QUALITATIVE AND QUANTITATIVE RESEARCHES, RESEARCH METHODOLOGY, JUSTIFICATION AND EVALUATION IN LEGAL RESEARCH METHOGOLOGY.

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INTRODUCTION

This paper examined qualitative and quantitative research, research methodology, justification and evaluation in legal research. I shall now proceed to offer some basic definitions of the key concepts/words appraised in this study, before embarking on a comprehensive discussion on them, one after another.

Legal research, like any other research, invariably involves collection and analysis of facts and their interpretation to ascertain or refute existing information or add new information thereto. Inquiry into a legal fact, thus, either supplements the existing theory/information or supplants it with new one. 'Research', in simple terms, can be defined as systematic investigation towards increasing the sum of human knowledge and as a 'process' of identifying and investigating a 'fact' or a 'problem' with a view to acquiring an insight into it or finding an apt solution therefor. An approach becomes systematic when a researcher follows certain scientific methods.

Research therefore involves gathering information for a purpose, and it is the purpose that usually determines the type of research undertaken and how it is conducted. Legal research involve the collection of legal materials for the purpose of discovering new facts that would contribute to the body of knowledge in a legal field or subject. Legal research is defined by legal studies since it is the materials that are used in legal studies and the topics that are taught and learnt that determine legal research. In a similar light, legal studies are also defined by legal research as the discoveries of legal research shape legal studies. Research is usually a daunting task, and the style adopted may differ according to the educational system, the supervisor, or even the researcher, as, like many other tasks, developing a personal style is the most important factor to enjoying the process and achieving desired results.[1]

When we undertake research, we usually seek to find an answer, a solution, a result. This means that we begin from a point of not knowing or of wanting to know more, and we usually have what we call a research question. The research question raises the interrogation that the research seeks to pursue.[2]

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[1]Dr. Sope Williams-Elegbe and Edefe Ojomo, *Introduction to Legal Research*, www.yararena.org/uploads/Introduction%20to%20Legal%20Research%20.pdf accessed 21 -06- 2019 at 6.00pm

[2] Frances K. Stage & Karen Manning, *Research in the College Context: Approaches and Methods* (Brunner-Routledge, New York, 2003), 8

The methodology determines the procedure which the researcher intends to adopt in the gathering of information. This describes how the research is going to be conducted, either through interviews, through the use of study materials, which may be primary or secondary sources, internet searches, or field research. I shall now proceed to evaluate qualitative and quantitative research.

QUALITATIVE RESEARCH

Qualitative research, on the other hand, is concerned with qualitative phenomenon, i.e. phenomenon relating to or involving quality or kind. For example, when a researcher is interested in investigating the reasons for, or motives behind, certain human behavior, say why people think or do certain things, or in investing their attitudes towards, or opinions about, a particular subject or institution, say adultery or judiciary, his research becomes qualitative research. Unlike quantitative research, qualitative research relies on reason behind various aspects of behavior.[3] Qualitative research, in very general terms, refers to non-numerical research, which is usually categorized as theoretical, while quantitative research is research that has to do with the collection and analysis of numerical data. Legal studies usually rely on qualitative research methods that involve the utilization of study materials, which may be primary or secondary sources, and intellectual analysis of phenomena.

Qualitative research may be doctrinal or non-doctrinal, while quantitative research is non-doctrinal. This does not mean that lawyers do not undertake quantitative research at all. On the contrary, quantitative research has gained more ground with the discourse on the application of scientific methods of research in all fields, particularly in the social sciences. Notwithstanding the use of quantitative research in law, it is still more popular in other areas of the social sciences such as sociology and psychology, as lawyers continue to rely predominantly on qualitative research for their work.[4]

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[3]Prof (Dr) Khushal Vibhute &Filipos Aynalem, *Legal Research Methods*, www.academia.edu/8221697/Legal_Research_Methodologyauto=download accessed 21 -06- 2019

[4] Ian Dobinson and Francis Johns, 'Qualitative Legal Research' in Michael McConville and Wing Hong Chui, eds, *Research Methods for Law* (Edinburgh University Press, Edinburgh, 2007) 18-19

Qualitative research answers how and when a certain phenomenon will take place, focusing particularly on human elements of the social and natural sciences. Qualitative approaches include research concepts and methods from multiple academic fields. Qualitative research approaches are best for researching many of the why and how questions of human experience in critical decision-making. Qualitative research is widely used by political science, social work, and education researchers.

Qualitative research approaches is viewed by statisticians, as a produce which explains a particular cases study. Qualitative research helps in the understanding of a phenomenon or situation or event, comes from exploring the totality of the situation, often with access to large amounts of hard data of a non-numerical form. Qualitative research methods are an integral part of the five areas of analysis fostered by the data categorization methodology. These methods may be used alongside quantitative methods, scholarly reviews of the literature, interview with experts, and computer simulation, as part of multi-method attitude to data collection and analysis.

Advantages of Qualitative Research Method

1. Because of close researcher involvement, the researcher gains an insider's view of the field. This allows the researcher to find issues that are often missed (such as subtleties and complexities) by the scientific, more positivistic enquiries.
2. Qualitative descriptions can play the important role of suggesting possible relationships, causes, effects and dynamic processes.
3. Because statistics are not used, but rather qualitative research uses a more descriptive, narrative style, this research might be of particular benefit to the practitioner as she or he could turn to qualitative reports in order to examine forms of knowledge that might otherwise be unavailable, thereby gaining new insight.
4. Qualitative research adds flesh and blood to social analysis.

Disadvantages of Qualitative Research Method

1. The problem of adequate validity or reliability is a major criticism. Because of the subjective nature of qualitative data and its origin in single contexts, it is difficult to apply conventional standards of reliability and validity.

2. Contexts, situations, events, conditions and interactions cannot be replicated to any extent nor can generalizations be made to a wider context than the one studied with any confidence.
3. The time required for data collection, analysis and interpretation is lengthy.
4. Researcher's presence has a profound effect on the subjects of study.
5. Issues of anonymity and confidentiality present problems when selecting findings.
6. The viewpoints of both researcher and participants have to be identified and elucidated because of issues of bias.

QUANTITATIVE RESEARCH METHODS

Quantitative research is a research method that systematic empirical investigation of observable phenomena e.g. statistical, mathematical, or computational techniques. The aim of quantitative research is to develop and employ some mathematical models, theories and hypothesis relating to an event. Quantitative research is the central process of measurement because it provides the fundamental connection between empirical observations and mathematical expression of quantitative relationships.

Quantitative research is based on the measurement of quantity or amount. It is applicable to a phenomenon that can be expressed in terms of quantity. It is systematic scientific investigation of quantitative properties of a phenomenon and their inter-relation. The objective of quantitative research is to develop and employ mathematical models, theories and hypotheses pertaining to the phenomenon under inquiry. [5]It is applicable to a phenomenon that can be e scientific investigation of quantitative properties of a phenomenon and their inter-relation.

The objective of quantitative research is to develop and employ mathematical models, theories and hypotheses pertaining to the phenomenon under inquiry. The process of measurement, thus, is central to quantitative research because it provides fundamental connection between empirical observation and mathematical expression of quantitative relationship. Quantitative research deals with any data that is in numerical form such as statistics, percentages, etc. Quantitative research methods can be used to verify which of such hypotheses are true or false. Quantitative research methods are also an integral component of the five angles of analysis adopted by the data clarification methodology, which also includes qualitative

[5]Wing Hong Chui 'Quantitative Legal Research' in Michael McConville and Wing Hong Chui, eds, Research Methods for Law (2007 Edinburgh University Press, Edinburgh) 48.

methods, reviews of the literature, and interviews with experts and computer simulation, and which forms an extension of data triangulation.

The use of 'experiment' is normally ascribed to scientific methods of research, and is considered as producing generally more reliable data. Experiments do not always require labs and burners, but in social sciences and the humanities, which are concerned more with human behavior, would more likely involve the collection of information from assessing the behavior of human beings, through the use of questionnaires, interviews, surveys and other methods recognized in the relevant field of study. Statistics can be derived from such data, resulting in numerical representation of the data collected through the chosen method of experiment.[6]

Advantages of Quantitative Research Method

1. It has Precision, through quantitative and reliable measurement.
2. It has Control over the variables; through sampling and design to allow the research eliminate the simultaneous influence of many variables.
3. Ability to produce causality statements, through the use of controlled experiments.
4. Statistical techniques allow for sophisticated analyses.
5. It can be replicated.

Disadvantages of Quantitative Research Method

1. Because of the complexity of human experience it is difficult to rule out or control all the variables;
2. Because of human agency people do not all respond in the same ways as inert matter in the physical sciences;
3. Its mechanistic ethos tends to exclude notions of freedom, choice and moral responsibility;
4. Quantification can become an end in itself.
5. It fails to take account of people's unique ability to interpret their experiences, construct their own meanings and act on these.
6. It leads to the assumption that facts are true and the same for all people all of the time.
7. Quantitative research often produces banal and trivial findings of little consequence due to the restriction on and the controlling of variables.

[6] Lee Epstein and Andrew Martin, 'Quantitative Approaches to Empirical Legal Research', in Peter Cane And Herbert M. Kritzer, *The Oxford Handbook of Empirical Legal Research* (Oxford, Oxford University Press 2010), 904

8. It is not totally objective because the researcher is subjectively involved in the very choice of a problem as worthy of investigation and in the interpretation of the results.

FACTORS TO CONSIDER WHETHER TO CONDUCT QUALITATIVE OR QUANTITATIVE RESEARCH

Before undertaking research in any field, one of the things that the researcher must determine is whether s/he intends to conduct a qualitative or a quantitative research. Some of the factors to consider are:

1. What kind of information does the researcher intend to collect or use for his/her research?

2. What does the researcher intend to do with the information collected?

3. What kind of results does the researcher plan to get?

4. What does the researcher intend to do with the results?

Depending on the answers to these and other related questions, the researcher can determine whether or not the proposed research is of a qualitative or quantitative nature. Where the information required would involve numeric data, such as the number of clerks who work in the judicial sector and how that enhances the capacity of the judiciary, there would be need to undertake quantitative research of some sort. On the other hand, where the information required is an analysis of the effectiveness of the judicial sector based on the researcher's general perceptions about the sector, this would involve qualitative research. The same research topic may, in separate instances, involve qualitative and quantitative research, depending on the nature of work undertaken by the researcher and on the methodology employed.

There can be a mix of qualitative and quantitative features in a single research work, in which case, the researcher would be undertaking field study to determine some numerical functions, while also applying primary and secondary sources to contribute to the result of the research. An example would be a research on the effectiveness of the judicial sector, which seeks to analyze data on the number of judges within the sector, their opinion of the contribution of court clerks to their work, and constitutional or other legal provisions dealing with the functions of court clerks. While the research would require the collection of data on the number of judges

and their opinions, it would also require doctrinal research into constitutional and other legislative matters.

RELATIONSHIP BETWEEN QUANTITATIVE AND QUALITATIVE RESEARCH METHODS

Qualitative research may be doctrinal or non-doctrinal, while quantitative research is non-doctrinal. This does not mean that lawyers do not undertake quantitative research at all. On the contrary, quantitative research has gained more ground with the discourse on the application of scientific methods of research in all fields, particularly in the social sciences. Notwithstanding the use of quantitative research in law, it is still more popular in other areas of the social sciences such as sociology and psychology, as lawyers continue to rely predominantly on qualitative research for their work. Qualitative research methods might be used to understand the meaning of the conclusions produced by quantitative methods. Using quantitative research methods, it is possible to give precise and testable expression to qualitative ideas. This combination of both research methods data gathering is often referred to as mixed-methods research.

Ways of Combining Qualitative and Quantitative Research Methods

1. Logic of triangulation: The findings from one type of study can be checked against the findings deriving from the other type. For example the results of a qualitative investigation might be checked against a quantitative study.
2. Qualitative research facilitates quantitative research: Qualitative research may: help to provide background information on context and subjects; act as a source of hypotheses; aid scale construction.[7]
3. Quantitative research facilitates qualitative research: Usually this means quantitative research helping with the choice of subjects for a qualitative investigation.
4. Quantitative and qualitative research is combined in order to provide a general picture: Quantitative research may be employed to plug the gaps in a qualitative study which arise because, for example the researcher cannot be in more than one place at any one time. Or if not all issues are amenable solely to a quantitative or a qualitative investigation.
5. Structure and process: Quantitative research is especially efficient at getting at the structural

[7] Diriwächter, R. &Valsiner, J., *Qualitative Developmental Research Methods in Their Historical and Epistemological Contexts* 2006, *FQS*.Vol 7, No. 1, Art. 8

features of social life while qualitative studies are usually stronger on process aspects.

6. Researchers' and subjects' perspectives: Quantitative research is usually driven by the researcher's concerns, whereas qualitative research takes the subject's perspective.
7. Problem of generality: The addition of some quantitative evidence may help generalizability.
8. Qualitative research may facilitate the interpretation of relationships between variables: Quantitative research readily allows the researcher to establish relationships among variables, but is often weak when it comes to exploring the reasons for those relationships. A qualitative study can be used to explain the factors underlying the broad relationships.
9. Relationship between macro and micro levels: Employing both quantitative and qualitative research may provide a means of bridging the macro-micro gulf. Qualitative research can tap large-scale structural features of social life while qualitative research tends to address small-scale behavioural aspects.
10. Stage in the research process: Use at different stages of a longitudinal study.
11. Hybrids: Use of qualitative research is a quasi-experimental quantitative study.

RESEARCH METHODOLOGY

The term research methodology refers to all those methods and techniques that are used by a researcher in conducting his research. The term, thus, refers to the methods, techniques or tools employed by a researcher for collecting and processing of data, establishing the relationship between the data and unknown facts, and evaluating the accuracy of the results obtained. Sometimes, it is used to designate the concepts and procedures employed in the analysis of data, howsoever collected, to arrive at conclusion. Research methodology are the 'tools and techniques' in a 'tool box' that can be used for collection of data (or for gathering evidence) and analysis thereof. Research methodology therefore, can be put into the following three groups:

1. The methods which are concerned with the collection of data [when the data already available are not sufficient to arrive at the required solution].
2. The statistical techniques [which are used for establishing relationships between the data and the unknowns].
3. The methods which are used to evaluate the accuracy of the results obtained.

The term 'research methodology', on the other hand, refers to a 'way to systematically solve' the research problem. It may be understood as a 'science of studying how research is done

scientifically'. It involves a study of various steps and methods that a researcher needs generally to adopt in his investigation of a research problem along with the logic behind them. It is a study of not only of methods but also of explanation and justification for using certain research methods and of the methods themselves. It includes in it the philosophy and practice of the whole research process. In other words, research methodology is a set of rules of procedures about the way of conducting research. It includes in it not just a compilation of various research methods but also the rules for their application (in a given situation) and validity (for the research problem at hand).

A researcher, therefore, is required to know not only the research methods or techniques but also the methodology, as he needs to decide as well as to understand the relevancy and efficacy of the research methods in pursuing the research problem at hand. He may be confronted with equally relevant and efficacious alternative research methods and techniques at each stage of his research study. He, therefore, has to consciously resort to the research methods and techniques that are most appropriate to carry his investigation in a more systematic manner. This becomes possible only when he is acquainted with the underlying assumptions and utility of various research methods or techniques available to him.

Research methodology has many dimensions and research methods do constitute a part of the research methodology. The scope of research methodology is wider than that of research methods. Thus, when we talk of research methodology we not only talk of the research methods but also consider the logic behind the methods we use in the context of our research study and explain why we are using a particular method or technique and why we are not using others so that research results are capable of being evaluated either by the researcher himself or by others. Why a research study has been undertaken, how the research problem has been identified, in what way and why the hypothesis has been formulated, what data have been collected and what particular method has been adopted, why particular technique of analyzing data has been used and a host of similar other questions are usually answered when we talk of research methodology concerning a research problem or study. Research methodology has the following advantages:

1. It inculcates in a researcher the ability to formulate his research problem in an intelligent manner.
2. It inculcates in him objectivity in perceiving his research problem and seeking solutions there from.

3. It equips him to carry out his research undertaking in an efficient manner and in a better way.
4. It enables him to take rational decisions at every step of his research.
5. It enables him to design appropriate research technique(s) and to use it (them) in an intelligent and efficient manner.
6. It enhances his ability to analyze and interpret data with reasonable objectivity and confidence.
7. It enhances ability of the researcher and/or others to evaluate research findings objectively and use the research results in a confident way.
8. It entails a good research.
9. It enables him to find a satisfactory way of acquiring new knowledge.

LEGAL RESEARCH AND METHODOLOGY

Law, as mentioned earlier, can be perceived as a normative science as it sets norms of human behavior. Most of the times, it also plays a role of catalyst for bringing socio-economic change. It is a *means* to an end. A systematic investigation of the first dimension of law (as a normative science), generally, falls in the domain of legal academia. A scholar of law, generally, undertakes a rigorous systematic analysis, exposition and critical evaluation of legal rule, legal principle, legal concept or doctrine (i.e. legal fact). Based on this analysis, he may highlight conceptual basis of the legal rule, principle or doctrine and may forward some proposals for reforms. He need not go beyond the discipline of law. While inquiry into social dimension of law or societal role of law, traditionally, falls in the domain of sociologists as it, invariably, involves a systematic look at, or discovery of, functional aspect of law and/or 'behavioral pattern' of an individual or a social group in response to 'law'. A sociologist intends to explain the way law functions and/or to evaluate its role in bringing out the desired changes. Undoubtedly, both the discoveries require 'systematic' study of, and approach to, 'fact', legal or social as the case may be, following a well-set 'methodology'.[8]

Hitherto, however, in the Law Schools' orientation in research methodology has been aimed at familiarization of law students with researching of legal materials-Acts of

[8] S. N. Jain, LEGAL RESEARCH AND METHODOLOGY, https://www.jstor.org/stable/43950155 accessed 21 - 06- 2019.

Parliament/Statutes/Proclamations, decisions of (higher) Courts, (case) digests, writings of legal scholars, indexes, rules of interpretation of statutes, and the art of distinguishing and finding the *ratio decidendi* of a case (predominantly in common law jurisdictions). In other words, Law Schools, hitherto, has been giving emphasis on analytical legal research.

Legal scholars, therefore, have not been able to evolve any specific methodology of their own for carrying out legal research. They do not have well-articulated research methods to employ and research methodology to follow in legal research. Sociologists, on the other hand, have developed and inherited a comparatively well developed research methods and methodology for systematic investigation of social fact or behavior. They have been engaged in discovering, verifying or testing the old social facts or discovering new ones; analyzing sequence of these facts, finding their relationships and causal explanations, and developing new scientific concepts and theories about human behavior. For accomplishing these tasks, social scientists have developed research tools of various kinds (such as observational techniques, interviews and questionnaire, and case studies).

They have a well-developed research methodology covering all major processes of research, *namely*, identification of a problem; formulation of a workable hypothesis (or hypotheses); preparing research design; collection of data (through interview, questionnaire, schedule or observation); processing, analyzing and interpretation of data, and writing research report. Some sociologists have successfully employed (and have been employing) these well-developed research methods and methodology to 'understand' social dimension or role of law, as 'law' has been perceived as 'means' (and not 'end') of social change, social control or social engineering.

Legal scholars, interested in having insight into policy of law its implementation or 'understanding' 'social dimension' or role of law, in the absence of their own well-developed legal research methodology, have to place their reliance on the social science techniques of data collection (such as interview, questionnaire, schedule or observation) and research methodology. Ultimately, this approach of legal researchers has led to the evolution of a sort of 'hybrid' legal research methodology having a blend of (traditional) analytical (legal) research and empirical (social) research. A legal researcher, therefore, needs to identify and understand the distinct characteristics of his legal research for employing an 'appropriate' research methodology. He has to understand the extent to which his research problem shares the characteristics of social

sciences, and the extent to which it is distinctive. If the research problem is a part of, and on par with, social sciences, the legal researcher has obviously to use and apply the methodology known to social sciences. And if it has its own distinct characteristics, he has to use different methodology.

In other words, if his 'discovery' involves rigorous analysis and creative synthesis of different legal doctrines, concepts or principles, and evaluation of legal doctrines or law, or extraction of some legal principles from given plethora of legal materials, he has to resort to a methodology dominant with analytical skills and blended with deduction and induction of such an analysis. If his 'discovery', on the other hand, involves the study of legal institutions or processes of the law, which ostensibly warrant empirical observation of human behavior, he has to use the methodology known to social sciences.[9]

SOURCES OF INFORMATION FOR RESEARCH METHODOLOGY

The various sources of information may be categorized into primary, secondary or tertiary.

Primary sources

The sources that contain original information and observations are known as primary sources of information. Such information can be collected directly from the persons having such information or can be found in research papers published in legal periodicals/ journals, reports, theses and conference papers. Legal periodicals and journals are indispensable sources of information for a legal researcher. They contain wealth of the first hand and in-depth information on a particular point. Reports, published by Governmental or non-governmental agencies, also contain rich information on the subject of inquiry. Doctoral dissertations (theses leading to PhD Degree), which offer very systematic and in-depth analysis of the subject-matter/aspect delved therein and the conclusions/opinions/suggestions based on the analysis, constitute another primary source of information. Similar is the case of conference papers.

Primary sources in legal research, therefore, are the Constitution, National Gazette, which publish Acts/Proclamations passed by Parliament (and by State Legislature),41 Rules, Regulations, Statutory Orders, and Directives of Administrative Agencies, and case reports that publish judicial pronouncements of different higher courts. All these sources contain rich

[9] Laura Cahillane and Jennifer Schweppe, Legal Research Methods: Principles and Practicalities, https://www.claruspress.ie/shop/legal-research-methods/ accessed 21 -06- 2019.

original information/observations about the identified research problem. They are indeed indispensable for any legal researcher.[10]

Secondary sources

Sometimes, a researcher may find subject-wise compilations of Statutes/Proclamations. Before he scans National Gazette, he should make an effort to find publications compiling Statutes/ Proclamations in his library. These publications save his time and energy in locating the required statutes. However, before he relies upon them, he has to check for legislative instruments amending/supplementing/repealing, if any, entered into force subsequent to the publication of the compilation. The present author has found a few volumes of compilations of laws of Ethiopia published by the Faculty of Law of the Haile Sellassie 1 University (now Addis Ababa University). See, Faculty of Law, Haile Sellassie 1 University, *Consolidated Laws of Ethiopia* (Artistic Printers, Addis Ababa, 1972). The *laws* included in these volumes are most intelligently organized. However, the series is discontinued after bringing out five volumes. Blackstone Publishers bring out subject-wise consolidation of British statutes.

Secondary sources of information furnish the information derived from primary source. These sources organize the information in a systematic manner and in a planned way. These secondary sources include textbooks, treatises, and commentaries on statutes, abstracts, bibliographies, dictionaries, encyclopedias, indexes, reviews, and thesauri. Textbooks, legal treatises, and commentaries on statutes constitute significant secondary sources of legal research. Textbooks and legal treatises offer a researcher proper idea of the subject and enable him to find several other useful sources of information on the topic of his research. They also help him in comprehending basic principles of, and judicial statements on, the topic under inquiry.

Abstracts are brief statements of the contents of research articles published in periodicals and/or anthologies, without appraisal. Abstracts provide a simplified key to find relevant studies from the vast literature on the subject. *Bibliographies* list books and related materials on a particular subject. They contain the author's name, title, place of publication, publisher and the year of publication. An annotated bibliography provides a brief analysis of the contents.

[10] Types of Sources for Research Methodology, https://libguides.merrimack.edu/research_help/Sources accessed 21 -06- 2019.

Dictionary contains an alphabetical listing of words with their meaning, spelling, pronunciation, derivation and grammatical usage. However, with the growth of knowledge, it has not been possible for general language dictionaries to keep up with technical terms developed in the various fields. So the need for subject specific dictionaries arose. A legal researcher, therefore, can find a couple of legal dictionaries of worth consulting. The most frequently referred to, and widely used, is Black's Law Dictionary.

For example,

i. Bryan A Garner, *A Dictionary of Modern Legal Usage* (Oxford, New York, 2nd edn, 1995),

ii. Steven H Gifis, *Barron's Dictionary of Legal Terms* (Barroni Educational Service, Inc, New York, 3rd edn, 1998),

iii. James R Fox, *Dictionary of International and Comparative Law* (Oceana Publication, Inc, 3rd edn, 2003),

iv. L B Curzon, *Dictionary of Law* (Pearson/Longman, UK, 6th edn, 2002). 43

v. Henry Campbell Black, *Black's Law Dictionary* (St Paul, Minn. West Publishing Co., USA, 6th edn, 1990) and

vi. Bryan A Garner, *Black's Law Dictionary* (St Paul, Minn. West Publishing Co., USA, 7th edn, 1990).

Encyclopedia is a book of information in the form of condensed articles on every subject. It furnishes greater details (of the subjects dealt thereunder) than a dictionary.[11] It provides meaning and historical background of concepts, important theories, names and references of major works. *Encyclopedia* is thus the treasure house of knowledge on various subjects, including law. There are a number of encyclopedias that may be, depending upon his subject of inquiry, of great use to a legal researcher.

Widely used legal encyclopedia are *Halsbury's Statutes of England and Wales* (a multi-volume publication of Butterworths, London) and *Halsbury's Laws of England* (published by Butterworths, London, in a series of volumes), which give detailed and up-do-date account of statutes and of law on a particular subject. A legal researcher's task of locating these statutes and cases is further made easy by *Consolidated Table of Statutory Instruments 2006, Consolidated Table of Cases 2005,* and *Halsbury's Statutes Citor 2005*. Other useful encyclopedias are: '*An*

[11] https://methods.sagepub.com/Reference//encyc-of-research-design/n333.xml

Encyclopedia of Definitions and Interpretations of Legally Significant Words and Phrases' (published by St Paul, Minn. West Publishing Co, USA), *Words and Phrases* (a multi-volume series, which gives an judicial constructions, definitions of words and phrases by the State and Federal Courts from 1658 to date, is published by St Paul, Minn. West Publishing Co., USA), *International Encyclopedia of Laws* (a loose-leaf service edited by R Blanpain and published in 1999 by Kluwer Law International, The Hague, The Netherlands). Some specialized encyclopedias devoted to a particular area/subject are also available. For example, see *Encyclopedia of Human Rights* (edited by Edward Lawson and published in 1991 by Taylor and Francis, Inc, New York), *A Concise Encyclopedia of the United Nations* (published in 2002 by Kluwer Law International, The Hague, The Netherlands), *World Encyclopedia of Police Forces and Correctional Systems* (published in 2006 by Thomson, New York), and *Encyclopedia of Crime and Justice* (complied by Sanford H Kadish and published in 1983 by the Free Press, New York). There are also a few acclaimed general encyclopedias that are usable in legal research. They are: *Encyclopedia Britannica* (published by Encyclopedia Britannica Inc, London) and *Encyclopedia Americana* (published in 2006 by Scholastic Library Publishing, Inc, Danbury, Connecticut, USA).

Indexes are alphabetical listing of subjects and/or authors of the literature included therein. According to William A Katz, 'Index' is a detailed list of names, terms, subjects, places or other significant items in a complete work with exact page or other reference to material included in the work.[12] Harold Borko and Charles L Bernier have explained it more lucidly and comprehensively. According to them, the artificiality created by the indexing system is a mental process for quick retrieval of information. In their words, 'indexing is the process of analyzing the informational content of records of knowledge and expressing the informational content in language of the indexing system.'[13]

Index, thus, helps to quickly recall or retrieve most relevant information and thereby to establish a contact between producer of idea or information (i.e. author) and consumer of information (i.e. reader) through organizer of information (i.e. indexer/librarian). It not only helps the reader to locate the required information immediately but also facilitates the

[12] William A Katz, *Introduction to Reference Work*, Vol. 1 (McGraw-Hill, New York, 1969) at 92.
[13] Harold Borko and Charles L Bernier, *Indexing Concept and Methods* (Academic Press, New York, 1978) 8.

identification or selection of the desired documents and provides comprehensive overview of the subject.[14]

A *review* is an integrated and organized discussion of the literature pertaining to a well-defined subject. It usually covers a limited period of time. A *thesaurus* is a book of words grouped by ideas. Its purpose is to help identify synonymous and find the exact word. *Roget's Thesaurus* accomplishes this task for the English language.[15] With an ever-increasing list of technical words. Thesauri are also available for many disciplines, including law. These are compilations of the vocabulary used to identify concepts in the literature within a given area.

Tertiary sources

It is also available in a pocket size edition, see Christopher Orlando Sylvester Mawson, *Roget's Pocket Thesaurus* (Pocket Books, New York, 1946).

Tertiary sources include directories, subject guides and Union lists. There are numerous scientific directories that provide list of journals, scientists, universities. They list their information quite like the telephone directory. These help the researcher to tap appropriate journals and expert advice on the topic of research. Union list is the list of all the journals that are available either in the given library (union list for the library) or all the libraries in the country (national union list). The union list for a particular library tells you the journals the library subscribes to, the issues of these journals that are available and the missing volumes. Union lists are invaluable in tracking down a journal. If a journal you need is not available in your local library the national union list will help you locate a library in the country that has a copy.[16]

Methodology is very important in determining the type of research which the researcher intends to employ, as well as the result, aim and significance of the research. Where the research aims to introduce a policy intervention, it might focus on quantitative methods, for instance, where the result is to adjust the number of court clerks in the court system. On the other hand, where the research seeks to provide analytical data to support legal or policy reform, it may employ a qualitative method, for instance where the purpose is to redefine the role and function of court clerks. Whatever the case, it is important to determine early enough in the research

[14] In the field of law, there are a good number of usable *indexes*.
[15] Christopher Orlando Sylvester Mawson, *Roget's International Thesaurus* (Oxford, New Delhi, 1978). 13.
[16] See note 2

process what type of research method is suitable for the result which the researcher seeks to pursue.

Research Methodology is a set of systematic technique used in research. It simply means a guide to research and how it is conducted. It describes the analysis methods, throws more light on their limitations and resources, clarify their pre- suppositions and consequences, relating their potentialities to the twilight zone at the frontiers of knowledge. Methodology is the general research strategy that outlines the way in which a research project is to be undertaken and, among other things, identifies the methods to be used in it. Methodology does not define specific methods, even though much attention is given to the nature and kinds of processes to be followed in a particular procedure or to attain an objective. A methodology is the design process for carrying out research or the development of a procedure and is not in itself an instrument, or method, or procedure for doing things.[17]

Research methodology answers two main questions: How was the data collected or generated? And, how was it analyzed? The writing should be direct and precise and always written in the past tense. **Research methodology should be able to:**

i. Readers need to know how the data was obtained because the method you chose affects the results and, by extension, how you interpreted their significance.
ii. Methodology is crucial for any branch of scholarship because an unreliable method produces unreliable results and, as a consequence, undermines the value of your interpretations of the findings.
iii. In most cases, there are a variety of different methods you can choose to investigate a research problem. The methodology section of your paper should clearly articulate the reasons why you chose a particular procedure or technique.
iv. The reader wants to know that the data was collected or generated in a way that is consistent with accepted practice in the field of study. For example, if you are using a multiple choice questionnaire, readers need to know that it offered your respondents a reasonable range of answers to choose from.

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[17] Igbokwe, P., *Introduction to Research and Research Methodology. Research Methodology and Grant Writing*; (Rex Charles & Patrick Ltd. Anambra State, Nigeria, 2009), 1-10.

v. The method must be appropriate to fulfilling the overall aims of the study. For example, you need to ensure that you have a large enough sample size to be able to generalize and make recommendations based upon the findings.

vi. The methodology should discuss the problems that were anticipated and the steps you took to prevent them from occurring. For any problems that do arise, you must describe the ways in which they were minimized or why these problems do not impact in any meaningful way your interpretation of the findings.

vii. In the social and behavioral sciences, it is important to always provide sufficient information to allow other researchers to adopt or replicate your methodology. This information is particularly important when a new method has been developed or an innovative use of an existing method is utilized.

Research methodology is the systematic, theoretical analysis of the methods applied to a field of study. It comprises the theoretical analysis of the body of methods and principles associated with a branch of knowledge. Typically, it encompasses concepts such as paradigm, theoretical model, phases and quantitative or qualitative techniques. A methodology does not set out to provide solutions - it is, therefore, not the same thing as a method. Instead, it offers the theoretical underpinning for understanding which method, set of methods or best practices which can be applied to specific case, for example, to calculate a specific result.

ADVANTAGES OF RESEARCH METHODOLOGY

1. Advancement of wealth of human being
2. Provision of tools for carrying out the research
3. Develops a critical and scientific attitude, disciplined thinking to observations
4. Enrichment of the research process and provision of chance for in-depth study and understanding of the subject
5. Helps to inculcate the ability to evaluate and use research results with reasonable confidence and in decision making
6. Inculcates the ability to learn to read and think critically.
7. It inculcates in a researcher the ability to formulate his research problem in an intelligent manner.
8. It inculcates in him objectivity in perceiving his research problem and seeking solutions there from.

9. It equips him to carry out his research undertaking in an efficient manner and in a better way.
10. It enables him to take rational decisions at every step of his research.
11. It enables him to design appropriate research technique(s) and to use it (them) in an intelligent and efficient manner.
12. It enhances his ability to analyse and interpret data with reasonable objectivity and confidence.
13. It enhances ability of the researcher and/or others to evaluate research findings objectively and use the research results in a confident way.
14. It entails a good research.
15. It enables him to find a satisfactory way of acquiring new knowledge.

Importance of knowing 'research methodology' or „the way of doing research" is well articulated by C.R. Kothari as follows: In fact, importance of knowing the methodology of research or how research is done stems from the following considerations:

(i) The knowledge of methodology provides good training specially to the new research worker and enables him to do better research. It helps him to develop disciplined thinking or "bent of mind" to observe the field objectively.

(ii) Knowledge of how to do research will inculcate the ability to evaluate and use research results with reasonable confidence.

(iii) When one knows how research is done, then one may have the satisfaction of acquiring a new intellectual tool which can become a way of looking at the world and of judging every day experience. Accordingly, it enables us to make intelligent decisions concerning problems facing us in practical life at different points of time. Thus, the knowledge of research methodology provides tools to look at things objectively.

(iv) The knowledge of methodology helps the consumer of research results to evaluate them and enables him to take rational decisions.[18]

RESEARCH JUSTIFICATION

Law does not operate in a vacuum. It has to reflect social values, attitudes and behavior. Societal values and norms, directly or indirectly, influence law. Law also endeavors to mold and control these values, attitudes and behavioral patterns so that they flow in a proper channel. It attempts either to support the social system or to change the prevalent social situation or

[18]V. Khushal& A. Filipos Teaching material on *Legal Research Methods.*

relationship by its formal processes. Law also influences other parts of the social system. Law, therefore, can be perceived as symbolizing the public affirmation of social facts and norms as well as means of social control and an instrument of social change.[19]

All collective human life is directly or indirectly shaped by law. Law is, like knowledge, an essential and all pervasive fact of the social condition. No area of life-whether it is the family or the religious community, scientific research is the internal network of political parties-can find a lasting social order that is not based on law. A minimum amount of legal orientation is indispensable everywhere. Law is not, nor can any discipline be, an insular one. Each rule postulates a factual situation of life to which the rule is to be applied to produce a certain outcome.

Law, in essence, is a normative and prescriptive science. It lays down norms and standards for human behavior in a set of specified situation(s). It is a 'rule of conduct or action' prescribed or formally recognized as binding or enforced by a 'controlling authority'. It operates in a formal fashion. It enforces these prescribed norms through state's coercive powers. However, the societal values and patterns are dynamic and complex. These changing societal values and ethos obviously make the discipline of law dynamic and complex. Law, therefore, has to be dynamic. Law has acquired a paramount significance in a modern welfare state as an effective instrumentality of socio-economic transformation. It indeed operates as a catalyst for such a transformation. Such a complex nature of law and its operation require systematic approach to the 'understanding' of 'law' and its 'operational facets'. A systematic investigation into these aspects of law helps in knowing the existing and emerging legislative policies, laws, and their social relevance. It also enables to assess efficacy of law as an instrument of socioeconomic changes and to identify bottlenecks, if any.

Research justification refers to the rationale for the research, or the reason why the research is being conducted, including an explanation for the design and methods employed in the research. Justification therefore relates to the explanation of belief if or why an event is true or false. A justification is the reason why a proposed study is valid. This typically involves

[19]Legal Research Methodology and Project Writing 1, (National Open University of Nigeria) http://nou.edu.ng/sites/default/files/2017-11JIL447.pdf

explaining a theory which leads to the conclusion of a study in economics. Justification of research assesses the following in a study:

1. Is the question scientifically well-posed, i.e. is it stated in a hypothetical form that leads to a research design and analysis with scientific credibility?
2. Does the research question require data that is accessible or attainable at a reasonable cost or effort?
3. Is the research question posed in a way that can explain variability, different outcomes under different conditions?
4. Are the units of analysis (observation) clearly identified?
5. Is the question posed in a way that more than one result is possible, i.e. the working hypotheses can be refuted?
6. Does the research extend our understanding of the phenomena being investigated; does it elaborate, extend, or fill in gaps in our present knowledge?

RESEARCH EVALUATION

Research evaluation systematically determines a research merits, worth and significance by means of some set of standards as criteria. It is termed the structured interpretation and giving of meaning to predicted or actual impacts of proposals or results. It can assist a researcher to design, project or any other intervention or initiative to assess any aim, realisable concept/proposal, or any alternative, to help in decision-making; or to ascertain the degree of achievement or value in regard to the aim and objectives and results of any such action that has been completed. Evaluation helps gives insight into prior or existing initiatives, to enable reflection and assist in the identification of future change.

Evaluation can be formative, which is, taking place during the development of a concept or proposal, with the intention of improving the value of effectiveness of the proposal, or evaluation can be summative, which is drawing lessons from a completed action at a later time or instance. Research evaluation can also be defined as:

1. A systematic, rigorous, and meticulous application of scientific methods to assess the design, implementation, improvement, or outcomes of a program. It is a resource-intensive process, frequently requiring resources, such as, evaluate expertise, labour and time.
2. The critical assessment, in as objective a manner as possible, of the degree to which a service or its component parts fulfills stated goals. This definition focuses on attaining set objective

knowledge, and scientifically or quantitatively measuring predetermined and external concepts.

3. A study designed to assist some audience to assess an object's merit and worth. This definition focuses on facts as well as value laden judgments of the programmes outcomes and worth.

IMPORTANCE OF RESEARCH TO LEGAL STUDIES AND PRACTICE

Lawyers spend a great deal of their time reading and writing, preparing briefs, reports, letters, and they engage in numerous writing projects/assignments. It is important, therefore, to ensure that the written work produced by a law student or a lawyer is up-to-date and structurally accurate, since the work of the lawyer goes a long way to shaping agreements and policies for public and private sector institutions. The research materials relevant to lawyers for the execution of their jobs are mostly documents that deal with legal issues, such as legislations, case reports, and legal agreements. During their legal training, lawyers learn where and how to find these materials which are known as sources. It is after finding these sources that the lawyer can develop his/her document based on relevant information collected from the sources.

Legal research therefore involves three very important processes, the first of which is finding the relevant sources. This can be done in a library, at a law office or government office, online, or anywhere that the lawyer can find authentic legal sources. Finding the right materials is a very important step, because knowing what to look for can ‘make or break’ the resulting document. The law student or lawyer can be assisted here by a reliable law librarian or research assistant with a good general knowledge of available sources on different legal subjects. After finding the materials, the lawyer must know how to use them, that is, he/she must know how to find the relevant information from the sources which he/she has. There are different ways to get information from sources, and if the researcher does not know where or how to look within any particular source, then he/she might get little or no information from the correct source, or end up collecting irrelevant or wrong information.

Even where the researcher has found the right source and the right information, they must know how to use that information. Important issues such as citation, language and arrangement, among others, can greatly reduce the value of the hard work of a researcher. When research is well-undertaken and concluded, it can produce very insightful material that is expected to

contribute to the body of knowledge in any particular field of legal studies and practice. Legal research is important for the following reasons:

a) Discovery: Research is all about discovery. Through research, the law student or the lawyer discovers new arguments, legal provisions, positions on relevant topics, and new ways of doing things. Research can also reveal new aspects and approaches to old issues. For instance, where a general idea has been developed on a particular issue, effective research can enable the researcher discovers and reveals new perspectives on such issues.

b) Clarification: Good research helps the researcher to clarify their ideas on issues pertinent to their work. Where a researcher is able to find reliable sources on an issue, these can enlighten the researcher, especially where there had been confusion or misconceptions about any issue.

c) Advancement: Effective research contributes to the general advancement of knowledge, understanding and processes. Where a good law student or lawyer discovers new issues or errors in old thinking, they can reveal this constructively, so as to correct/clarify the position and advance knowledge in that area. This is a very important way legal systems have developed over time.

d) Comparison: Research helps compare different ideas, especially where they are conflicting. It develops the researcher's analytical skills by providing them with different ways of addressing any particular issue. It also helps compare different sources, documents, and even legal systems. This broadens the scope of the researcher's thinking, helping them discover more, clarify issues and advance theirs and general knowledge.

e) Authentication: Research is important for the purpose of authenticating the thoughts, ideas, and positions of the researcher. While thoughts and opinions are generally expressed in different for a, when research has been undertaken on a particular issue, the results of the research possess a considerable level of authenticity, depending on the quality of the research, which mere thoughts and opinions may not possess.

There are several more reasons why research is important to the law student or lawyer, especially since the job of the lawyer in an adversarial system is to build his case and fall that of his opponent. Research helps the lawyer find material to do this, and when combined with strong analytical skills, success is practically guaranteed.[20]

[20] See note 1. p. 7-9

Law, as mentioned earlier, does not operate in a vacuum. It operates in a complex 'social setting'. It reflects social attitudes and behavior. It also seeks to mound and control social attitudes and behavior of people to ensure that they flow the expected channel. However, social values and attitudes, existing as well as expected, keep on changing. It makes the law to be dynamic and cope with the changing social ethos. Further, ongoing scientific and technological developments add to these complexities by creating new complex human relationship that needs law to regulate. In such situations, legal research, *inter alia*, becomes necessary: (i) for ascertainment of law on a given topic or subject, (ii) to highlight ambiguities and inbuilt weaknesses of law, (iii) to critically examine legal provisions, principles or doctrines with a view to see consistency, coherence and stability of law and its underlying policy, (iv) to undertake social audit of law with a view to highlighting its pre-legislative 'forces' and post-legislative 'impacts', and (v) to make suggestions for improvements in, and development of, law.

Ascertainment of law

It is needless to mention that laws can never be perfect and final in a dynamic society. 'If our numerous laws', a scholar observed, 'were perfect, if social control were automatic, legal scholarship, like the State of the Marxists, could be left to wither away'. 'But our laws', according to him, 'are not perfect and final, and cannot be so in a dynamic society: they are not always even intelligible, and if intelligible, not always intelligently made. Therefore, a systematic effort is required to ascertain or find law on a given subject/topic. He requires not only to locate and to look into relevant Act(s) of Parliament but also to locate relevant secondary legislative instruments in the form of rules, regulations, orders, directions, notifications, and byelaws and judicial pronouncements thereon.

It is a matter of common experience that these legislative instruments are scattered and are not easily traceable. More than one Acts may have bearing on the topic under study. He, therefore, needs to be more careful in locating these laws. Most of the subsidiary legislative instruments are not published on time in Official Gazette. Most of the times they are published after they have come into force. A plethora of judicial pronouncements of different higher judicial institutions including of the apex court adds to the difficulty in ascertainment of law. He needs to locate, analyze and digest these judicial pronouncements. Finding law on a particular topic or subject, thus, is not a simple task, as it seems to be. It involves intensive analysis of legal instruments and judicial pronouncements. Further, there is a constant stream of statutes (with

often amendments), statutory rules, directives and orders, and judicial decisions flowing at a tremendous speed in a modern welfare State.

Highlighting inbuilt 'gaps' and 'ambiguities'

No legal language or phrase, howsoever a legal drafter may be vigilant, visionary and skilled craftsman, can be perfect and be capable to take forever into its ambit all the future contingencies and circumstances. Sometimes, a provision may not, in terms of its phraseology or pragmatic operation, aptly fit into overall legislative intent of the Act or match with its other provisions or provisions of other Acts.

A legal researcher, through systematic analysis, may be able to highlight these 'gaps' and inbuilt weaknesses of the Act or its provisions.

Determining consistency, coherence and stability of law

A legal researcher, through critical examination of legal propositions, rules and doctrines embodied therein, in the light of interpretations thereof and legislative policy of the statute, can, with apt analysis and supporting reasoning, exhibit consistency and coherence or otherwise of a given law. Such an analysis helps in the development of law, legal provision or doctrine, as the case may be.

Social auditing of law

Legal research is also necessary for taking pre-legislative social audit of law as it helps to understand and appreciate the social forces that played significant role in the making of given law in its present form. Such an understanding enables us to know the social stakes that law intends to protect or change and reasons therefor. It helps to appreciate underpinning of the given law and its legislative target and strategy. While post-legislation social auditing helps us to identify 'gap(s)', if any, between the 'legal ideal' and the 'social reality' and to know reasons or factors responsible therefor. Such an audit helps us to find out as to whether a given law is assimilated in the society and is (or is not) serving the needs of the society. It also unravels the reasons or factors that are responsible for making a given law a mere symbolic or a failure in attaining its intended legislative goal(s). It also enables us to predict future of the law.

Suggesting reforms in law

In the light of underlying legislative policy of a Statute and the highlighted inbuilt weaknesses or inconsistencies thereof, a legal researcher can easily offer concrete suggestions or proposals for reform or improvement in the given law. By undertaking analytical, historical and

comparative research, he can also formulate his proposals for reform in precise terms. Analytical research, as stated above, is concerned with the ascertainment of law. It deals with the present. Historical research, on the other hand, deals with the past and it involves an inquiry into historical antecedents and evolution of law. The past often explains the present, most vividly. It reveals different alternative legislative measures, other than the current ones, thought of when the law was in the making. It discloses the reasons for their rejection and for adoption of the present ones.

Historical research often shows that a particular existing legal provision, rule or doctrine, fully justifiable at the time when it was introduced or adapted, is no longer so justifiable because the reasons or circumstances that justified the original inclusion of that provision, rule or doctrine are no longer valid or exist. While comparative research aims at finding parallels from other jurisdictions. Thus, analytical [i.e., finding the existing law]; historical [i.e., finding out the previous law in order to understand the reasons behind the existing law and the course of evolution], and comparative [i.e., finding out what the law is in other countries, and considering whether it can be adapted, with or without modifications] lead to law reforms or development of law.

Legal research, to sum up, needs to be carried out for the following reasons:

1. To ascertain laws on a given topic or subject.
2. To identify ‘gaps’ and ‘ambiguities’ in law.
3. To critically examine consistency, coherence and stability of law and legal propositions.
4. To undertake ‘social auditing of law’ [i.e. auditing pre-Legislative ‘forces’ and post-Legislative ‘impacts’ of law].
5. To suggest reforms/developments in law by undertakings research intended:

i. To investigate ‘gap’ between the ‘legal ideals’ and ‘actual practice’.
ii. To understand ‘effectiveness’ or ‘impact’ of law in a given social set-up at a given time.
iii. To find out as to whether law is serving the needs of the society and has a social value.
iv. To make suggestions for improvements in the law on concrete formulations and proposals.
v. To predict future trends of law.[21]

[21] See n. 2

CONCLUSION

Law does not operate in a vacuum. It operates in a complex social setting. It reflects social attitudes and behavior. It also seeks to shapes and control social attitudes and behaviour of people to ensure that they flow the expected channel. However, social values and attitudes, existing as well as expected, keep on changing. It makes the law to be dynamic and cope with the changing social ethos. In such an environment, specific types of legal research are imperative for certain purposes.

Quantitative research is based on the measurement of quantity or amount. It is applicable to a phenomenon that can be expressed in terms of quantity. It is systematic scientific investigation of quantitative properties of a phenomenon and their inter-relation. The objective of quantitative research is to develop and employ mathematical models, theories and hypotheses pertaining to the phenomenon under inquiry. The process of measurement, thus, is central to quantitative research because it provides fundamental connection between empirical observation and mathematical expression of quantitative relationship. Qualitative research, on the other hand, is concerned with qualitative phenomenon, i.e. phenomenon relating to or involving quality or kind. For example, when a researcher is interested in investigating the reasons for, or motives behind, certain human behaviour, say why people think or do certain things, or in investing their attitudes towards, or opinions about, a particular subject or institution, say adultery or judiciary, his research becomes qualitative research. Unlike quantitative research, qualitative research relies on reason behind various aspects of behaviour.

Legal research like every area of human endeavour has its mechanics of presentation. The general principles of the various steps taken, the various know-hows or techniques applied in the process of acquiring information, and proving that the information is logic and valid is called methodology. It is intended to, in this unit,*inter alia* observe some empirical rules for the researcher.

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