



UNDERSTANDING LEGAL RESEARCH METHODOLOGY: A STEP BY STEP BEGINNER GUIDE

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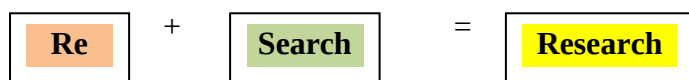
ABSTRACT

Legal research is an very important skill for students of law, lawyers, legal scholars and academicians. Legal research involves step wise processes for identifying and retrieving information's which are necessary for legal analysis. Legal research is not a different method from the research of other disciplines. The process is almost same as , it is a search for authority to verify some hypothesis and continuum. Legal research helps in identifying the necessary information for providing assistance during legal decision making. The primary goal of legal research is to suggest modifications in the existing laws to achieve the derided result, with which the law was enacted. This article aims towards providing a step wise comprehensive analysis on legal research methodology for the beginners. This study covers the use of technology in legal research , fundamentals of legal research, research design, sources of legal information, etc. By understanding and applying these methodologies the beginners can enhance their research skills and can contribute towards their respective works.

Key Words: Legal database, Research Ethics, Primary sources, Secondary Sources, Research Design, Case Laws.

CONCEPT OF RESEARCH:

Research is a systematic investigation in to study materials, available sources to establish facts and reach new Conclusions. It is not a mere reading or writing of book , it is a Scientific thoughtful process. The main motive of research is either to know about or to contribute something new to the existing knowledge.



The Latin term "RE" means - again and again

"Search" means- an attempt to find out something or looking and seeking carefully and thoroughly.

Thus research is an process for collection of information or evidence for ascertaining an assumption or verifying any hypothesis¹. It is also can be said that research is an original contribution to the existing stock of knowledge, making for its advancement.

MEANING OF RESEARCH:

Legal research may be defined as "systematic" finding of law on a particular point for making advancement in the science of law. Legal research has a great significance not only because , it is an instrument to maintain law and order in the society but it also works towards upholding the concept of social and political justice by effectively implementing the welfare schemes.

VARIOUS TYPES OF RESEARCH:

Babu Sarkar in his book "Legal Method and Legal Research Methodology" categorised research in three category and these category have some sub categories.²

CATEGORY I

1. Fundamental Research:

It is a pure form of research and is mainly concerned with generalization and with formulation of a theory. It is conducted through various procedures of research like sampling, hypothesizing facts, etc.

2. Applied Research:

Applied research thus, aims at findings or discovering solutions or answers to the identified problems questions. The researcher applies laws at the time of his field study to draw more clear ideas about the problems. It is generally initiated to solve an immediate problem.

3. Action Research:

Action research aims towards contributing both the practical approach of people in an immediate problematic situation and to the goals of social science by joint collaboration. It is a unique type of research which is initiated during launching of field projects for finding out workable solutions to the problem.

CATEGORY II

4. Descriptive and analytical legal Research:

The descriptive legal research describes the state of affairs. without going to the root cause this type of research describes the phenomenon and reports what is happening or what has happened.

The analytical research however uses the facts and information available to make critical evaluation³.

¹ Dr.S.R Myneni, "Legal Research Methodology", Allahabad Law Agency,6th edn.p-1.

² Babu Sarkar" Legal Method & Legal Research Methodology", N.M Ray Chowdhury Co.,2nd edn.p-198.

³ https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/09._research_methodology/06._research_design/et/8152_et_et.pdf (last accessed on 06th May.2024).

5. Applied and Pure Legal Research:

The aim of the former is to find a solution to a pressing practical problem at hand. On the other hand the pure legal research focuses on generalization and formulation of a theory. Rather than focusing on practical utility the pure legal research focuses on generalization and formulation of theory.

6. Conceptual and Empirical Legal Research:

Conceptual research is concerned about abstract ideas or theory or an idea. On the other hand empirical research, is a data based, it relies upon experience and observations.

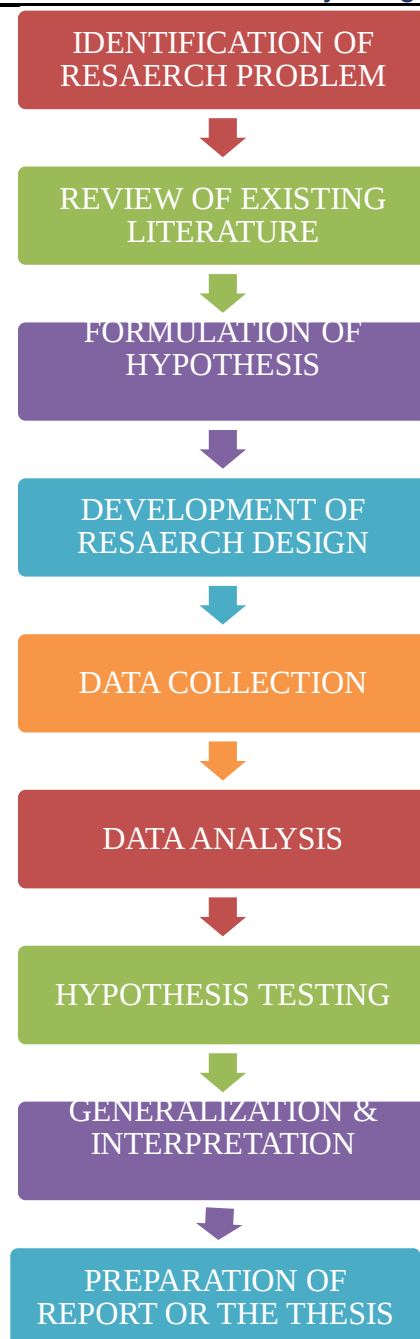
7. Quantitative and Qualitative Legal Research:

Quantitative legal research focuses on quantity or amount, which can be expressed in numerical form of results. However, the qualitative legal research aims towards views and opinions to give outcomes. Qualitative research mainly aiming towards discovering the underlying motives of human behaviour.⁴

Steps or Process of Legal Research:

Research is a process which consists a series of actions or steps necessary to effectively carry out research. It is also important to note that research is a combination of backward and forward movement between different stages. It can be divided into the following for a better understanding .

⁴ Babu Sarkar" Legal Method & Legal Research Methodology", N.M Ray Chowdhury Co.,2nd edn.p-199.



1. Identification of Research Problem:

In the preliminary stage identification of the research problem is the main task. During this stage the researcher has to identify the area or aspect of the subject matter in which he is willing to work. Thereafter the researcher formulates a specific problem within his general targeted area of interest.

The research problem may be of local, national or international problems which are need to be addressed for developing the existing scenario. The identification of research problem would further signify the focus and direction of the inquiry.

2. Review of Existing Literature:

As soon as the problem is formulated the next step is the review of literature. It can be said, as one type of survey regarding the existing related work on the same subject matter. Literature review helps the researcher to avoid repetition by conducting similar nature of studies.

The scholars of law during this tenure, carefully trace the available literatures , i.e books, journals, Magazines, periodicals, relevant laws all other forms of printed and online sources.

Additionally, literature review enables the researcher to know, what kind of data has been used, what methods have been used to obtain data, and what difficulties the earlier researcher has faced during analysing and collecting data⁵.

3. Formulation of working of Hypothesis:

Hypo = less than or under.

Thesis = means less than or under.

Thus hypothesis means " an idea formed beforehand which has less value than the generally formed view. A hypothesis is a tentative generalization, the validity of which remains to be tested.

It can be also said as, a proposition, condition or principle which is assumed perhaps, without a belief, in order to draw out its logical consequences and by this method to test its accord with the facts which are known and may be defined.⁶

The basis of selecting a particular aspect for study is guided by the nature, scope and objectives of inquiry. Generally, the formulated hypothesis is the guiding element in the inquiry.⁷

4. Development of Research Design :

Research Design signifies the structure of the research. It is characterised by a logical systematic planning of the research, a blue-print. Though it may be tentative , as the researcher cannot foresee all the contingencies that might arise and thus he can adapt as required which would increase the efficiency and reliability of his findings⁸.

Generally, a research design includes the following information⁹:

1. Title of the topic and determination of its scope.
2. Background knowledge and introduction of the problem.
3. Nature of study- descriptive or explanatory or experimental.
4. Description of short-term and long term objectives.
5. Awareness regarding context.
6. Making of hypothesis and using of appropriate concepts and variables.
7. Approximate time-schedule for research.
8. Basis of data collection and appropriate tools and techniques.
9. Analysis and interpretation of data collected , along with decision regarding the problem of generality and validity, etc.
10. Nature and amount of resources at one's disposal.¹⁰

⁵ Babu Sarkar" Legal Method & Legal Research Methodology", N.M Ray Chowdhury Co.,2nd edn.p-221.

⁶ Webster's International dictionary.

⁷ C.N. Shankar Rao, Sociology, S. Chand & Co.ltd.(7th Ed., 2012),P.58.

⁸ https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/09._research_methodology/06._research_design/et/8152_et_et.pdf (last accessed on 27th May 2024).

⁹ Babu Sarkar" Legal Method & Legal Research Methodology", N.M Ray Chowdhury Co.,2nd edn.p-224.

¹⁰ Dr. S.R Myneni, Legal Research Methodology, Pioneer Books(3rd ED. Reprint,2007),P.102.

5. Data Collection:

Collection of data is a process of research which comes after a research problem has been defined and a research design has been chalked out. To do a good research the selection of data requires great skill and experience.

Basically there are two types of data are available, primary and secondary. Data which are collected for the first time or afresh is called as primary data, thus it happens to be original in character. On the other hand, the secondary data are those which have already been collected by someone else and which have already been passed through statistical process.

Collection of Primary data(Primary Source):

Primary data can be collected either through experiment or through survey. In case of experiment ,the researcher, observes some quantative measurements or the data. In case of survey, data can be collected by any one or more of the following ways:

by observations, through personal interview, Telephonic Interview, Mailing of Questionnaires, through schedules.

Collection of Secondary Data(Secondary Source):

Collection of data can also be divided into two types: Personal Documents and Published Documents. Personal documents are known as unpublished documents, example of such documents are- letters, personal diaries, personal documents, unpublished biography or autobiography. Published Data Includes: Books, magazine, newspaper, journals, special reports, etc.

Examples of Secondary sources of legal data are as follows:

1. Legislative Documents such as- acts, bills, rules, notifications, etc.
2. Reports published by various commissions- e.g law commissions of India.
3. Private published case reports- All India Reporter(AIR), Supreme Court Cases(SCC).
4. Academic Law Journals: Indian Bar Review, Indian Journal of International Law, etc.

6. Data Analysis:

Data analysis is the next task after collection of data. To understand the direction and the trend raw data has to be putted for analysis. Data analysis includes process like editing, classification¹¹ and categorization , coding, tabulation . As a part of good research work, all the data are entered in the same format and in the same database. In a legal research cases are also required to be analysed , however, with a caution that two

¹¹ C.R. Kothari, Research Methodology -Method and Techniques, New Age International Publishers(2nd Revised Ed.2011),pp.123-124.

different set of facts can lead to different outcomes, or may be for the reason that an earlier case law can be distinguished on the basis of question of law raised.¹²

7. Hypothesis Testing:

The testing of hypothesis is done by the researcher after analysing the data as stated above. For testing of hypothesis there are various testes which have been developed- like- chi-square test, T-test, F-test etc. Hypothesis testing will result in either acceptance or rejection of hypothesis.

8.Generalization & Interpretation:

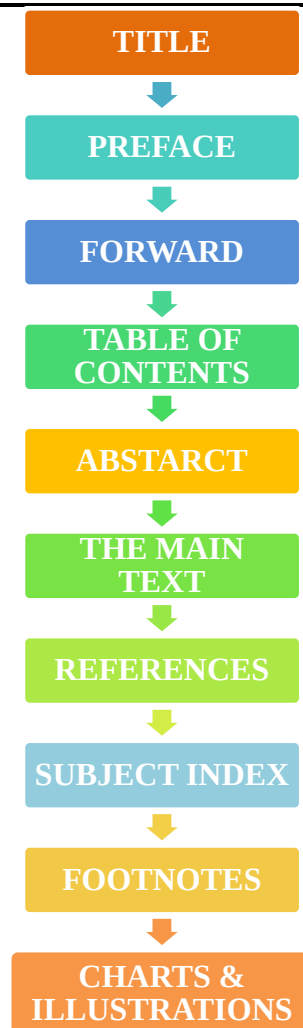
If a hypothesis is tested and upheld several times it may led the researcher to arrive at generalization, i.e to develop a theory. However, if the researcher do not have any hypothesis to start with the same might seek to explain his findings on the basis of some theory, this process is known as interpretation.

9. Preparation of the Report or Thesis:

This is the last stage of report writing. Though this the research work is presented before the larger audience. Research Report contains significant facts, identified problems, details of method used and the findings arrived by the researcher

Reports should be written in original and consign language with precise clarity in communications . Simple language should be preferred and vague expressions in languages should be avoided. An ideal report may be arranged in the following manner:

¹² https://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/09._research_methodology/13._data_analysis/et/5798_et_13_et.pdf(last accessed on May 27,2024).



Conclusions:

Thus legal research can be described as a systematic understanding of the law with a view of its advancement. The purpose of legal research is extremely significant for the people and society because law acts within the society and they both had an impact on each other. The problems, while under taking legal research are the following : cultural problems, structural and procedural problems, lack of resources, incompetency and lack of networking and forums. Every kind of research is different and has its own value. In course of the research the hurdles may be avoided by proper and appropriate planning¹³.

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