

Perspectives of Socio-Legal Research

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Abstract--- The socio-legal research is of tremendous value as it deals with the actual application of the legal provisions. The purpose of law is only served when it is effectively implemented; and it is only possible to know the effectiveness of the law through the socio-legal research. The socio-legal research involves many intricate issues such as the sampling technique and the primary sources of data collection which have to be dealt very carefully and cautiously with the help of the principle of research methodology. The legal research helps in theory building which after verification can be applied to facts, whereas the socio-legal research can help in fact finding which in turn aids the theory building.

Keywords--- Legal research, socio-legal research, doctrinal research, non-doctrinal research, primary sources of data collection, secondary sources of data collection, historical evolution of law, analytical evaluation, comparative evaluation, research design, sampling technique

I. INTRODUCTION

The term research means to try and find out the solution to the research problem faced by the researcher. This statement presupposes a fact that the researcher faces some problem and in order to find out the solution he conducts the research. The process which the researcher follows, to find out the solution to the research problem is called as research methodology. The research methodology is based upon scientific method, and it not only helps the research to be authentic and objective but also makes the research feasible and fruitful.

Research means to find, explore or ascertain a theory or a fact. The research always revolves around a theory and the fact; it is conducted to ascertain facts or to examine a theory or develop a theory. A research attempts to find out the truth related to a theory or a fact; and if that theory or that fact changes then the counters of truth also change, consequently changed facts and changed theories lead to the development of new or changed truth or new research. Hence it is stated that research and the ascertainment of the truth is a continuous and endless process.

- Nature of legal research.

Research is of various types but since the scope of this articles is confined to the social legal research, the perspectives of legal research and socio-legal research are dealt here with.

- i. To explore or to find out the legal provisions. The legal research deals with the legal provision, that is the object of the research is to find out some specific, or particular legal provision dealing with a specific aspect. For instance, the legal personality of an unborn child or the corporate personality.

Here the researcher finds out the legal provision or the precedents dealing with the personality of an unborn child or the corporate personality, in order to get the complete or the exact scope of the legal personality of an unborn child or the corporate personality. This type of research helps the society to know the exact provisions of the law along with the scope and the limitations of those legal provisions.

- ii. Historical evolution of a legal provision. When a researcher attempts to find out the source or the origin of a legal provision, then the research is classified as a historical research. The historical research helps the society to get a better understanding of the present law and also helps to get a comparative historical analysis.
- iii. Classification of laws. The object of this research is to classify the laws according to some criteria which is evolved by the researcher in order to fulfill a specific object.
- iv. Analytical research. The researcher tries to analyze the legal provision or the precedents. To analyze means to conduct a careful and a detailed study of the legal provisions. The analytical method of research includes the inductive and deductive method, so also it includes the logical and the legal reasoning. The analysis done with the help of the inductive and deductive method, the researcher is able to either induce or deduce another new dimension of a legal provision. So also, with the help of logical and legal reasoning the researcher may be able to identify the consequences of the legal provision or may be able to develop a line of a new law.

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- v. Critical evaluation. Here the emphasis of the researcher is to identify the loopholes or the limitation or the exceptions of the legal provisions. Once the limitations or the loopholes are found out then new solutions can be forwarded in order to make a more precise and accurate law.
 - vi. Comparative evaluation. The entire legal system or a legal provision is compared with another legal system of a different state. The object of comparative evaluation is to get a better understanding of the law. With the help of comparative evaluation one can easily understand the advantages and the disadvantages of the relevant compared legal provisions.
 - vii. To develop a new law. The object of this research is to try and create a new law by analyzing or studying the existing law. The new law may be created on an experimental basis or may give an impetus to the legislature to make a legislation. The researcher may develop the new law by analytical, or critical, or comparative evaluation.
 - viii. Doctrinal research. A purely legal research is a doctrinal research. The doctrinal research involves the analysis of the legal concepts, or percepts, doctrines or maxims etc. The doctrinal research involves only the study of the legal provisions and not its impact or its functioning. That is the researcher can conduct the entire research in the library by collecting the published data.
 - ix. Tools of collecting data involved in the purely legal research. The tools of collecting data involved in a purely legal research are called as secondary tools of data. The secondary tools of data like text books, articles, journals, newspapers, internet etc. The nature of the research depends upon the tools of data employed in the research. When the secondary tools are employed in the research, that research is classified as a doctrinal research.
 - x. A perfect research design is necessary in a purely legal research. A perfect and precise research design is required to be formulated before the researcher embarks upon conducting the research. The research design means the plan of the entire research. A good research design is inclusive of all the steps of research. The researcher has to identify all the steps, that is the problem of research, the hypothesis, the tools of data collection, the criteria of classification, the method of interpretation and analysis of the data etc. have to be pre decided and stated in the research design. The research design enables the researcher to conduct a planned, systematic and an organized research which helps to eliminate many errors.
 - xi. No sampling technique is required in a purely legal research. A purely legal research is classified as a doctrinal research because secondary tools of data collection are used in the research. The sampling technique cannot be used when the secondary tools of data collection are used and hence it cannot be used in a purely legal research. The researcher has to exhaust all the secondary tools of data collection in a purely legal research
- When the above aspects are covered the said research is classified as a legal research, now let us analyze the aspects of the socio-legal research.
- Nature of socio-legal research.
 - The 'social' aspect involved in the socio-legal research deals with the behavioral pattern and attitude of the people, and the legal aspect involves the analysis of legal provisions and the legal concepts. This implies that the socio-legal research means the exploration of the impact of the legal provision on the human beings of the society. A socio-legal research is stated to be a combined effect of the analysis of the legal provisions and social conditions or social attitude of the people. The classic feature of the socio-legal research is that the variables research cannot be controlled. In a scientific research the variables can be controlled with the help of artificial conditions in a laboratory. The socio-legal research deals with the behavioral patterns of human beings and it is very difficult to control human beings as variable of a research.
 - Nature of socio-legal research. Law prescribes the code of conduct for the human beings, so when the law regulates the activities of the human beings, it is necessary to find out the reaction of the people regarding the legal provisions which affect them. Hence legal research is very important and valuable from the people's perspective as well as from the legislature's view point.
 - i. To ascertain the actual functioning of the law. The core of socio-legal research is to explore as to how the law functions and operates in a society. This research involves the study of law in action or the factual implementation of the legal provision.
 - ii. To find out the effect of the legal provisions of the law on the people or public at large. The socio-legal research aims at finding out the effect of the law on the people so that the law-making authority can make a change or amend a particular legal provision.
 - iii. To find out the reasons for the failure of legal

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provisions. The socio-legal research may be conducted to find out the causes for the non-effectiveness of the legal provisions. Sometimes it is experienced that the people are reluctant to follow legal provisions, if the reasons can be found out then the necessary change can be made to have an effective law.

- iv. To collect the public opinion on the legal provisions. Sometimes a socio-legal research can be conducted to know and understand the feeling of the people or to collect the public opinion of a legal provision. Sometimes the public opinion is sought even before actually implementing the law, once the legal draft is made the public opinion may be found out regarding the provision of a legal draft.
- v. To find out the loopholes of the legal provisions. The limitations or the shorts coming of the legal provisions can be identified with the help of the public opinion, or by analyzing the functioning of the law.
- vi. To find out the gap between the law which is made and the law which is implemented. Sometimes there might be a disparity between the law made and the law implemented; this gap can be identified only with the help of socio-legal research.
- vii. The socio-legal research is necessarily non-doctrinal research. The imminent feature of socio-legal research is that it is a non-doctrinal research. The socio-legal research deals with the impact of legal provisions on the legal society; hence it is required that the researcher conducts his research by indulging into a field work. The researcher has to collect the data from the people in the society and hence the scope of his research would include the relevant sections of the society.
- viii. Tools of data collection. As the socio-legal research is a non-doctrinal research, the primary tools of data collection are employed. In this type of research, the data has to be collected from the people with the help of either interview technique, or the questionnaire technique or the observation technique; which are called as the primary tools of data collection.
- ix. Sampling technique. Since the socio-legal research is non-doctrinal research in which primary tools of data collection are employed; sampling technique become a necessary element. In the socio-legal research it is not

feasible to collect the data from all the people belonging to the segment of the research and hence the researcher has to choose and identify the appropriate sample from which the data is going to be collected. The researcher can employ either the simple random technique or the non-random sampling technique.

A purely legal research involves the study of legal provisions whereas, the socio-legal research involves deals with the application of these legal provisions both the types of research have their own utility and value. The legal research helps in theory building which after proving and verification is applied to factual situation. Whereas, the socio-legal research helps in fact finding which helps in theory building.

II. CONCLUSION

A socio-legal research deals with the effectiveness of the law in the society. Before the researcher embarks upon a socio-legal research he has to first study the relevant legal provisions whose effect he is going to study on the society. So also, it is mandatory for the researcher to abide by the principles of research methodology to conduct an authentic and fruitful research. It is necessary to formulate a precise research design as the socio-legal research involves the sampling technique and the data is collected with the help of primary sources of data collection. The utility of the socio-legal research lies in the fact that it enables the researcher to identify the gaps between the law which is made and the law which is implemented. It is only through the socio-legal research that it is feasible to know the attitude and reaction of the people in relation to the legal provisions; which is vital for the law-making authority to know so that they can make the necessary changes and amendments.

REFERENCES

- [1] D. K. Bhattacharyya, *Research Methodology*. (Excel Books India)
- [2] Gupta Mukul. Gupta Deepa, *Research Methodology*. (PHI Learning Private Limited)
- [3] Pagadala Suganda Devi, *Research Methodology Handbook for Learners*. (Notion Press)
- [4] C. R. Kothari, *Research Methodology: Methods and Techniques*. (New Age International)
- [5] Rajendar Kumar, *Research Methodology*. (APH Publishing Corporation)