that the respondent is married. It is, however, possible that the respondent deliberately omitted responding to the item because she is either a widow or has been separated by divorce. Uma Sekaran suggested that in such a case, supplying the omission by treating the answer as yes 'would be introducing a bias in the data. It would be better, wherever feasible, to follow up with the respondent and get the correct data while editing. There may be many more instances where

the answers given by the respondent to one question are not consistent with those given to other related questions. For example, a respondent 's yearly salary may be stated at Rs24,000. However, in the occupational column, the respondent states his or her occupational status as executive vice president in a large company, whose salary most obviously be much higher. The researcher will find it highly unlikely that the answers to both questions could simultaneously be true. The researcher, during the editing process, should ensure that responses are logically consistent, and should eliminate such answers which are not.

7.5 SUGGESTED READINGS

1. Dr.H.N. Tiwari, Regal Research Methodology, Reprint,2006.
2. Dr.S.N. Myaneni Legal Research Methodology, Reprint,2008.
3. C.R. Kothari Research Methodology: Methods and Techniques. Reprint,1994.

7.6 SELF ASSESSMENT QUESTIONS

- a. What are Qualitative and Empirical Research Methods? Explain
- b. Define and explain Empirical Research
- c. Write the short note on the following
A-Qualitative Data Analysis B-Quantitative Data Analysis

Unit-8

Induction and deduction

STRUCTURE

8.1 INTRODUCTION

8.2 OBJECTIVES

8.3 SUBJECT

8.3.1 Induction and Deduction Method

8.3.2 Deduction method

8.4 SUMMARY

8.5 SUGGESTED READINGS

8.6 TERMINAL QUESTIONS

8.1 INTRODUCTION

The End of the 17th century and the beginning of the 18th witnessed what may be termed the scientific revolution. Until then the growth of scientific knowledge was slow and halting but since then it has been rapid and phenomenal. This unprecedented growth of scientific knowledge is actually due to a transformation of the scientific method into what it is today, which took place in the 17th century as exemplified in the studies of Galileo and Newton. The transformation of the scientific method consisted in a combination of the methods of reasoning and observation or in the combination of the methods of inductive and deductive logic.

The earlier scientific studies followed mainly the method of deduction, which is a method of arriving at conclusions from premises. In deduction it is immaterial whether the premises are true or false so long as the conclusions follow logically from the assumptions. All that is needed is to select propositions in such a way that the analysis their meanings lead to other propositions. Take for instance the following two propositions:

1. It is in the nature of weaker persons to become subordinate to stronger ones.
2. Women are weaker than men.

It is possible to deduce a third proposition from these two propositions namely,

3. Women are subordinate to men. The truth or validity of the third statement would depend upon the truth of the first two statements which are the premises. But the method of deduction is different as to the validity of the premises. Therefore, one cannot be sure about the truth of the third statement.

There are two main reasons why no serious attempts were made in the past to test the validity of the premises or axioms employed in social studies. One is a different kind of the world view of the people of the period, which assumed that the changes in the phenomena were caused by certain qualities of the phenomena themselves which were divinely ordained. Such a world view was well exemplified in the traditional explanation about the Varna system in India. The four Varnas were supposed to have been created by god from His arms, the Vaishyas from His trunk and the shudras from His feet. The qualities of the different Varnas were thought to have been derived from the different parts of the body from which they organized and, therefore, they were fit to perform the different kinds of tasks assigned to them by the society. With such an understanding which is backed up by divine sanctions, there was no question of validating the premises.

A second reason for not validating the premises in the past was the fact that knowledge was rarely put to use for the solution of problems of life. The learned persons considered it below their dignity to associate themselves in any kind of productive work which was the lot of the menial persons who belonged to altogether a different class. So long as knowledge was not needed for use, it was immaterial whether it was true or false.

8.2 OBJECTIVES

Research in common parlance refers to a research for knowledge. Research is a scientific and systematic search for pertinent information of a specific topic. In fact research is an art of scientific investigation. In the field of law research occupies a very significance portion. The purpose of research is to discover answers to questions through application of scientific procedures. The objective of this lesson is to define the induction and deduction methods in research. One of the decision will be the what types of tools and techniques can be used for the collection of data and seeking answers to the question which will be useful in the research or study of a specific topic. Various methods are discussed in this lesson which a researcher can use while doing research in the field of law.

8.3 SUBJECT

8.3.1 Induction and deduction

Induction method

The tremendous growth in our productive capacity goes back to the industrial revolution whose foundation lies in the application of true knowledge for the solution of problems. But the acquisition of true theological and metaphysical world views of the past, the modern scientific world view assumes that the objects and events in the universe are interrelated and as such the changes in a given set of phenomena are caused by changes in the related phenomena. Such a world view implies the possibility of observing and verifying the causes of phenomena. It also suggests that the desired kind of changes can be brought about by manipulating the appropriate phenomena.

True knowledge is the knowledge which corresponds with the reality. Unfortunately, all that we perceive is not necessarily true. Therefore, a distinction has to be made between the reality that we experience or the empirical reality and the reality which is out there or the true reality. Our perceptions are subjective, conditioned as they are by our past experiences, values and world view. However, through inter subjective communication we can render our subjective experiences objective so that a large number of people may perceive the same phenomena in the same way. But even an objective view of phenomena may not necessarily correspond with the true reality; it is still an empirical reality. Yet the scientist can observe only the empirical. Therefore, the problem faced by a scientist is how to understand the nature of the true reality through an investigation of the empirical reality. In this task mere reasoning alone or observation alone is not sufficient but both the methods have to be combined.

Reasoning is also involved in observation. But when we refer to reasoning as a method of scientific study then what is implied by this term is mainly deductive reasoning. On the other hand, inferences from observation are made through inductive reasoning which has its own rules of logic as distinguished from those of deduction. Now the combination of induction and deduction is necessary for obtaining true knowledge because the testing of the truth or validity of a set of propositions depends upon demonstrating that the consequences deduced from those

propositions are observable. It is the testing of hypothesis which is the linchpin of scientific investigation.

Through observation and inductive reasoning, we accumulate knowledge consisting of facts, concepts and empirical generalizations. This is not necessarily true knowledge. The next step makes use of deductive reasoning. In these steps theoretical model is constructed from known generalizations and other assumptions and hypothesis are deduced from this model. Hypothesis is propositions which are deduced from theoretical models and whose truth has to be tested through observation. If the hypothesis is validated, then it is to be accepted that the theoretical model from which the hypotheses have been deduced is also true. It then becomes part of the theoretical knowledge or true knowledge. Thus we succeed in acquiring knowledge about the true reality through an investigation of the empirical reality.

The above approach of study starts with inductions is followed with deduction and then ends up, again with induction. Studies need not always begin either observation. If there are already a sufficient number of tested propositions, one can straight way formulate a theoretical model and deduce hypotheses and then test the hypotheses with observation. This approach of study starts with reasoning and ends up with observation. However, in either of these approaches both induction and deduction are involved.

The scientific study of any subject matter depends upon the possibility that the subject matter can be empirically observed and measured. Calling attention to the special nature of the subject matter of social sciences, particularly its symbolical and teleological aspects, there are some persons who doubt that social behavior could at all be studied scientifically. Such persons, however, do not doubt that social behavior can be observed, but point out that its special meaning as understood by the actor cannot be directly observed. But we have seen that in any case the knowledge obtained from a direct observation of the reality need not necessarily be true knowledge and that the modern scientific method based on a combination of induction and deduction enables us to correct the biases in our observation. Therefore, social behavior is no exception to the subject matters which are amenable to scientific investigation.

Let me now illustrate the two different approaches in scientific investigation in research in social science with reference to the problem of women 's participation in the labour force, which I have already discussed in detail elsewhere. One of the problematic aspects of women 's participation in the labour force stems from the fact that whereas it is common for all men to participate in the labour force, only a few women do so. Therefore, why do some women enter the labour force whereas the others do not, becomes an interesting question.

In trying to understand this problem, first let me take up the approach which involves induction, deduction and induction, in that order. I adopted this approach in my own investigation of the problem. In the course of the observation about the participation of women in the labour the working age women according to their educational background it is found that up to a point, say just below matriculation, with the increasing level of education the proportion of women workers in an educational category diminishes, but beyond that point with the increasing level of education, the corresponding proportion increases in an educational category. Thus in terms of the educational variable, the participation of women in the labour force forms a curvilinear trend. (b) A similar trend is also observed when the degree of women 's participation in the

labour force is related to the occupational prestige of their husbands. When the husbands of women are classified according to the degree of their occupational prestige, the degree of labour force participation of wives diminishes with the increasing degree of husbands' occupational prestige; whereas beyond that point it increases with the increase in the husband's occupational prestige. These curvilinear trends invalidate the commonly held notion that the husband's relatively low income is the main cause of the wife's participation in the labour force. A third major empirical generalization is that when the women workers as well as their husbands are classified according to their occupational prestige, there is a relationship between the occupational prestige of the husband and of the wife; however, on the whole, the wife's occupational prestige is slightly lower than that of her husband's. In this case, interestingly, the relationship is a linear one as distinguished from the trends in the empirical generalization (a) and (b) which are curvilinear.

The study so far has been observational- inductive. The next phase of the study was aimed at providing a logical explanation of this empirical generalization and in the process, at finding an answer to the question why some work while the others do not. This had to be done by formulating a theoretical model. Which is a deductive exercise? In doing so I argued as follows:

1. Since women are the subordinate members in the Indian family system their behavior as regards participation in the labour force can be better understood if viewed from the family unit.
2. The members of a family share their status in common within the larger stratification system.
3. The status of the family is, by and large, derived from the occupational prestige of, members.
4. If there is only one earning member in a family, the other members share the status derived from his or her occupational prestige.
5. If there are more than one member following occupational in a family, then for the family to maintain its character as a status unit the occupational prestige of different members should be similar.
6. The husband and the wife are intimate members of the family in which the latter is regarded as dependent upon the former.
7. As the superior partner, it is the primary responsibility of the husband to earn a livelihood and the wife shares the status derived from his occupational prestige.
8. If the wife should also work she must find an occupational which is consistent with the occupational prestige of her husband.
9. As a subordinate partner it is ideal if the wife secures an occupational whose prestige is slightly lower than that of her husband's occupation. From all the above propositions which from a theoretical model it can be deduced that.
10. Women would participate in the labor force if they could secure occupations which are consistent with their family status; their occupational prestige should be either the same or slightly lower than the prestige of their husband's occupation. The hypotheses derived from the theoretical model, namely, proposition No. 10 is directly in agreement with empirical generalization I pointed out above, namely that the relationship between the occupational prestige of the husband and of the wife. The same hypotheses can also be shown to be in agreement with the empirical generalization (a) and (b) by making use of some additional propositions.

Since the husband is regarded as the superior partner in marriage he has to marry a wife whose educational qualifications should not be higher than his own, although they may be lower.

11. The women as a whole are less educated than men. It follows from propositions 11 and 12 that at the one extreme all illiterate men have to marry illiterate women and at the other, all highly educated women have to marry highly educated men, In the middle of the range, however, there would be many instances where there would be a wide disparity in the educational background of husband and wife, the former being the better educated partner. Therefore, at the two extremities of the educational levels of women there is likely to be a parity in the educational backgrounds of husbands and wives in most cases and hence most wives would be in a position to secure occupations which are consistent with the occupational prestige of their husbands. Hence the empirical generalization (a) which shows a curvilinear trend between the degrees of educational levels of women and the degree of their participation in the labour force. In so far as occupational prestige is related to the educational levels, the same explanation, *mutatis mutandis*, also hold well in the case of empirical generalization (b).

Deduction method

The formulation of the theoretical model to explain the empirical generalization completes the second phase of our study which is based on deduction. But there is no guarantee that our theoretical model which supplies the explanation.

Problem is true. A false model can also explain satisfactorily the empirical findings. Therefore, our study is still most complete until we have tested the theoretical model which has to be done through further observation and induction. A theoretical model is validated by testing hypotheses derived from it. The major hypotheses in this case the proposition No.10 which states that women would participate in the labor force if they can secure occupations whose prestige is either the same or slightly lower than that of their husband's occupations. These hypotheses can be operationalized into two parts. Since occupational prestige and educational level are interrelated, it would mean that (10A) in the case of working wives their education is almost equal to that of their husband's, as a consistent level; (10b) on the other hand, in the case of non-working wives there is a wider disparity between their education and that of their husband's because of which they are unable to secure occupational at consistent levels. These operational hypotheses were actually tested empirically and were found true. It is this validation which gives us the confidence that the theoretical model which was formulated to explain —why do some women work whereas the others do not, corresponds with the true reality.

The other approach of scientific study in which we start with deduction and end up with induction may also lead us to a similar understanding about the participation of women in the labour force. I am here referring to a couple of studies by American authors about the labour-force participation by the American women. The authors of these studies have tried to test some of the hypotheses about women's economic role, which can be deduced from the theory about the American nuclear family put forward by Talcott Parsons. The relevant theoretical formulations with which they have started their studies are:

1. The American nuclear family is a unit of diffuse solidarity and as a result the members of a given family must share a common status in the overall system stratification.

2. The primary determinant of the family 's status is the occupational position of the husband.
3. Because of the possibility of disruptive status competition between husband and wife 's the society and the members of the family ignore the occupational status of the wife (if she is employed) and perceive only the husband 's occupational prestige as giving status to the family. The above formulation gives rise to the following hypotheses.
4. Even when the wife is working her status will be derived entirely from the occupational status of her husband and not from that of her own occupational, and
5. For the reason of avoiding status competition with her husband, the wife, if employed, will play only a marginal economic with her husband.

The above hypotheses (proposition NO.4 and 5) were tested and were found untrue. The authors have come to the conclusion that the status of a working woman is as much influenced by her wife 's taking up an occupation much lower in status than that of her husband 's occupation, the tendency is for the wife to equalize her occupational status with that of her husband. Talcott Parson 's assumption that family as a whole constitutes a single unit of status is sustained, but his other assumption that the status of this unit is society determined by the occupational status of the husband turns out to be untrue. The occupational status of the wife also is aimed at maximizing the status of the family and in doing so an effort is made at achieving consistency or compatibility between the roles of husband and wife and not avoiding competition.

Thus the final results of the study agree with the conclusions from my own study although the approaches were different. But both the types of studies had one thing in common and that is the combination of induction and deduction. Such a method provides a self corrective in the accumulation of knowledge of the true reality. It is for this reason that Karl Pearson has maintained that —there is no way to gain knowledge of the universe except through the gateway of scientific method.

8.4 SUMMARY

The End of the 17th century and the beginning of the 18th witnessed what may be termed the scientific revolution. Until then the growth of scientific knowledge was slow and halting but since then it has been rapid and phenomenal. This unprecedented growth of scientific knowledge is actually due to a transformation of the scientific method into what it is today, which took place in the 17th century as exemplified in the studies of Galileo and Newton. The transformation of the scientific method consisted in a combination of the methods of reasoning and observation or in the combination of the methods of inductive and deductive logic.

The earlier scientific studies followed mainly the method of deduction, which is a method of arriving at conclusions from premises. In deduction it is immaterial whether the premises are true or false so long as the conclusions follow logically from the assumptions. All that is needed is to select propositions in such a way that the analysis their meanings lead to other

propositions. Take for instance the following two propositions:

4. It is in the nature of weaker person a to become subordinate to stranger ones.
5. Women are weaker than men.

It is possible to deduce third proposition from these two propositions namely, (3) Women are subordinate to men. The truth or validity of the third statement would depend upon the truth of the first two statements which are the premises. But the method of deduction is different as to the validity of the premises. Therefore, one cannot be sure about the truth of the third statement. There are two main reasons why no serious attempts were made in the past to test the validity of the premises or axioms employed in social studies. One is a different kind of the world view of the people of the period, which assumed that the changes in the phenomena were caused by certain qualities of the phenomena themselves which were divinely ordained. Such a world view was well exemplified in the traditional explanation about the Varna system in India. The four Varnas were supposed to have been created by god from His arms, the Vaishyas from His trunk and the shudras from His feet. The qualities of the different Varnas were thought to have been derived from the different parts of the body from which they organized and, therefore, they were fit to perform the different kinds of tasks assigned to them by the society. With such an understanding which is backed up by divine sanctions, there was no question of validating the premises.

A second reason for not validating the premises in the past was the fact that knowledge was rarely put to use for the solution of problems of life. The learned persons considered it below their dignity to associate themselves in any kind of productive work which was the lot of the menial persons who belonged to altogether a different class. So long as knowledge was not needed for use, it was immaterial whether it was true or false.

The tremendous growth in our productive capacity goes back to the industrial revolution whose foundation lies in the application of true knowledge for the solution of problems. But the acquisition of true theological and metaphysical world views of the past, the modern scientific world view assumes that the objects and events in the universe are interrelated and as such the changes in a given set of phenomena are caused by changes in the related phenomena. Such a world view implies the possibility of observing and verifying the causes of phenomena. It also suggests that the desired kind of changes can be brought about by manipulating the appropriate phenomena.

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Reasoning is also involved in observation. But when we refer to reasoning as a method of scientific study then what is implied by this term is mainly deductive reasoning. On the other hand, inferences from observation are made through inductive reasoning which has its own rules of logic as distinguished from those of deduction. Now the combination of induction and deduction is necessary for obtaining true knowledge because the testing of the truth or validity of a set of propositions depends upon demonstrating that the consequences deduced from those propositions are observable. It is the testing of hypothesis which is the linchpin of scientific investigation.

Through observation and inductive reasoning, we accumulate knowledge consisting of facts, concepts and empirical generalizations. This is not necessarily true knowledge. The next step makes use of deductive reasoning. In these steps theoretical model is constructed from known generalizations and other assumptions and hypothesis are deduced from this model. Hypothesis is propositions which are deduced from theoretical models and whose truth has to be tested through observation. If the hypothesis is validated, then it is to be accepted that the theoretical model from which the hypotheses have been deduced is also true. It then becomes part of the theoretical knowledge or true knowledge. Thus we succeed in acquiring knowledge about the true reality through an investigation of the empirical reality.

The above approach of study starts with inductions is followed with deduction and then ends up, again with induction. Studies need not always begin either observation. If there are already a sufficient number of tested propositions, one can straightway formulate a theoretical model and deduce hypotheses and then test the hypotheses with observation. This approach of study starts with reasoning and ends up with observation. However, in either of these approaches both induction and deduction are involved.

The scientific study of any subject matter depends upon the possibility that the subject matter can be empirically observed and measured. Calling attention to the special nature of the subject matter of social sciences, particularly its symbolical and teleological aspects, there are some persons who doubt that social behavior could at all be studied scientifically. Such persons, however, do not doubt that social behavior can be observed, but point out that its special meaning as understood by the actor cannot be directly observed. But we have seen that in any case the knowledge obtained from a direct observation of the reality need not necessarily be true knowledge and that the modern scientific method based on a combination of induction and deduction enables us to correct the biases in our observation. Therefore, social behavior is no exception to the subject matters which are amenable to scientific investigation. The formulation of the theoretical model to explain the empirical generalization completes the second phase of our study which is based on deduction. But there is no guarantee that our theoretical model which supplies the explanation.

Problem is true. A false model can also explain satisfactory the empirical findings. Therefore, our study is still most complete until we have tested the theoretical model which has to be done through further observation and induction. A theoretical model is validated by testing hypotheses derived from it. The major hypotheses in this case the proposition No.10 which states that women would participate in the labor force if they can secure occupations whose prestige is either the same or slightly lower than that of their husband 's occupations. These

hypotheses can be operationalized into two parts. Since occupational prestige and educational level are interrelated, it would mean that (10A) in the case of working wives their education is almost equal to that of their husband's, as a consistent level; (10b) on the other hand, in the case of non-working wives there is a wider disparity between their education and that of their husband's because of which they are unable to secure occupational at consistent levels. These operational hypotheses were actually tested empirically and were found true. It is this validation which gives us the confidence that the theoretical model which was formulated to explain —why do some women work whereas the others do not, corresponds with the true reality.

The other approach of scientific study in which we start with deduction and end up with induction may also lead us to a similar understanding about the participation of women in the labour force. I am here referring to a couple of studies by American authors about the labour-force participation by the American women. The authors of these studies have tried to test some of the hypotheses about women's economic role, which can be deduced from the theory about the American nuclear family put forward by Talcott Parsons. The relevant theoretical formulations with which they have started their studies are:

6. The American nuclear family is a unit of diffuse solidarity and as a result the members of a given family must share a common status in the overall system stratification.
7. The primary determinant of the family's status is the occupational position of the husband.
8. Because of the possibility of disruptive status competition between husband and wife's the society and the members of the family ignore the occupational status of the wife (if she is employed) and perceive only the husband's occupational prestige as giving status to the family. The above formulation gives rise to the following hypotheses.
9. Even when the wife is working her status will be derived entirely from the occupational status of her husband and not from that of her own occupational, and for the reason of avoiding status competition with her husband, the wife, if employed, will play only a marginal economic with her husband.

The above hypotheses (proposition NO.4 and 5) were tested and were found untrue. The authors have come to the conclusion that the status of a working woman is as much influenced by her wife's taking up an occupation much lower in status than that of her husband's occupation, the tendency is for the wife to equalize her occupational status with that of her husband. Talcott Parson's assumption that family as a whole constitutes a single unit of status is sustained, but his other assumption that the status of this unit is society determined by the occupational status of the husband turns out to be untrue. The occupational status of the wife also is aimed at maximizing the status of the family and in doing so an effort is made at achieving consistency or compatibility between the roles of husband and wife and not avoiding competition.

Thus the final results of the study agree with the conclusions from my own study although the approaches were different. But both the types of studies had one thing in common and that is the combination of induction and deduction. Such a method provides a self corrective in the accumulation of knowledge of the true reality. It is for this reason that Karl Pearson has maintained that —there is no way to gain knowledge of the universe except through the

8.5 Refrences

1. Dr.H.N. Tiwari, Regal Research Methodology, Reprint,2006.
2. Dr.S.N. Myaneni Legal Research Methodology, Reprint,2008.
3. C.R. Kothari Research Methodology: Methodsand Techniques.Reprint,1994.
4. S.K. VERMA, Legal Research Methodology Indian Law Institute publication.

8.6 TERMINALQUESTIONS

1. How deduction and induction method are useful in research?
2. How research material is collected for research by applying induction and deduction method?
3. When researcher use induction and deduction methods in research?
4. How induction and deduction are useful indoctrinal and non-doctrinal research?

Unit- 9
Formulation of the Research problem;
Devising tools and techniques for collection of data:
Methodology; Methods for the collection of statutory and
case materials and juristic literature

STRUCTURE

- 9.1 INTRODUCTION
- 9.2 OBJECTIVES
- 9.3 SUBJECT
 - 9.3.1 Meaning and formulation of Research Problem
 - 9.3.1.1 Formulation of Hypothesis
 - 9.3.1.2 Analysis of Concepts
 - 9.3.1.3 Research Design
 - 9.3.2 Collection of Data in Socio-Legal Research
 - 9.3.2.1 Original Material Sources of Law
 - 9.3.3 Documentary Sources of Data
 - 9.3.4 Case Law as a Source of Law
 - 9.3.4.1 Case Study Method
 - 9.3.5 Juristic Literature
- 9.4 SUMMARY
- 9.5 SUGGESTED READINGS
- 9.6 TERMINAL QUESTIONS

9.1 INTRODUCTION

In the research process of legal issues, we pass through certain major steps and each step of them subsumes under it a set of interrelated operations. Every operation is important in its own way in affecting the value of the research results and their worth. Thus, 'major' steps should be considered as grouping or classes of operations or activities — hundreds of which are involved in research, each corresponding to some requirement of research.

9.2 OBJECTIVE

The present chapter deals with the major steps involved in doing legal research. It also describes selection or formulation of legal research problem or topic and collection of data in social-legal research and how to use it for reporting.

9.3 SUBJECT

9.3.1 Meaning and formulation of Research Problem

The formation of a topic into a research problem is the first step in a scientific enquiry. The term ‘Problem’ comes from the Greek word ‘Proballein’ which means anything through forward; a question proposed for solution; a Matter stated for examination. A problem, in simpler words, is some difficulty experienced by the Researcher in a theoretical or Practical Situation According to John Dewey; the Need of clearing up confusion, of straightening out an ambiguity, of overcoming obstacles, of covering the gap between things as they are and as they may be when transformed, is, in germ a problem.

R.S. Woodworth defines problem as a “Situation for which we have no ready and successful Response by instinct or by previously acquired habit we must find out what to do. A Problem can be called a legal research problem only when it satisfies the following conditions:

Identification of Research Problem:

1. The Problem must be worth studying;
2. It must have social and Legal relevance;
3. There must be facts needed for Research’
4. It must come out with a Practical Solution to the issues;
5. It must be upto-date or relevant to the current social or legal happenings.
6. It must involve clarity of meaning and limited scope of study;
7. It must be explicit and original
8. It must be verifiable and testable Cox suggested the following questions to be asked for the selection of a research problem:
9. Is this type of problem than can be solved effectively throughout the process of Research?
10. Can relevant Data be gathered to test the theory or find the answer to the problem?
11. Is the problem an ewone? Is an importance involved?
12. Whether it can be able to carry out through a successful conclusion?

Only if a Research gets a positive answer for these entire questions, he can select the problem for doing research. The researcher must immerse himself thoroughly in the subject area within which he wishes to pose a special problem. For example, if a research is interested in the broad problem of juvenile delinquency, he will have to visit Remand homes, Juvenile-centers, courts, families of the Juvenile and localities. This is called the formulation of the situation.

At the outset the researcher has to decide the area or aspect of a subject matter in which he is interested such a decision affords only a crude indication. Hence the Researcher needs to formulate a specific problem from within his general area of interest-before he can take any decision relating to collection and analysis of data. It is more difficult to find and to formulate a problem that to solve it. He has to put a great deal of thought into the formulation of a problem he expects to get anything worth from his efforts to solve them. Research begins when the Researcher experiences a difficulty or a challenge which is the basic component of a Research Problem. There are no principles which can guide an investigation to pose significant problems for Research. A careful study of literature will guide him his sensibility. Experience directs him to formulate the Problem.

9.3 Formulation of Hypothesis

The suggested explanation or solution to the problem formulated as propositions are called hypothesis. Such tentative explanation i.e. Hypothesis may be the solution of problem. The enquiry is trisected at finding out whether they really are the solution to the problems.

9.3.1.2 Analysis of Concepts

The researcher needs to define the concepts which would be used in organizing the data. Such definitions include formal definitions that one designed to convey them into observable events. He has to formulate his problem in terms so general and abstract as to make clear its relation to other knowledge one permit replication of study in other concrete situations.

9.3.1.3 Research Design

After Formulation of the Research Problem, the Researcher has to work out design for the study, a plan comprising the Researcher's decisions about the procedures of sampling, data, Collection and analysis of data in respect of a given study, which aims to fulfill the objects of the study.

The purpose of working out research design involves, making decision about the techniques to be employed for collection of Relevant data, the safeguards to be employed to safeguard the validity, reliability and precision, the mode of drawing the sample analyzing the data, interpreting the results. Through designing the Research, investigator achieves his Research objectives with the economy of amount, time and energy.

9.3.2 Collection of Data in SocioLegal Research

Collection of data is regarded as a fascinating phase of research. Through the collection and handling of information, the researcher begins to feel the actual excitement of research. A researcher can either collect the data himself or rely on others for their collected data or information available with them. In both the cases, there is a great need for data of high quality.

The selection of data requires great skill and experience.

Data is based on our sense-observations. The word observation 'as used here includes all forms of perception used in recording responses as they impinge upon our senses. But response is not a datum. A response is some manifest kind of action, whereas a datum is the product of the process of recording the response.

In data collection stimuli (questions, tests, pictures or other objects) is presented to the respondent (subject). The stimuli may be classified as systematic stimuli, and unsystematic stimuli. By systematic stimuli, we mean those that are kept constant while objects are changed. The unsystematic stimuli are those which lack standardization e.g., questions asked in informal interviews.

The responses of the subjects (i.e., respondents) to the stimuli may also be classified as systematic and unsystematic responses. Systematic responses have a reference to constant (definite, standardized) response categories. Thus, the responses of subject to a stimulus are recorded. The unsystematic responses are those which are recorded verbatim with due regard to all possible individual variations and character logical nuances. Bringing these categories of stimuli and responses, we can decide the settings for the collection of data as: —

- Informal,
- Formal unstructured, and
- Formal structured.

The responses of the subjects may be called as acts '. Acts may be classified as verbal and non-verbal. The verbal acts may be sub-divided into oral and written. Verbal acts are acts where verbal symbols are used to communicate. The non-verbal acts are the signals like bowing, clapping, etc. The oral-verbal acts consist of the subject replying to a stimulus by the word of the mouth. The other kind of verbal acts consist in writing out the responses to the stimulus.

Data collection is related to: (i) Primary and secondary sources of data, (ii) Census and sampling techniques, and (iii) Methods of data collection.

The sources of legal data can be classified on several grounds, such as, reliability, personal efforts, availability and so on. On the basis of reliability, they may be broadly divided into two categories: Primary data, and secondary data. Some divided the sources of data into documentary source and, field sources. Lundberg classified them as historical source and field sources.

Primary and Secondary Sources of Data Collection

(a) Primary source of data. —it is original information collected for the first time. It is also called as internal source of data as the data is collected directly from the subjects. They are obtained from living persons directly related to 'the problem or through observation. This primary source can again be sub-divided into a)

Direct Primary, and (b) Indirect Primary

(i) Direct primary sources: The researcher personally goes and observes events, things, behavior, activities and so on. He has to display great skill and objectivity. Observation can be of three sub-types: (i) participant observation, (ii) non-participant observation, and (iii) quasi-participant observation. Direct observation is the best, but difficult. In some cases, it may be

either legally inadmissible or physically impossible.

(ii) Indirect primary sources: As the researcher cannot observe things which occurred long back, he needs to contact those persons who have made observations relevant to his research. This can be done through interviews, questionnaires or schedules.

(b) Secondary source of data —this information is obtained from outside either a published source or from someone else who has already worked on the subject. They save a researcher's labor of collecting data again and prevent unnecessary expenditure. They can be broadly divided into two types: (a) Personal documents, and (b) Published documents. Personal documents consist of life histories, diaries, letters, and memories. It is very difficult to obtain them or put them to proper use. Public documents come from public bodies, government and private organizations. Apart from books, available in libraries, this category includes records, published statistics, reports of newspapers and journals and special reports, film or T.V. programmes, tapes and so on. Unpublished documents are not easily available. Documentary sources are very important because past events can be known only through them. They may reveal certain secrets. They can help to save time, money and energy. But a researcher should verify the contents with the help of other sources. The secondary materials of law possess only on persuasive value but not authoritative value.

Relationship between Primary and Secondary Sources

The primary data once collected will become secondary data for others. The researcher collecting primary data knows the reality and the limitations, of the problem. Second-hand data provides hypotheses for the problem. These hypotheses can be tested or verified on the basis of first-hand data. Secondary data become third-hand data if they are mentioned by someone else. Primary data can be considered as being most reliable. The secondary sources are available in a Law Library.

9.3.2.1 Original Material Sources of Law

Material source of law is that source from which law derives not its validity but the matter of which it is composed. Material sources are divided into legal and historical. Legal source of law are those sources which are authoritative. They are recognized as such by the law itself. These are the immediate sources of law. The law which comes through the legal source may be divided into the following classes

Enacted law, having its source in legislation — the supreme legislation is made by the sovereign power of the nation. In democratic countries, Parliament is sovereign. It is considered not only supreme but legally omnipotent. But there may be certain constitutional restrictions upon its power.

Subordinate legislation is made by any other authority than the supreme authority in the nation. It is made under the powers delegated by the supreme authority. Such legislation is also

considered as law. Subordinate laws are executive made laws and local laws by local bodies.

Case law, having its source in precedent — Precedent is defined as —a previous instance or case which is, or may be taken as an example of rule for subsequent cases, or by which some similar act or circumstances may be supported or justified. In the judicial field, it means the guidance or, authority of past decisions for future cases. Only such decisions as lay down some new rule or principle are called judicial precedents. The first general rule of doctrine of precedent is that each court is absolutely bound by the decisions of the courts above it. The second rule is that to a certain extent higher courts are bound by their own decisions.

Customary law, having its source in custom- Customs are the most important source of law. But with the progress of the society they gradually diminish and legislation and judicial precedents become the main sources. In every legal system and at all the stages of legal development there are some customs accepted by the society The customs having sanction are those customs which are enforced by the State. Legal customs operate on a binding rule of law. They have been recognized by the courts and have become a part of the law of the land. They are enforced by the courts.

Conventional law, having its source in agreement — The conventional law are those customs which govern the parties to an agreement. Parties agree to them. Such customs are binding not due to any legal authority independently possessed by them, but because it has been the contract between the parties to it. There is a bulk of conventional law in every country.

Statutory interpretation — The law which comes into being through legislation is called enacted or statute law. It is for the courts to apply these formulas to specific cases. The court has to ascertain the meaning of the letters and expressions of the enactment for its application. This process of ascertaining the meaning of the letters and expressions by the court is called interpretation. In this process the judge exerts very considerable influence on the statute law. The interpretation is mainly of two kinds: (i) literal and (ii) liberal. The principle of literal interpretation is that the judge should not go beyond the letters of the law. The liberal interpretation is that the judges should go beyond the letters of the statute in order to ascertain the true intention.

Codifications— Codification means promulgation, compilation, collection and systematization of the body of law in a coherent form by an authority in a State competent to do so. In India, there are the codes of Manu, Yajnavalkya, Brihaspathi, Narada, Parashara, etc. These various codes are applied in different parts of the country. In modern times, the Indian Law Commission drafted a number of codes such as Indian Penal Code, The Civil Procedure Code, etc. The Law Commission made comprehensive and voluminous recommendations of which many have been implemented. There are other sources of law like: (1) morals and equity and (2) opinions of experts. All these sources are available in documentary form in general and legal libraries.

9.4 Documentary Sources of Data

Data can be made available from different sources. P.V. Young has classified the data into two groups: (1) Documentary and (2) Field sources. Documentary sources include material already collected whether published or unpublished. Such data can be obtained from libraries and from persons and public documents.

A legal document is anything that contains matters of socio-legal importance. Most of the documents are written in the past when the phenomena took place and are not specially prepared for the study of the present problem. Documents can be divided into two categories: (i) Primary, and (ii) Secondary. Primary documents provide primary data collection and compiled by the same authority that originally prepared those documents. Secondary documents provide data that has been transcribed or compiled from original sources. The published documents were categorized by John Madge into-

**i) personal documents, and
(ii) public or official documents.**

(1) Personal documents (direct source). —Personal documents include all such written material as is written by an individual to narrate his views upon personal relationship or social phenomena. Most of these documents are written from personal point of view. There are many kinds of personal documents such as: **(i) life histories, (ii) diaries, (iii) letters and (iv) memories.**

A life history includes all biographical material, even autobiographies. The author of a life history records his personal views about contemporary happenings. Such writings prove a useful source of material for researchers. Diaries are another important source of information. In a diary, events are recorded in a regular manner. In a diary the author's personal experiences are reflected. Letters are another valuable tool of the socio-legal researcher. They contain the facts of the phenomena. But letters have their own limitations. Some persons write their memories in which they record some of the main events of their social life.

The personal documents express the inner-most feelings of the heart of the writer and at times, these documents throw light on such aspects of life as would have been difficult to know through observation or interview. They, generally, are more reliable both as regards the description of the subject as well as the feelings of the writer. They contain the perfect type of socio-legal material necessary to characterize the life of social group.

Limitations of Personal Documents

- The availability of personal documents may be difficult if they contain some confessions which are likely to damage his reputation.
- Unreliability of the data may be there due to personal bias of the writer.
- Personal documents do not provide a representative sample and the document may not be considered as a valid one.

Public Documents or Official Documents

Public documents also supply a huge fund of information. They deal with different subjects and are usually published by various institutions, organizations and associations. Records, parliamentary debates, judgments, etc. are regarded as important public documents. These documents are easily available and, to a large extent, also reliable. The public documents may be in the form of unpublished records and published documents. A good deal of information

regarding socio-legal problems is now collected and released for publication by the Government.

Documentary Sources of Legal Material

Central Legislative Material in Gazettes of India. —Generally, all current legislative materials such as Bills, Acts, Rules, Notifications, etc. are published in the Gazette of India. The relevant portions of the Gazette of India ‘dealing with legislative material can be of much use for a researcher.

Official Publications of Central Acts— ‘Indian Code ‘is one of official publications containing all the Acts in force in India. Acts of Parliament ‘is another publication containing all the bare Acts passed in a particular year.

General Statutory Rules and Orders ‘is the official publication of all the Rules, Orders and Notifications issued by the Central Government which are in force. To trace the material, the subject heading should be traced by consulting the Index to Indian Code ‘.

The Union Government publishes the reports of Various Committees and Commissions such as Law Commission of India, Commission for Scheduled Castes and Scheduled Tribes, Committee on Public Undertakings, Pay Commission, Finance Commission, Sarkaria Commission etc.

State Gazettes—The State statutes are published in the respective State gazettes. Some States have published State Codes.

Private Publications—the privately published case reports may have a section dealing with Central as well as State legislative materials. The All India Reporter ‘is one of such reputed legal periodicals. The publishers of All India Reporter ‘have published AIR Manuals in multiple volumes. These volumes contain Central and State legislative materials. Madras Law Journal has also published a manual known as Civil Court Manual.

Departmental Publications —A few Government Departments do publish manuals from time to time giving the latest rules and notifications on their respective subjects. Central Excise Manual Civil Services Manual Customs Manual Income Tax Manual Foreign Exchange Manual are some of them to be mentioned.

Delegated legislation—statutory materials concerning delegated legislation can be found in the Gazette of India and State Gazettes. The publications like Constituent Assembly Debates Lok Sabha and Rajya Sabha Debates may offer information regarding the pre-legislative discussions in the research area.

The Federal Court Reports, (1939-50) and Supreme Court Reports (since 1950) published the cases decided by them. Private publication like All India Reporter Supreme Court Journal Supreme Court Cases also report the case decisions of the Supreme Court. The case decisions of High Courts are also published in All India Reporter Madras Law Journal, Bombay Law Reporter, etc.

Specialized Law Reporter—The following are reports specialized on certain branches giving information on specialized branches

- (i) Labour Law Journal
- (ii) Labour and Industrial Cases
- (iii) Industrial Court Reporter

- (iv) Criminal Law Journal
- (v) Income Tax Reports
- (vi) Company cases and Sales Tax cases, etc.

Contribution of Individual Academicians—such as— (i) Indian Legal Materials (1970) and Law Library Administration and Reference (1972) by H.C. Jain published by Indian Law Institute, New Delhi.

Academic Law Journals—The Journal of Indian Law Institute, Indian Journal of International Law 'are some of the journals which carry research articles. Academy Law Review the Administrator Banaras Law Review Civil and Military Law Journal etc. also belong to this category.

Citations and digests help are searcher to locate topic-wise materials. The A.I.R. published Fifty Years Digests (1901-1950) and Fifteen Years Digests (1951-1965) etc. Income Tax Digest, Company Law Digest, Labor Law Digest etc. Are some of the Digests which are specialized in the particular fields.

Index to Legal Periodical and Index to Foreign Legal Periodicals may help the researcher to find the article relevant to his research and locate the name of the journal, volume and number in which that has been published.

Law Libraries are the workshops to the legal researchers. Law library is not just a place where books and periodicals are housed, but it is a place where books are classified and placed in an orderly manner so as to provide easy access to the researchers.

Importance of Documents

1. They can help to save time, money and energy. There is no need to purchase books. There is no need to go from place to place as they are available in a library.
2. Data is collected periodically, making the establishment of trends over time possible.
3. The documentary sources do not require the cooperation of the individuals about whom the information, is desired.
4. There will be no scope for the bias of the investigator.
5. Available records may be used to supplement or to check information gathered specifically for the purpose of a given investigation.
6. Past event can be known from the documentary source.
7. They can be quoted as authoritative.

Limitations of Documentary Data

1. Non-reliability of data. —It may be that the data might have been deliberately twisted because the researcher had a stake in a particular result or he was not equipped with the knowledge of methodology.

2. Non-suitability of data. —Even if the data is accurate, it may not be suitable for the purpose of present study. The data may be old and out of date.

3. Lack of direct contact. —The dependence on documents leads to lack of direct contact with the people.

9.3.4 Case Law as a Source of Law

The legal practitioner, judge, researcher of law have to involve in search of law to be applied to a case in hand because —no lawyer knows more than a relatively infinitesimal part of the law, nor does any judge. But they have to know how to find law and where to find law.

Lawyers draw relevant proposition of law to be applied in a case in hand from two important sources: the judgments made by higher courts, i.e., the precedents and the legislations. One cannot find out a law applicable to a fact situation covered by a single source of law. Often the legal proposition to be applied in a fact situation cannot be drawn from a particular source of law. A sound knowledge in substantive and procedural laws enables a lawyer to identify relevant facts of a case from a mountain of facts made available to him by a client. On the identification of relevant facts and the law to be applied thereto a lawyer uses his logic to correlate them. A precedent is primarily a case law which serves as an authority for deciding a similar case. In many instances, case-laws have played an important part in the interpretation of statutes. Case-law consists of the rules and principles stated and acted upon by judges in giving decisions. In a system based on case-law, a judge in a subsequent case has to decide the case before him in the same way as that in which the previous case was decided unless he can give a good reason for not doing so. That means, cases must be decided in the same way when their material facts are the same. Of course, it does not require that all the facts should be the same.

Case law consists of the rules and principles stated and acted upon by the judges in giving decisions. The case laws are the necessary subject-matter in any doctrinal enquiry because the law declared by Supreme Court and High Courts binding the subordinate courts. The Indian law is largely a system of case law. That is the decision in a particular case constitutes 'precedent'. According to the doctrine of precedent, it is not everything and by a judge when giving judgment that constitutes precedent. But only the reason for the decision given in the judgment constitutes precedent. So, the reason stated in the judgment of an appeal case becomes a necessary subject matter of inquiry and analysis by a lawyer.

Case laws are the secondary source of data to the researchers. While reading the case laws, the researcher may come across a problem of legal issue and he can form a hypothesis, run an empirical inquiry and thus conduct the research.

Case laws are the evidential source for the arguments in deductive analysis. The lawyers, judges and researchers use case laws for their logical argumentation. Thus, the case laws become the documentary source of data in legal studies.

9.3.4.1 Case Study Method

The case study method is very popular form qualitative analysis and involves a careful and complete observation of a social unit, be that unit a person, family, an institution, a cultural group or even the entire community. It is a method of study in depth rather than breadth. The case study places more emphasis on the full analysis of a limited number of events or conditions and their interrelations. The case study deals with the processes that take place and their interrelationship.

According to H. Odom, the case study method is a technique by which individual factor whether it is a institution or just an episode in the life of an individual or a group is analyzed its relationship too ther in the groupll. Burgess has used the Social microscopell for the case study method. Pauline v. young describe case study as comprehensive study of a social unit be that unit a person, group, a social institution a district or communityll.

Characteristics of case study method-The important features of the case study method are:

- I. Under this method the researcher can take one single social unit or more of such units for his study purpose.
- II. Selected unit is studied intensively.
- III. Inthismethodwemakecomplete studyofthesocialunit coveringasfacts.
- IV. Under this unit, the approach happens to be qualitative not quantitative.
- V. In this method an effort is made to know the mutual inter relationship of casual factors.
- VI. Under this method the behavior pattern of the concerning unit is studied directly and not by an indirect and abstract approach.
- VII. Case study method results in fruitful hypotheses along with the data which may be helpful in testing them, and thus it makes the generalized knowledge to set richer and richer.

Evolution and scope:

The case study method is widely used systematic field research technique in sociology. The creditfor introducing this method to the field of social investigation goes to Frederic Le Play who used it as a hand-maiden to statistics in his studyof family budgets. Herbert Spencer was the first to use case material in his comparative study of different cultures. Dr. William Healy resorted to this method in his study of juvenile delinquency, and considered it a better method over and above mere use of statistical data. Similarly, anthropologists, historians, novelists and dramatist have used this method concerning problems pertaining to their areas of interests. Even management experts usecase study methods forgetting

Clues to several management problems. In brief, case study method is being used in several disciplines.

Assumptions:

The case study method is based on several assumptions. The important assumptions are:

- The assumptions ofuniformity in the basic human naturein spite of thefact that human behavior may vary according to situation.
- The assumption study in the natural history of the unit concern.
- The assumption of the comprehensive study of the unit concerned.

Main Phases:

- Recognition and determination of the status of the phenomenon to beinvestigated or the unit of attention.
- Collection of data, exemption and history of the given phenomenon.
- Diagnosis and identification of casual factors as basis for remedialor development treatment.
- Application of remedial measures.

- Follow up programme to determine effectiveness of the treatment applied.

Advantages of case study method:

- The case study method enables us to understand fully the behavior pattern of the concerned unit:
- Through case study researcher can obtain a real and enlightened record of personal experiences and motivations that drive him to action along with the forces that direct him to adopt a certain pattern of behavior.
- This method enables the researchers to trace out the natural history of the social unit and its relationship with the social factors and the forces involved in its surrounding environment.
- It helps in formulating relevant hypotheses along with the data which may be helpful in testing them.
- This method facilitates intensive study of social units.
- Information collected under the case study method helps a lot to the researcher in the task of constructing the appropriate questionnaire or schedule for the said task requires through knowledge of the concerning universe.
- The use of different methods such as depth interviews, questionnaires, documents, study reports of individuals, letters and the like is possible under the case study method.
- The case study method is alternatively known as—mode of organizing data.
- Case study method enhances the experiences of the researcher and this in turn increases his analyzing ability and skill.
- This method makes possible the study of social changes.

Limitations:

- i) Case situations are seldom comparable.
- ii) It is not a significant scientific data.
- iii) Dangers of false generalization is always there.
- iv) It consumes more time and require lot of expenditure.
- v) The case data are often vitiated.
- vi) Case study method is based on several assumptions.
- vii) Case study method can be used only in a limited sphere.
- viii) Response of the investigator is an important limitations of the case study method.

9.3.5 JURISTIC LITERATURE

When pursuing a legal research, the person should keep in mind the importance of judicial writings on the concerned subject or topic. There are number of books of foreign and Indian Authors who influenced the legislature to make law, rules and policies. Judges like justice Krishna Iyer P.N. Bhagwati on Human Rights. Upendra Bakshi, Subba Rao judicial writing of Gajender Gadkar on Public interest litigation Patanjali Shastri on Constitutional matters and the views and opinion in the form of writing play a very important role in Research work.

Different commentaries and Digest Just like 'Edward Coke'. Mensfield, Bentham, Austin salmond also good 'source to gain' knowledge for a Research. The documents express the inner-most feelings of the heart of the writer and at times. These documents throw light on such aspects of high as would have been difficult to know through observation or interview. They, generally are more realizable both as regards one description of the subject as well as the feelings of the writer. They contain the perfect type of socio-legal material necessary to characterize the life of social group.

A legal writing is anything that contains matters of socio-legal importance. Most of the writings are written in the past when the phenomenon took place and are not specially prepared for the study of the present problem.

Not only judicial writings but personal documents include all such written material is written by an individual to narrate his views upon personal. Relationship or social phenomena. Most of these writings are from personal point of view. But & researcher should take proper precautions to understand it and its consequences because there are some draw-backs of the writings which are mentioned below.

Unreliability of the data may be there due to personal Bias of the writes. Writings do not provide a representative sample and the documents not be considered as a valid one. The availability of writing may be difficult if the y contains some confessions which are like to damage his reputation. Judicial documents also supply a huge fund of information. They deal with different subjects and are usually published by various institutions, organizations and associations records, parliamentary debates, judgments etc one regarded important public documents. These writings are easily available and to a large extent, also reliable. A good deal of information regarding socio-legal problems is now. Collected and released for publication by the Government.

These personal documents including life-histories of the people in general and important persons in particular, public and private documents like diaries, confidential files, Literature, Newspapers etc. are important sources. Apart from this, Articles, Papers and Books on legal history and Constitutional history are equally important.

Compilation of List of Reports or Special Studies: The Legal Research Report is the statement that contains in Brief the procedure adopted and the findings aimed at by the researcher of a legal. Problem a legal report is not a complete description of work done by the researcher. It is only a brief statement of most significant facts that are necessary for understanding the generalization drawn by the investigator. After the collected data have been analyzed and interpreted and various generalizations have been drawn, the report has to be prepared. It is the last phase of the research.

A vast planning and preparation is necessary for writing the report. Writing the report requires considerable through effort patience and penetration. Writing a legal research report is a technical activity which demands skill and patient from the researcher. The report should focus on the target audience; report should be simple, interesting and lucid. Only hard and patient work on the facts, careful and critical assessment and intelligent planning of the organization of the report can facilitate the communication. There is no standard criterion for organization of legal research report.

Reporting the research requires on order of skills come what different from these needed in the earlier phases of research. The chief purpose of a report is communication with the readers. It should contain the following aspects:

Reporting the research requires an order of skills come what different from these needed in the earlier phases of research. The chief purpose of a report is communication with the readers. It should contain the following aspects.

- A. The problem of research.
- B. The research procedure
- C. The result of outcome
- D. The importance of findings

R.L. Ackoy offered a model representing the process of inquiry which illustrates both the problem salvation and communicative phases. The communication model of inquiry involves four communicants (1) The consumer who has a problem (2) The research scientists, (3) The observer (4) The observed. These four communicants need not be four distinct individuals; rather they refer to four communicative roles.

The report representation makes it quite clear that the problem solving phases of inquiry are —

1. Existence of a problem
2. Formulation of the problem and designing
3. Movement into the environment in which observations one to be made (data-collection)
4. Recording of data
5. Treatment of data (Analysis and interpretation)
6. Reportingtheresults.
7. Action based on the reported results to solve the problem. Purpose or Importance of a Report: the purpose of a report is to the interested persons the whole result of the study in sufficient details in orderly manner. The main aim of the thesis writer is accuracy and truth. He should him self to the Validity of conclusions the purpose of report is thus the spread of knowledge. Report also crates grown & for hypotheses and leads to further research on the same or allied problems the report will generally be conformed to the objects of the study of the problem. Suggestions will be given to researcher to studies the items of gaps on additional items which are traced out in the present study.

The Research is sometimes undertaken at the instance of third parts which are interested in the problem. The report of such problem is not meant for general public and for their practical purposes. The sponsored persons are simply interested in the results and findings only.

9.4 SUMMARY

The formation of a topic into a research problem is the first step in a scientific enquiry. The term Problem comes from the Greek word "Proballein" which means anything through forward; a question proposed for solution; a Matter stated for examination. A problem, in simpler words,

is some difficulty experienced by the Researcher in atheoretical or Practical Situation According to John Dewey; the Need of clearing up confusion, of straightening out an ambiguity, of overcoming obstacles, of covering the gap between things as they are and as they may be when transformed, is, in germ a problem.

Public documents also supply a huge fund of information. They deal with different subjects and are usually published by various institutions, organizations and associations. Records, parliamentary debates, judgments, etc. are regarded as important public documents. These documents are easily available and, to a large extent, also reliable. The public documents may be in the form of unpublished records and published documents. A good deal of information regarding socio-legal problems is now collected and released for publication by the Government.

The legal practitioner, judge, researcher of law have to involve in search of law to be applied to a case in hand because —no lawyer knows more than a relatively infinitesimal part of the law, nor does any judge. But they have to know how to find law and where to find law.

Lawyers draw relevant proposition of law to be applied in a case in hand from two important sources: the judgments made by higher courts, i.e., the precedents and the legislations. One cannot find out a law applicable to a fact situation covered by a single source of law. Often the legal proposition to be applied in a fact situation cannot be drawn from a particular source of law. A sound knowledge in substantive and procedural laws enables a lawyer to identify relevant facts of a case from a mountain of facts made available to him by a client. On the identification of relevant facts and the law to be applied thereto a lawyer uses his logic to correlate them. A precedent is primarily a case law which serves as an authority for deciding a similar case. In many instances, case-laws have played an important part in the interpretation of statutes. Case-law consists of the rules and principles stated and acted upon by judges in giving decisions. In a system based on case-law, a judge in a subsequent case has to decide the case before him in the same way as that in which the previous case was decided unless he can give a good reason for not doing so. That means, cases must be decided in the same way when their material facts are the same. Of course, it does not require that all the facts should be the same. Case law consists of the rules and principles stated and acted upon by the judges in giving decisions. The case laws are the necessary subject-matter in any doctrinal enquiry because the law declared by Supreme Court and High Courts binding the subordinate courts. The Indian law is largely a system of case law. That is, the decision in a particular case constitutes precedent. According to the doctrine of precedent, it is not everything and by a judge when giving judgment that constitutes precedent. But only the reason for the decision given in the judgment constitutes precedent. So, the reason stated in the judgment of an appeal case becomes a necessary subject-matter of inquiry and analysis by a lawyer.

Case laws are the secondary source of data to the researchers. While reading the case laws, the researcher may come across a problem of legal issue and he can form a hypothesis, run an empirical inquiry and thus conduct the research.

Case laws are the evidential source for the arguments in deductive analysis. The lawyers, judges and researchers use case laws for their logical argumentation. Thus, the case laws become the documentary source of data in legal studies.

The case study method is very popular form qualitative analysis and involves a care ful and complete observation of a social unit, be that unit a person, family, an institution, a cultural group or even the entire community. It is a method of study in depth rather than breadth. The case study places more emphasis on the full analysis of a limited number of events or conditions and their interrelations. The case study deals with the processes that take place and their inter relationship.

According to H. Odum, —the case study method is a technique by which individual factor whether it is an institution or just an episode in the life of an individual or a group is analyzed its relationship too ther in the group. Burgess has used the Social microscope for the case study method. Pauline v. young describe case study as comprehensive study of a social unit be that unit a person, group, a social institution a district or community.

The case study method is widely used systematic field research technique in sociology. The credit for introducing this method to the field of social investigation goes to Frederic Le Play who used it as a hand-aid to statistics in his study of family budgets. Herbert Spencer was the first to use case material in his comparative study of different cultures. Dr. William Healy resorted to this method in his study of juvenile delinquency, and considered it a better method over and above mere use of statistical data. Similarly, anthropologists, historians, novelists and dramatist have used this method concerning problems pertaining to their areas of interests. Even management experts use case study methods forgetting clues to several management problems. In brief, case study method is being used in several disciplines.

9.5 SUGGESTED READINGS

1. Dr. H.N. Tiwari, Regal Research Methodology, Reprint, 2006.
2. Dr. S.N. Myaneni Legal Research Methodology, Reprint, 2008.
3. C.R. Kothari Research Methodology: Methods and Techniques. Reprint, 1994

9.6 TERMINAL QUESTIONS

1. How formulation of research problem is made? Discuss
2. How case law is used in data analysis?
3. Write an essay on Juristic Literature?
4. Write short notes on the following
 - (a) hypothesis
 - (b) Research Design

UNIT - 10

Report Writing- Structure, Characteristics and Precautions

- 10.1. Introduction:
- 10.2. Objectives:
- 10.3. Types of Reports:
 - 10.3.1. Research Reports:
 - 10.3.2. Progress Reports:
 - 10.3.3. Technical Reports:
 - 10.3.4. Field Report:
 - 10.3.5. Comparative and Review Reports:
- 10.4. Stages of writing a report:
 - 10.4.1 Preparation and Planning
 - 10.4.2 Research and Data Collection
 - 10.4.3. Drafting
 - 10.4.4. Writing
 - 10.4.5. Editing and Revising
 - 10.4.6. Submission
- 10.5. Parts of a Report
- 10.6 Characteristics of an effective report:
 - 10.6.1. Clarity –
 - 10.6.2. Conciseness
 - 10.6.3. Coherence
 - 10.6.4. Objectivity
 - 10.6.5. Accuracy
 - 10.6.6. Complete
- 10.7 Precautionary steps in Report writing:
 - 10.7.1 Understand the purpose
 - 10.7.2. Thorough Research
 - 10.7.3. Organize information
 - 10.7.4. Formatting guidelines
 - 10.7.5. Clear and Concise language
 - 10.7.6. Proofread and Edit
 - 10.7.7. Provide proper sources
- 10.8 Summary
- 10.9 Glossary
- 10.10 SAQs

10.1 Introduction

A report is a formalized document presenting information, analysis, or findings on any particular issue or a situation. Research reporting is the oral or written presentation of the findings and the evidence in such a detailed form, that it could be easily understood by and assessed by the reader. The format should enable the reader to verify the validity of the conclusion lucidly. The report should include the problem statement, methodology, facts, conclusion and the recommendations if need be. This makes report not only an integral and inherent part of the research but also the culmination of the investigations. The report is the final stage of the research and so its purpose is to convey the entire detail of the study with sufficient detail. This should be arranged in proper sequence, so as to enable the reader to comprehend the data and to determine the validity of the conclusions. However, breaking the information based on what is required by the organization, helps the individual or the respective organization to make decisions, monitor the progress and parallelly evaluate the outcomes. Reports play a prominent role in terms of performance assessment, setting the goals and provides scope for improvement also. For the government and public organizations, report offer a level of transparency and accountability and pave way for fact-based policy making, strategic planning and effective communication across various sectors.

10.2 Objectives:

After reading this Unit, you will be able to:

- Understand the meaning of report and its types and significance.
- Discuss the importance of report and its characteristics.
- Explain the steps of report writing process.
- Comprehend the precautions to be taken while writing a report.

10.3 Types of Reports

The purpose of a report is not communication with oneself, but communication with the audience. This communication should be clear about the persons for whom the given report is intended. Three broad categories of such readers may be classified as:

- The layman and the general public- The public report
- The administrator and the project sponsor – The report for administrator
- The fellow researcher or the technical expert – The technical report

10.3.1. Research Reports:

Research reports are formal organized documents that presents the outcome of a research project in a systematic way. This usually focusses on answering a specific outcome or hypothesis. They are used in both academic and professional fronts to systematically document, analyze, and communicate information. Typically, a report consists of an introduction, a literature review, a methodology section, results, discussion, and a conclusion. The introduction part consists of the purpose of the study, background, and objectives are outlined, which led to the development of research hypothesis question. The methodology section elaborates on the method of data collection, tools and procedures followed in the research process. The results section briefs the objective findings, statistical analysis, charts and tables for better understanding. The discussion part is where the findings is analyzed with the hypothesis of the study. Finally, the conclusion part summarizes the main points and suggests the limitations and the scope for future research. These reports pave way for advancement in knowledge and enhancement of the previous research findings, thereby contributing to the development in that particular field.

10.3.2 Progress Report

When you are working on a project and if it has reached a significant stage and key milestones reached, its progress has to be reported to the concerned authority. This should align with the timeline as planned and include the initial research phase and provide information needed for the next stage. The research report should outline the design and development tasks that is in progress and the expected outcomes.

Collaborative teamwork and effective communication among the team members is vital for timely completion of the task at hand. Implementation of enhanced technology improves the overall quality of the work. Review meetings conducted on a regular basis will make sure that the work is on track. Yet there might be issues in procurement of resources which may cause delay in the work. In such cases mitigation measures like adjusting the task priorities and arrangement for alternative suppliers should be taken. Through these activities the focus will remain in completing the task in good quality within the stipulated time. Such progress will show the dedication and collaborative skill of the entire team.

10.3.3 Technical Reports

A technical report provides a complete account of the process, findings and the outcomes of the specific project. This should provide deep insights on the methodologies adopted to analyze the data to achieve the result. Technical report is usually used in the field of science and engineering, industries to convey complex information in a systematic way.

A technical report includes components like introduction, methodology, results, discussion and conclusion. Introduction talks about the purpose and scope of the work, while methodology explains the procedures, tools or apparatus used. The results enumerate the data and findings with graphs, tables and diagrams for better clarity and precision. The discussion highlights the current trends and potential areas of improvement.

An effective technical report should be accurate, objective in style and clear. The language should be simple so that both technical and non-technical readers can understand. Technical reports form the base for decision-making, evaluations, knowledge sharing and promote transparency and accountability of the project or research work.

10.3.4 Field Report

A field report is a complete account of observations, data collected, and the analysis done during the fieldwork. This is used in the field of environmental science, sociology, geography, anthropology and education to record the findings gathered from a particular area. Key features included in a field work include purpose, which states the real-world scenario, behaviors, conditions etc. and analyse them according to the research objective or hypothesis. The introduction part provides the purpose, scope, and background of the field work. Methods encompasses the tools and techniques used to gather information. Findings and observations, records the observation supported with evidences like photographs, recordings etc.,. The findings are interpreted according to the study objective in the discussion part. Conclusion summarizes the key findings and provides recommendations. Such reports cater to the needs of academicians, researchers, practitioners, or any other stakeholders interested in the specific field of study as they offer practical insights based on real world experience.

10.3.5 Comparative and Review Reports

A review report is an assessment on a specific subject, process or publication of a research study. It analyses the scope and limitations and overall quality of the theme or subject. This also provides insights indicating the gray area thereby providing scope for further study.

A review report encompasses an Introduction, that gives an outline of the subject and the significance of its study. Summary that gives a concise overview of the main aspects or the contents of the topic discussed. The analysis and evaluation part enumerates the method of research, findings and presentations. It openly talks about the advantages and

disadvantages of the of the topic in discussion. The recommendation part suggests the action that is to be taken for improvement in future. Conclusions, summarizes the overall evaluations and its impacts. A review report is usually drafted based on evidence and ensures that the observations are well supported with facts. Hence this serves as a basis for several decision making like guiding the stakeholders or enhancing the performance. This is usually used in business, academics and research areas to foster accountability and progress.

10.4 Stages of writing a report

Writing a report is a systematic process involves clarity, efficiency and accuracy.

10.4.1 Preparation and Planning

First state the goal for preparing a report and do an audience analysis of the report. Collect information, define goals and objectives and prepare a skeletal framework of the report. This makes sure that the focus is achieved.

10.4.2 Research and Data Collection

Get facts that back up your ideas and findings, then expand your research using this information. Insert reliable literature details and arrange the information in a logical sequence.

10.4.3. Drafting

Begin the first draft in the said format. To do this, the following subtopics are included – Introduction, main body and conclusion.

10.4.4 Writing

The text has to be structured properly to make the flow coherent. This should be done in a meticulous way including all the parts of a formal report.

10.4.5 Editing and Revising

Edit the version with a view to ensure that language is clear, arguments are logical, and that assumptions made are consistent. Cross-check the information and check whether the report fulfills the intended goal. Proper proof reading should be done to make sure that there are no grammatical mistakes or spelling errors and any other typographical errors.

10.4.6 Submission

After fine tuning the report, it should be submitted to the concerned authority. Business communication involves report writing and this can be done through preparatory planning and developmental research as well as refined report writing.

10.5 Parts of a Report

Reports are formal documents that are used to communicate information in a clear and systematic way to a particular person for a particular purpose. They follow a proper structure and a systematic way of compilation of details, which vary according to the purpose and the target audience. Here are the common parts and general structure of a report:

1. Title Page – This is the first page of the report which sets the tone for the reader. It includes details like topic of the report, name of the researcher and the person to whom it is submitted. It sets the professional tone of the document and provides important information at a glance, and it enables proper record keeping as well.

Example: “Impact of Technology on Human Rights”

Submitted by: Shreya Joshi

Submitted to: Dr. Ravinder Singh

Date: 18 November 2024

2. Abstract/ Executive Summary – The abstract provides a concise summary of the entire report. It mainly focusses on the main objectives, findings and recommendations, in such a way that the target audience can understand it quickly.
3. Table of Contents – This section of the report organizes the report and details about the contents inside it along with the page numbers. This helps the reader to track the content quickly making it easier to locate the information needed.
4. Introduction – The introduction part sets the tone for the report and explains the reader what to expect from it. It engages the reader and justifies as why to read the report.
5. Methodology – The methodology section elucidates the method used to collect and analyze the data or information. This ensures transparency and credibility of the report making the reader understand the validity of the research.

6. Findings/Results – this presents the result of the investigation in a lucid way with visuals like graphs, pie charts or diagram as per the requirement. Thus providing evidence to support the conclusions.

7. Analysis/ Discussion – this part analyses the findings and its impact in a broader aspect. This fills the gap between the data and the action that is to be taken, thereby helping readers to carry forward the research.

8. Conclusions- This summarizes the entire research and analysis providing answers to the research questions and objective of the research. This gives a complete overview for the reader.

9. Recommendations – This section provides the practical actions that is to be taken based on the findings of the identified problems. It also extends a practical guidance for the policy makers.

10. References – This lists all the sources including books, articles, websites, etc. used in the report providing proper citation to ensure credibility. This shows the authenticity of the research, making it easy for the readers to verify.

11. Appendices- This contains the additional material that helped the researcher in his work but is added separately to avoid interruption in the flow of the report. This helps to keep the main report concise.

Example: Survey questionnaire, Additional tables and graphs, some important raw data.

Each and every part of the report has its own purpose and significance in making it comprehensive for the reader. The choice and length of the parts depends on the objective and type of the report.

10.6 Characteristics of an effective report

A report is a concise document prepared to convey information and findings. It should be done effectively with the following characteristics:

10.6.1 Clarity

The language of a report should be clear, precise and free from ambiguous words, making it simple and clear.

10.6.2 Conciseness

The content of a report should be present in a simple and precise way.

10.6.3 Coherence

A report should have a clear format with apt coherence and smooth flow of content.

10.6.4 Objectivity

Reports are prepared to a specific person for a specific purpose. The research analysis, findings and the solution should be done to achieve the objective. It should avoid any kind of personal opinion or biasness and ensure objectivity.

10.6.5 Accuracy

A report should be prepared based on accurate information, collected from authentic sources and systematic analysis.

10.6.6 Complete

A report should be complete in every aspect with the needed recommendation for the policymakers.

These characteristics makes a report an essential tool for important communication in academics, business, and various professional settings.

10.7 Precautionary steps in Report writing

Report writing requires focus to the core and careful planning to ensure clarity and accuracy. The following steps are to be followed for an effective report.

10.7.1 Understand the purpose

Clearly define the purpose of the report and the needs of the targeted audience to ensure relevance and focus.

10.7.2 Thorough Research

Accurate and relevant information should be collected from authentic sources. The gathered data should be relevant and ensure credibility.

10.7.3 Organize information

The gathered information should be arranged in a proper sequence for lucid understanding. In should include key components like introduction, body, and conclusion to give a proper structure.

10.7.4 Formatting guidelines

A report is a formal document and should adhere to specific formatting requirements including referencing styles, font size, margin, etc. as per the requirement.

10.7.5 Clear and Concise language

Avoid redundancy and ambiguous words and unnecessary details. Present information precisely in objective style.

10.7.6 Proofread and Edit

A report should be properly checked for grammatical errors, typographical mistakes.

10.7.7 Provide proper sources

Proper sources should be quoted to avoid plagiarism and ensure credibility to the work.

By following these precautionary steps, a writer can effectively communicate the objective of the research in an impactful way.

10.8 Summary

A report writing is a structured communication that conveys information in a systematic way. A meticulously drafted report should be accurate, concise, purposeful addressing the need of the target audience. It should have the characteristics like clarity, accuracy, coherence and proper organization. These qualities make the report credible and easy to understand. While preparing a report it is vital to take necessary steps to maintain the quality and reliability. It should be free from personal biases, plagiarism, and various other errors. Ensuring consistency in format and following the required style guidelines further enhances the professionalism of the report. Besides this, an effective report is one that presents information in a systematic way with the needed evidence for policy makers to make decisions. By understanding its characteristics and following the necessary precautions, writers can create reports that are both impactful and credible, effectively achieving their communicative purpose.

10.9 Glossary

1. **Formal Document** – A formal document means an official record prepared in a proper format, used for communication, record -keeping and also serves as a legal document. It uses technical terms of the field and includes details like topic, date, signature, references etc. It is usually accurate, precise and clarity is ensured.
Examples- Contracts, Policy documents, reports etc.
2. **Systematic** – A systematic document is one which is logically arranged to present information logically with clarity. It follows the prescribed structure and ensures a systematic flow for easy understanding, easy references. It maintains continuity, precision and follows the predefined guidelines.
3. **Objective Style** – Objectivity refers to writing or presenting information in factual way free from bias, personal opinion or emotions. It focuses on evidence and logical reasoning, making it completely scientific and professional communication. This style makes a document credible and gives a comprehensive view to the reader.
4. **Precautionary steps** – This means the measures a writer should take to ensure clarity, accuracy and preciseness in the report to maintain professionalism. It includes understanding the objective, verifying the authenticity of the data collected, arranging it logically and properly editing and reviewing the document before submission.

10.10 SAQs

1. Short answer questions-

- a. What is a Progress Report?
- b. Explain the need of objectivity in a report.

2. Fill in the blanks –

- a. are formal organized documents that presents the outcome of a research project in a systematic way.
- b. A report should be prepared based on information, collected from authentic sources.

3. True or False –

- a. A Report is a formal document meant for a specific purpose.
 - (i) True (ii) False
- b. Personal opinion is always welcome in a report.
 - True (ii) False

10.11 References

- a. Improving Writing Skills: Memos, Letters, Reports, and Proposals by Arthur Asa Berger, Sage Publications
 - b. A Handbook of Report Writing by Arka Bhattacharya, Books way Publisher.
- 10.12 Suggested Readings
- a. A concise guide on Report Writing and Presentation Skills, by Dr. Monisha Banerjee, Iterative International Publishers IIP Publisher.

10.12 Terminal Questions and Model Questions

- a. Give a brief account on the structure of a report.
- b. Elucidate the preparation guidelines or stages of writing a report.
- c. Explain the characteristics of an effective report.

Answers:

SAQS

1. a. Refer 12.3.2 b. Refer 12.6.4.
2. a. Research Report b. accurate
3. a. True b. False
4. Terminal Questions and Answers
 - (a) Refer 12.5. (b) 12.4 (c) 12.6

Unit – 11

Role of Computer in Research

- 11.1. Introduction
- 11.2. Objectives
- 11.3 Computing in research
- 11.4 The Role of Computers in Formulating Hypotheses and Research Questions
 - 11.4.1 Literature review and analysis
 - 11.4.2 Data Analysis and Visualization
 - 11.4.3 Hypotheses testing
 - 11.4.4 Collaboration and Communication
 - 11.4.5 Access to Specialized tools
- 11.5 Computational Techniques and Methods
- 11.6 Role of Computer in writing and publishing
- 11.7 Significance of computer in research
 - 11.7.1 Data management and Analysis
 - 11.7.2 Information Access
 - 11.7.3 Enhanced Communication and Collaboration-
 - 11.7.4 Advocacy and outreach
- 11.8 Challenges and Considerations
 - 11.8.1 Data Privacy and Security
 - 11.8.2 Computer Resource Management
 - 11.8.3 Ethical Consideration
- 11.9 Future Directions and emerging trends
- 11.10 Summary
- 11.11 Glossary
- 11.12 SAQs
- 11.13 References
- 11.14 Suggested Readings
- 11.15 Terminal Questions and Model Questions

11.1. Introduction

The advancement in technology with the advent of Computer and the ubiquitous internet has evolved all aspects of life in the modern world. The field of research is no exception to it and has all the more evolved with the increase in necessity and demand in diverse fields. Hence in the contemporary academic landscape the role of computer has become even more vital in research arena. Mastering the language and tools of computational is vital to enhance the efficiency and effectiveness of your research process. Computers play a pivotal role in assisting with a wide range of tasks, including data collection, data analysis, literature reviews fundamentally changing how scholars conduct their work. This unit will focus on the various uses of computer in research, highlighting its importance in every step of the process.

11.2 Objectives

- Understand the importance of computers in research.
- Comprehend the role of computer in data storage and data collection.
- Understand how computer helps in quick processing and analysis of data.
- Learn the tools and applications used in the process of research.
- Know the various online databases for research.

11.3 Computing in research:

Computer plays an important role in academics and is an essential element in research and to analyze and interpret data. This helps a researcher to manage large volumes of data easily, which would be otherwise very difficult to be handled manually or through traditional methods. Particularly in research related to climate change, legal studies, social science, engineering etc. where the number of data is enormous and is constantly growing. Advanced computer technologies like machine learning, data analysis and data mining help in gaining knowledge and identify patterns, leading to new inventions and decision-making. They also help in simulation and modeling, through which a researcher can test hypothesis and get a clear idea on complex phenomenon involved without indulging in lengthy experiment process. Use of computer also aids in wide access and sharing of data and methodologies across various locations. The availability of cloud computing and open-source software helps in accessing powerful online tools for researchers from diverse background to share and benefit from the knowledge platforms. It also encourages multidisciplinary and interdisciplinary research bringing together scholars from varied fields. For a human rights student, it is important to be familiar with these latest tools and

methods to improve your research ability and make meaningful contribution of knowledge to the respective field.

11.4 The Role of Computers in Formulating Hypotheses and Research Questions

Computers have become essential tools for postgraduate students, offering efficient methods for developing hypotheses and research questions.

11.4.1 Literature review and analysis:

- Efficient Literature search- Plethora of online databases and search engines enables researchers to quickly access volumes of scholarly literature.
- Keyword analysis- Software tools assist in identifying key terms and patterns within the literature, which helps the researcher to draft the research question.
- Citation management – Reference management Software like Mendeley, Zotero, Endnote etc. simplify in organizing referencing sources.

11.4.2 Data Analysis and Visualization:

- Statistical Software- Large datasets, uncovering trends and patterns could be analyzed through tools like SPSS, R, and Python which is otherwise less feasible through manual inspection.
- Data Visualization – Creating graphs, chart, and visual representations can help in identifying relationships and possible research questions.

11.4.3 Hypotheses testing:

- Simulation and Modelling – Computer simulations can evaluate hypotheses under various conditions, delivering valuable insights and possible outcomes.
- Statistical Analysis – The validity of hypotheses based on the data received can be done through statistical tests with the help of software.

11.4.4 Collaboration and Communication:

Online Collaboration – Shared access to the documents, real-time or virtual discussions with supervisors and peer group members can be carried out through online tools like Zoom, Microsoft teams, Google classrooms etc.

Online Communication – knowledge can be quickly and efficiently shared through the means of Email, WhatsApp, video conferencing etc.

11.4.5. Access to Specialized tools:

Special software – Drafting of hypotheses, and conducting simulations for subjects like microbiology, forensic science, engineering etc. can be done through specific software available for the purpose.

Therefore, computers have eased the process of research by bringing great transformation and making it more effective.

11.5 Computational Techniques and Methods:

Computational techniques are certain methods used to solve scientific and mathematical problems quickly in a reliable way, which is increasingly important in providing innovative tools for visualization, data interpretation and data analysis related to human rights research. For a scholar involved in research, learning these techniques can significantly enhance the quality of research leading to a more impactful finding. Data mining is one important method which will help a researcher to analyze large data sets to discover the underlying trends and patterns in regard to human rights violations. Techniques like sentiment analysis can be carried out on social media contents or data to check the public opinion on human rights issues or to monitor a particular type of narratives. Geographical Information Systems (GIS) is another important computational method that can be used for spatial or geographical analysis of human rights violations. Through this a researcher can identify regional disparities and the hotspots of human rights violations that can support their argument. They are also used in the field of planning, logistics, management, engineering etc. ML or Machine learning algorithm is another method that can be used to comprehend patterns and predictive analysis which aids a researcher to detect potential violence that could arise in a particular region. Such analysis can alert an organization to be proactive and allocate resources accordingly. Computational text analysis can be used to enhance qualitative data obtained from varied sources like interviews, policy documents to analyze themes and sentiments. Network analysis is also done to understand the relationships among various government organizations, NGOs etc. involved in human rights issues. Through this the power structure can be determined, which will in turn aid in strategic planning and policy making. Therefore, these computational tools and techniques strengthens the research done in the field of human rights, providing guidance for policy making and advocacy efforts. Due to this fast pace of technological development, being technically sound and proficient is essential for a researcher in the field of human

11.6 Role of Computer in writing and publishing

In today's academic field, computers play a vital role in writing and publishing research papers, irrespective of the field of a scholar. These technology paves way for an efficient and systematic way of research and writing. To begin with, a wide range of online databases e-journals, and repositories provide updated information and scholarly articles to researchers on various human rights topics. This helps in coming up with thorough literature reviews and help a student to critically analyze the existing research. In addition, software like Grammarly, spell check, citation management etc. help in improving one's writing style. Through collaborative tools students can work along with peers and advisors paving way for constructive feedback and exchange of ideas. This is particularly useful for an interdisciplinary approach in human rights research. Use of computers and software like LaTeX also ensures proper formatting and simplify the process of publishing of research papers. Digital platforms like Research Gate, academia.edu, helps people involved in research to share their findings to a wider audience encouraging the global human rights community. This will enrich collaboration resulting in greater impact. Hence by making use of these digital technologies, scholars can make meaningful contribution to the field of human rights.

11.7 Significance of computer in research:

Computers are essential tools for students engaged in human rights research, greatly improving both the depth and breadth of their studies.

11.7.1 Data management and Analysis- One Major advantage of computer is their capacity to analyze bulky data, as human rights professionals often deal with extensive data, such as demographic statistics, surveys, questionnaire, reports of violations etc. Students can make an effective quantitative analysis through software like SPSS, Python, R etc, to identify the correlation of patterns and trends to analyze complex issues.

11.7.2 Information Access – Wide range of information could be accessed through online databases, digital libraries, academic journals and allowing the researcher to collect literature content and case studies across the globe. This access proves to be important for a researcher to ensure a well-informed and relevant research analysis.

11.7.3 Enhanced Communication and Collaboration- Collaboration among researchers and peer teams irrespective of the location is promoted through tools and applications like Zoom, Google classroom, Microsoft team etc.

11.7.4 Advocacy and outreach – Researchers can make an impactful presentation and convincing reports by the use of software like PowerPoint or Adobe InDesign. Availability of social media platforms enables one to share ideas and findings to the common people and raise awareness and pull support for human rights causes.

Therefore, the role of computer is vital in research as it enhances analytical skills, streamlines information, builds collaboration, and encourages advocacy efforts. By making use of these tools a researcher can make notable contributions to their respective field.

11.8 Challenges and Considerations:

Use of computer in research has numerous benefits, yet it comes with its own challenges.

11.8.1 Data Privacy and Security –

Computer aided research enhances the efficiency of the findings, but also has notable challenges regarding data privacy and security, specifically in works related to human rights. The sensitivity of the data involved is one of the prime concerns. As human rights research deals with personal information of the victims or the vulnerable group, it can lead to information leak, if not secured properly. People involved in such research should follow proper guidelines to preserve and protect the identities of their participants. Moreover, there is a high risk of data breaches and unauthorized access while using digital tools. It should be ensured that the data is encrypted and securely stored, which obviously need high technical skill on the part of the researcher. Safe and Secure communication channels should be followed along with adoption of best practices for data anonymization, as sharing of data can lead to legal issues. Therefore, it is very important to keep a check on data privacy and its security to protect the participants and the integrity of research.

11.8.2 Computer Resource Management- Resource management includes tracking of resource usage, planning, and balancing workloads. This helps easy management of the work through constant monitoring of the use of resources and identifying the potential bottlenecks. Such strategic planning ensures an organization to meet its short term and long-term goals without incurring loss or unnecessary expenses to the organization. This also includes cloud computing and virtualization, which helps an organization to allocate resource according to the demand. Therefore, this necessitates the need for security measures like regular audits and adherence to regulations for maximizing efficiency and security of the digital world.

11.8.3 Ethical Consideration – For scholars focusing on human rights research ethical consideration is of foremost importance. Researchers should ensure informed consent and make the participants understand, how their data will be used and for what purpose. Specifically, when dealing with data of vulnerable section of a community, it is vital to adhere to ethical guidelines as said by GDPR (General Data Protection Regulation), to build trust and integrity. Students must understand the fact that reckless use of these data

might be used as a weapon against the marginalized people. Hence, it is crucial for human rights researcher to preserve the data and dignity of the participants involved while contributing knowledge to their field.

11.9 Future Directions and emerging trends:

The growth of computer-assisted research is expected to witness major transformation in the near future, especially for scholars involved in human rights research. Data analysis is mostly done through Artificial Intelligence (AI) and Machine Learning (ML). These technologies are of utmost benefit as they enable a researcher to detect existing trends in large amount of data, in a more efficient way which in turn aids in understanding the patterns of human rights abuse more quickly and clearly. Another example of this technological revolution is the big data analytics. The ability to pull together and process a wide range of data from social sites, archival records, etc, gives a clear and quick estimate of the profile of human rights across the world. This can be beneficial for creating policies related and other interventions. Apart from this, the new wave of blockchain technology also can go a long way in the preservation of the integrity of the data. This helps in analyzing the authenticity of a data. Many online platforms help and encourages collaborative work enabling a researcher to share their findings with a wider range of audience.

11.10 Summary

To sum up, computer-aided research has made the task of a researcher less tedious and effective. But still the ethical considerations and the need to safeguard the data and protecting the sensitive information have become the key concern. The robust advancement in technology demands for policies and framework to safeguard vulnerable populations. With this evolving technology a human rights researcher can indulge in more effective research and advocacy initiatives.

11.11 Glossary

Computing – This refers to the process where computer is used to do the task of processing, storing and analyzing data. This includes the hardware, software, and the networks to enable communication. This also includes programming, artificial intelligence, cloud technologies etc.

Data Visualizations - This means the graphical representation of information and data through graphs, charts, maps and info graphs etc. Through data visualization the

information can be presented in a simple and lucid way so that the reader can understand it quickly.

Ethical consideration - Ethical consideration is the moral implications in our decision and action to maintain the integrity and respect of the participants. Ethical guidelines enable a researcher to protect the individuals and uphold societal values.

11.12 SAQs

Short Answer Questions-

1. What do you mean by literature review and analysis?
2. How does online collaboration help a researcher?
3. What are the possible challenges & Considerations faced by a researcher while using a computing technique?

Fill in the blanks-

- i. knowledge can be quickly and efficiently shared through the means ofetc.
- ii. One Major advantage of computer is their capacity to bulky data.

True or False-

- a. Wide range of information could be accessed through online databases, digital libraries.
(i)True (ii) False
- b. The validity of hypotheses based on the data received cannot be checked through statistical tests with the help of software.
(i)True (ii) False

11.13 References

- a. Emerging Research challenges and opportunities in Computational Social Network Analysis and Mining by Nitin Agarwal, Nima Dokoohaki, Springer publications.

11.14 Suggested Readings

- a. <https://ebooks.inflibnet.ac.in/hsp16/chapter/application-of-computer-in-research/>

11.15 Terminal Questions and Model Questions

1. Write a short note on Computational Techniques and methods.
2. Explain the role of computer in writing and publishing a research work.
3. How does computer help in communication and collaboration?

Unit 12

Ethics in Social Science Research

- 12.1 Introduction
- 12.2. Objectives
- 12.3 Ethical principles in Social Science Research
- 12.4 Ethical theories and Principles
 - 12.4.1 Deontological Ethics
 - 12.4.2 Consequentialism
 - 12.4.3. Virtue Ethics
 - 12.4.4. Feminist Ethics
 - 12.4.5. Participatory Ethics
- 12.5 Human Rights and Ethics: A Critical intersection
- 12.6 Ethical guidelines and codes of conduct
 - 12.6.1 International and National codes of ethics
 - 12.6.2 Institutional Review Boards (IRBs) and Ethical Committees
- 12.7 Ethical challenges in Human Rights Research
 - 12.7.1 Research involving vulnerable population
 - 12.7.2 Fieldwork in Conflicts Zones or Repressive Regimes
 - 12.7.3 Use of deception in ethical research
- 12.8 Digital Age and Ethical Research
- 12.9 Ethical decision making in research
- 12.10 Conclusion
- 12.11 Glossary
- 12.12 SAQs
- 12.13 References
- 12.14 Suggested Readings
- 12.15 Terminal Questions and Model Questions

12.1 Introduction

Research is widely defined as the process of collecting information, arranging and analyzing it in a systematic way to test a proposed hypotheses or evaluate something. Social science is a stream that deals with the study of people, communities and human behavior in a society with respect to social and cultural aspect. Ethics in social science research is said to be the moral code, principle or standard that a researcher must adhere to. The focus should be in the protection of dignity and human rights of the participants while providing a sound contribution to the society of research. These ethical guidelines usually cover informed consent, ensure privacy and inform the researchers about the possible risks involved. Another important concern is that the physical, psychological and social dangers of the participants should be taken care of. This unit will provide a complete overview of the ethical concerns involved in a social science research.

12.2. Objectives

After studying this unit, you will be able to-

- Understand the ethics to be followed in social science research.
- Know the need to protect the interest and wellbeing of the participants.
- Learn the laws and the governing bodies involved in ethics of research.

12.3 Ethical principles in Social Science Research

Ethics in social science involves the principles and morals involved in research, as it deals with human behavior and its impact in societies. This encompasses various components like how the participants are treated, integrity involved in data collection and the effects of research in the society. Ethical guidelines in research involves the rights and well-being of the participants, ensuring confidentiality, informed consent and the protection of the individuals involved. The complexity of the research involving sensitive topics, makes ethical considerations quite important. For instance, related to power dynamics, cultural sensitivity etc. need to be handled carefully. Researchers have the responsibility to make sure that their findings do not create injustice or negative impact on the society. Ethical frameworks like the Belmont report and the American Psychological Associations provides the standard framework to carry out research in social science. By adhering to these rules, a social researcher contributes positively to the progress of the society while maintaining

the integrity of the work. Ultimately, ethical considerations are important to build trust between the researcher and the participant to ensure societal benefit.

12.4 Ethical theories and Principles:

The following theories on ethical research in Social Science research provide a framework and guidance that when adhered to creates a great impact.

12.4.1 Deontological Ethics–

This theory underpins the importance of following moral rules and duties. A social science researcher should follow ethical guidelines, such as getting the consent of the participants involved and assuring them that the data would be confidential at any cost irrespective of the outcomes.

12.4.2 Consequentialism:

This theory focuses on the results of actions. It further encourages the researcher to observe the consequences or the positive and negative effects of the study to bring about maximum benefit to the individual involved in the study and the society as well. Eventually this would aid the overall finding of the research.

12.4.3 Virtue Ethics

This theory talks about the ethical considerations or the character of the researcher than on the methodology or the specific outcomes of the study. It insists on the qualities like honesty, integrity, empathy, and the compassion of the researcher which would reflect in the ethical implications of the work and the resulting outcome.

12.4.4 Feminist Ethics

This approach emphasizes on an inclusive practice that meets the needs of people from diverse culture, social status, fostering equity in research participation. It also criticizes the traditional practice of overlooking the power dynamics and the marginalized voices.

12.4.5 Participatory Ethics

This theory insists the need for involving the participants in the research process, research questions and methodologies by giving them a voice and opportunity in the process. This would further enrich and enhance the relevancy of the research and its ethical integrity.

By implementing these theories wherever and whenever applicable a researcher can handle complex ethical dilemmas and assure that the research has been conducted with integrity, compassion and accountability.

12.5 Human Rights and Ethics: A Critical intersection

The intersection of Human Rights and Ethics is essential for a fair and healthy society. Human rights denote the needed freedom and protection that an individual is entitled to, irrespective of their nationality, belief, gender and ethnicity. Based on the idea of universal rights and dignity, these rights encompass freedom of speech, right to equality, right to safety, right to justice dignity etc. Ethics involves the philosophical aspect of morality and guides our understanding of what is considered “right” and “wrong”, based on the unwritten codes and principles of society like respect, fairness, and compassion.

The connection between human rights and ethics lies in their mutuality of recognizing the inherent value of every individual. Ethical principles of a society depict the way a society handles and upholds human rights. For instance, the values of empathy and compassion govern the policies that protect the minority rights and combat discrimination, while the principle of justice takes accountability in the cases of human rights violation, as said by the international tribunals addressing human rights violation crimes.

However, ethical dilemmas often emerge when attempting to apply human rights universally. This is intervened by the cultural and religious practices leading to the discussion whether certain human rights should be flexible or considered absolute. Another challenge lies in finding a balance between an individual’s right and the common good, particularly in cases concerning national security, privacy and public health.

In this context, ethical reasoning plays a crucial role in assessing human rights issues to foster equity and prevent oppression of the vulnerable. Ethical frameworks are very important in addressing conflicts and redefine policies that consider the betterment of a society and the freedom of individuals. Communities can protect the vulnerable groups and work towards a global society founded on justice and respect for every individual by providing an equal weightage and mutuality between ethics and human rights.

12.6 Ethical guidelines and codes of conduct:

12.6.1 International and National codes of ethics:

These bodies have framed the prime guidelines needed for professional behavior in various fields, which enhances the values such as honesty, responsibility and fairness. International Federation of Accountants (IFAC) and the World Medical Association (WMA), are the bodies that set guidelines for the universally accepted ethical standards, giving importance to the key factors like accountability and respect for human rights. These codes encompass common framework that aids researchers across various fields like law, healthcare, journalism etc., to collaborate while keeping up the ethics of the study. Every individual country has its own codes of ethics or bodies which states the local, legal, and cultural codes of the land while keeping up with that of the international standards. This includes the American Medical Association (AMA), Code of Medical Ethics and the UK's Solicitors Regulation Authority (SRA) Code of Conduct. These bodies talk about the guidelines, legal expectations, and ethical issues relevant to the locals including areas like confidentiality, professional limitations, and difference of opinion. Public trust, accountability and ethics in decision making are maintained by the National and International codes of ethics. There by they promote a joint approach in linking the local practices with global standards.

12.6.2 Institutional Review Boards (IRBs) and Ethical Committees

Institutional Review Boards (IRBs) and Ethical Committees are very important in maintaining ethical standards in research that includes human participants. They play a key role in safeguarding the rights and safety of people indulged in research and make sure that the study is carried out ethically as per the regulatory guidelines. These regulatory bodies check the proposals to check the potential risks involved, benefits and the process of informed consent. They aim at ensuring that the ethically justified and the rights of participants are upheld.

To get the approval of the ethical boards, a detailed proposal consisting of methodology, risk assessment, objectives and the consent procedures is submitted. The IRB board critically examines the proposal to confirm if it meets the ethical standards. Approval is granted only if the set ethical standards including beneficence, non-maleficence and justice are met. In the accepted research projects, the researchers are required to submit the progress reports and the periodic reviews. This oversight is to ensure that the research remains focused on the safety and dignity of the participants involved throughout the study.

12.7 Ethical challenges in Human Rights Research

Human Rights research mostly involves sensitive subjects and vulnerable groups, which brings ethical dilemmas such as safety of the participants and the confidentiality of information. The researcher is endowed with the task of addressing the intricate issues involved in the process.

12.7.1 Research involving vulnerable populations

When your research involves vulnerable populations like children, minority groups, refugees, victims of violence etc. poses challenges that must be handled carefully. The social, personal, and economic situations of these individuals are at higher risk making inadvertently worsen them, when the research is not conducted ethically. One main ethical issue is to involve them only after getting their proper consent and making them aware of the potential risks involved in it. Ensuring privacy and confidentiality is of prime importance as some participants might have undergone trauma or persecution and other consequences if their identities are revealed. Hence researchers should adopt strict data protection protocols. It is crucial to do the data collection job with needed compassion and offer psychological support when needed. In addition to this a researcher should be culturally sensitive and respect the unique context of the people involved as misrepresentation or exploitation may harm the dignity of the individual.

12.7.2 Fieldwork in Conflicts Zones or Repressive Regimes

Human rights research in conflict zones or oppressive areas comes up with serious ethical issues. In such cases it is the responsibility of the researcher to prioritize the safety and well-being of the participants, who may be at risk sharing the needed data or information. Surveillance and threats from the authorities or the militant groups may be a barrier in sharing the right data. In addition, issues of impartiality and bias can emerge, as the researcher might tend to unintentionally align with certain sides depending on their research hypothesis or agenda. Maintaining objectivity and data security is very important, because when sensitive issues are leaked the participants, or the community might be at risk. In addition, researchers face ethical issues when attempting to document abuse or any other human right violations, as it would prompt international interventions or retaliation. Finally, the impact of the study should be carefully considered and must aim at creating a positive impact, avoiding aggravation of local tensions and endangering vulnerable groups. This could be successfully navigated when you have a strong commitment to ethical principles and a thorough understanding of the local context.

12.7.3. Use of deception in ethical research

The use of deception in human rights research raises crucial ethical questions. Sometimes deception is required to get the desired result in the field of social science, psychology etc., in this case it should be done in a justified manner with due care and consideration. Ethical guidelines like APA (American Psychological Association) permit deception only when it is necessary to achieve the objective of the study. Besides this due care should be taken that it does not lead to any harm of the participants, and the study should address any concerns regarding this. Researcher should weigh the knowledge gained against the potential breach of trust with the participants involved. Freedom and transparency of the individuals involved should be the key consideration while deception is used.

12.8 Digital Age and Ethical Research

The digital age and the fast pace of technological development has led to a great change in the way we collect, share and analyze the information. Various digital tools available have provided access to various data sets, systematic analysis and international collaborations. Yet, these advancements are also accompanied with significant risks regarding privacy, informed consent and data privacy. A researcher must be cautious enough in protecting the rights of the participants. Getting the consent of the participating individual is an important aspect of ethical research particularly when data is collected through online or online interactions. This is essential as the participating individual should know how their data is going to be used for which transparency and effective communication is needed. Data security is one issue that a researcher must be particular about protecting the sensitive information from misuse. Bigdata is involved in digital research and so the researcher should protect the privacy of the individual involved in the research. Technological access is not equally available to everyone, and so promoting inclusivity and equality is important. Handling these challenges tactfully to make sure that trust is maintained even when the research is done through digital landscape. This is to make sure that integrity and ethics is maintained in the research activity.

12.9 Ethical decision making in research

To maintain the dignity and safety of the participants particularly from the vulnerable communities involved in human rights research, following ethics while making decision is important. Ethics could be maintained by getting consent and maintaining confidentiality of the information collected is a must. Moreover, it is the responsible of the researcher from any potential risk or violence that could occur to them for sharing their experience. For this

following the guidelines prescribed by the respective ethical boards will be helpful. The researcher should also convey the participants how their information will be used and also the consequences of it. Finally proper ethics should be followed to have a balance between the rights and well-being of the participants and the academic goal while making decision in human rights research.

12.10 Conclusion

In conclusion following ethical guidelines in social science research is important to safeguard the participants indulged in research and the society as a whole. Important factors like getting the consent and ensuring privacy and confidentiality are essential to build trust between the researcher and the participant. This trust is crucial where human beings are the center of research. The researcher must also be context specific, culturally sensitive and follow the ethical guidelines put forth by the ethics committee. Ethical research practices are mainly about the commitment to integrity, transparency and accountability to keep up the credibility of research. This also guarantees the positive outcome of the research and contributes to progress of the society. Therefore, ethics in social science research is not just about following rules, but also the commitment to principled and responsible research activity.

12.11 Glossary

- 1. Ethical Principles** – This means the fundamental rules or guidelines that govern the behavior of a researcher towards the participants. It mainly includes respecting the individual choices, taking accountability and ensuring fairness, transparency and justice to the people involved in research. These guidelines help fair decision making at the professional level.
- 2. Ethical committees** – Ethical committees are the bodies that has the set guidelines for ethical standards that has to be followed in research, or any decision-making process. They review the research proposals and ensure that they do not violate the human beings and well-being of the participants. Research ethic committees supervise human and animal studies and corporate ethic boards guides the organizational practices.
- 3. Vulnerable populations** – Vulnerable population includes the group of people who are weak in the aspects of physical, financial and mental conditions due to age, discrimination or disability or lack of resources. This includes the marginalized people, elderly, migrants and young children, who are often targeted.

12.12 SAQs

1. Short Answer Questions:

- a. Write a short note on ethics in Social Science Research.
- b. What is the role of Institutional Review Boards & Ethical Committees?
- c. Who are considered to be the vulnerable populations?

2. Fill in the blanks.

- a. theory focuses on the results of actions.
- b. The intersection of Human Rights and Ethics is essential for a society.

3. True or False

- a. Institutional Review Boards play a key role in safeguarding the rights and safety of people indulged in research.

(i) True (ii) False

- b. Institutional Review Boards (IRBs) and Ethical Committees do not have any role in maintaining ethical standards in research that includes human participants.

(i) True (ii) False

12.13 References

The students guide to research ethics by Paul Oliver, Open University Press.

12.14 Suggested Readings

Ethics in Social Science Research: Becoming Culturally Responsive by Maria K. E. Lahman, SAGE Publications.

12.15 Terminal Questions and Model Questions

1. Mention few ethical theories and principles.
2. Give a short note on ethical challenges in Human Rights Research.
3. How can ethical research be upheld in Digital Age.