

Preface

Institutions of higher learning earn recognition and respectability due essentially to high standards of their teaching, research and publications. Research is an organised, systematic, information-based investigation or inquiry. The success of any research endeavour depends to a great extent on a good knowledge of certain basic principles, and methods used to carry out the task. The absence or insufficiency of such knowledge may leave the effort a purposeless exercise and may lead to poor quality output. A careful pursuit of certain established principles and appropriate methods may certainly enhance the value of the end-product and attract greater acceptability and recognition.

The book, *Legal Research and Writing Methods*, explains the nature and purpose of research, and the methods that determine the ways in which legal and social studies are conducted.

Although the book deals with a wide variety of aspects relevant to a legal research, its main focus is the reader who is pursuing or wishes to pursue research either as a step towards the acquisition of a doctoral or master's degree or to prepare a piece of research that involves the use of systematic procedures.

The prominent, and perhaps unique, feature of the book is that it explains the need to undertake, where appropriate and feasible, a *social* study as part of a legal research.

I have devoted a considerable space in explaining why the inclusion of a social study into a legal research should be useful, and the reasons assigned would hopefully seem to be convincing. A substantial part of the book (9 chapters) has been devoted to explaining the nature and objectives of social research and how to use the methods of data collection where a social study is intended to be included as part of a legal study. The inclusion of that is contained in those chapters makes the book equally useful for an understanding of both legal and social research methods.

The book is divided into two parts. Part one deals with what is often described as theoretical legal research (also referred to as doctrinal, traditional, conventional, pure legal, armchair research), which is essentially a library-based study that relies on information available in libraries, archives or other data-bases. The purpose such research is to explore, describe, explain, examine, analyse and present facts, principles, provisions, concepts, theories, or the working of specific laws or legal institutions. Theoretical research is carried out for a variety of purposes, the more general among them being to gain knowledge, to discover new facts, present new ideas or theoretical propositions and, in many cases, suggest ways and means by which law can be made an efficacious mechanism of regulation, control, change and reform. 'Justice', 'fairness', 'freedom', 'liberty', 'due process' or similar parameters are often used by the researcher to evaluate the relevance or effectiveness of legal principles, provisions, concepts or legal institutions. The method used in theoretical research involves obtaining of relevant information on a systematic basis and then examining and evaluating it on

a rational basis to draw inferences and conclusions.

Chapter 1 explains the nature and purpose of legal research and the various approaches used in legal research. It also explains the nature of social research and its significance in the area of academic legal research. Chapter 2 and 3 are especially designed for those pursuing or intending to pursue legal research for a doctoral or master's degree. Experience shows that selection of an appropriate topic and title for research is one of the most crucial first steps in law research. A wrong selection may lead to wastage of time and effort, and the completed work may often seem to be an exercise in futility. Chapter 2 offers some useful guidelines, with a view to helping the reader in selecting an appropriate topic for a study that is feasible and worthwhile. Chapter 3, which is one of the most important chapters in Part One, outlines the essential aspects of a research design for a legal study. A poorly prepared research design frequently leads to poorly prepared work. A close reading of the chapter will hopefully be of great help to the researcher. The design may also serve as the basis for framing a 'Proposal', submitted for approval to pursue research or for the financial grant.

Chapter 4 provides all the relevant information on the various sources of material available in a law library.

Chapter 5 offers a comprehensive discussion on a wide variety of aspects that pertain to writing and presenting theses and dissertations. Presenting facts and ideas in a logically coherent way is perhaps the most important part of a legal writing. Given the inherently complex nature of legal source material, marshalling and presenting thoughts and complicated material from statutes, cases, documents, books, articles and other sources into a systematic and logically arranged writing is a skill which hardly ever comes naturally to a person. It comes with learning, practical experience and painstaking effort. Chapter 5 outlines a format, provides the essential information on description, analysis and evaluation of legal material, and offers guidelines on how to accomplish the task.

Part Two is concerned with what is sometimes described as socio-legal research (or non-doctrinal, field study, empirical research), and refers to the study of some aspect of 'law in context', 'law in operation', 'law in action'. Socio-legal research is any study that combines legal research with an investigation of some problem or question which is essentially of a 'social' nature, and uses methods of data collection used in social science research. The rationale for the inclusion of Part Two is based on the following assumptions:

1. Most of what present knowledge in the area of law offers is not the result of any social research. Leaving aside the legal provisions and principles, most knowledge that exists today in the field of law is the outcome of theoretical writings (legal principles and provisions deriving their source from religious scriptures excluded here), which contain ideas, opinions, explanations, conclusions and generalisations. They are the basic source for any understanding of the nature of law or sources it is derived from, its function as a mechanism of social control and regulation, its role as an instrument

of social change and reform, its capacity to minimise and eradicate social evils, and its efficacy to mould and shape peoples' ideas, beliefs, perceptions, patterns of behaviour, morals and values.

2. In academic institutions, law faculties or colleges, most legal studies, usually undertaken for the purpose of presenting academic ideas on a systematic basis or in pursuit of professional achievements and excellence, are theoretical (doctrinal) in nature. Legal education in academic institutions seems to place little emphasis on linking legal studies with some social problem or issue.

3. Every society faces a multitude of problems. The reasons that account for the emergence or existence of a problem or issue may often be complex. Some may be apparent, others unknown or partly known. The aim of social research is to explore, explain, evaluate and predict human behaviour and events. It seeks to discover unknown or partly known factors working behind a particular phenomenon, to understand and provide explanations to questions for why, what or how something is or happens, to find out why and how human beings behave in a certain way in certain factual situations, or to identify the cause and effect of a certain problem or issue.

Social research is carried out by collecting facts and information using the methods developed by the social sciences. An important feature of social research is that it requires that all assertions, statements and theories, regardless of how plausible they seem, must be verifiable and testable by hard evidence and proof. Often the apparently sensible statements may only be mere assumptions. They may be entirely correct or entirely incorrect, or correct only in certain factual situations.

4. It may be worthwhile to argue that research studies in the field of law should, where it is relevant and useful, cover some kind of field study. The results of a social research may often be a better substitute for a general understanding based on discussion, argument, opinion, reason, precedent or belief, which are the basis of conclusions in any theoretical research. Law alone may not be an answer to a social problem or issue. Where, however, the true factors for the emergence or existence of a problem or issue are identified by using social science research methods, law, where it is used and enforced with the necessary will, commitment and appropriate strategies, can serve as an effective mechanism of control, regulation, change and reform. In many areas of law and legal institutions, a study that makes use of empirical tools of data collection may then be profoundly useful, and may form a dependable source of information, conclusions and generalisations. Such a study may attract greater recognition in terms of contribution to knowledge, usefulness, reliability, and as a source of reference for others.

Chapter 6 explains the aim of social research and discusses the nature and purpose of various types of social studies. The discussion includes an explanation of the difference between qualitative and quantitative research. Chapter 7 outlines the essential components of a research design in a social study and explains the various aspects of the format of a design. As several aspects, which are common to both legal and social research design,

have been discussed in sufficient details in Chapter 3 (which deals with research design in a legal study), Chapter 7 focuses only on aspects that are peculiar to a social research design.

In Chapter 8, various social survey methods have been explained, with a view to enabling the reader to have a fairly good idea of what survey research means, how it is carried out and with what purposes.

The next three chapters are concerned with the methods of data collection. Out of the many methods used in the social sciences, only three have been discussed in the book. This choice is based on the assumption that these methods are perhaps more relevant to legal studies than other methods, and are widely used in social studies.

Chapter 9 deals with observation method of data collection. It seeks to enable the reader to understand the nature of observational studies and how they are ordinarily carried out.

Chapter 10 discusses at great length the various aspects of interview as a method of information collection.

Chapter 11 presents an elaborate discussion on a variety of matters that concern questionnaire as a method of data gathering.

In Chapter 12, the various aspects of sampling techniques have been discussed. The underlying aim is to explain the reasons why sampling occupies an important place in social research, and how the various methods of sampling are used in social research.

Chapter 13 concerns data preparation and analysis, while Chapter 14 explains, though briefly, the way in which a social research report is prepared.

Chapter 15 is devoted to explaining the method of citation of references.

A major drawback found in many journals and books published in India is that they do not follow any proper mode of citation of references in the text or bibliography. This is perhaps due to the lack of appreciation of the importance of reference citation on the part of writers, editors and publishers.

A published work that does not follow any established mode of citation is likely to leave a poor impression and may even reflect upon the quality of work. Chapter 15 will be helpful to the reader in appreciating the basic principles of citation, and the need to follow them.

Although the primary aim of this book is to outline the basic principles of legal research and writing method, the text will be useful to researchers in other disciplines as well, such as sociology, psychology, anthropology, education, political science, economics, management, mass communication, journalism, or any branch of knowledge that requires a study of people, society or culture.

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