## 2.2. TYPES OF RESEARCH

- According to CR Kothari, the basic types of research are:

1. Descriptive and Analytical Research,
2. Applied and Fundamental Research,
3. Quantitative and Qualitative Research, and
4. Conceptual and Empirical Research

### 2.2.1. Descriptive vs. Analytical Research:

- Descriptive research, as its name suggests, describes the state of affairs as it exists at present.
- It merely describes the phenomenon or situation under study and its characteristics.
- It reports only what has happened or what is happening.
- It therefore does not go into the causes of the phenomenon or situation.

- The methods commonly used in descriptive research are survey methods of all kinds, including comparative and co-relational methods, and fact-finding enquiries of different kinds.
- Thus, descriptive research cannot be used for creating causal relationship between variables.
- While in analytical research, the researcher uses his facts or information already available and makes their analysis to make a critical evaluation of the material.

## 2.2.2. Applied vs. Fundamental Research:

- Applied research or action research aims at finding a solution for an immediate problem.
- Here the researcher sees his research in a practical context.

- While in **fundamental** research or **pure** research or **basic** research, the researcher is mainly concerned with generalization and with the ***formulation of a theory.***
- He undertakes research *only to derive some increased knowledge* in a field of his inquiry.
- He is least bothered about its practical context or utility.
- Research studies concerning human behavior carried on with a view to making generalizations about human behavior fall in the category of fundamental or pure research.
- But if the research (about human behavior) is carried out with a view to solving a problem (related to human behavior), it falls in the domain of applied or action research.

- The central aim of applied research is to discover a solution for some pressing practical problem.
- While that of fundamental research is to find additional information about a phenomenon and thereby to add to the existing body of scientific knowledge.
- The ‘applied’ scientist is thus works within a set of certain values and norms to which he feels committed.
- A sociologist, for example, when works with a social problem to find solution therefore and proposes, through a systematic inquiry, a solution or suggests some measures to ameliorate the problem, his research takes the label of ‘applied’ or ‘action’ research.
- But when he undertakes a study just to find out the ‘what’, ‘how’ of the social problem, his inquiry takes the nomenclature of ‘pure’ or ‘fundamental’ research.

- In fact, they are not mutually exclusive.
- There is a constant interplay between the two, each contributing to the other in many ways.

## 2.2.3. Quantitative vs. Qualitative Research:

- 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 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.

## 2.2.4. Conceptual vs. Empirical Research:

- ***Conceptual*** research is related to some abstract idea(s) or theory.
- It is generally used by ***philosophers*** and ***thinkers*** to develop ***new concepts*** or to ***re-interpret*** the existing ones.
- ***Empirical*** research relies on experience or observation alone, often without due regard for system or theory.
- It is data-based research, coming up with conclusions that are capable of being verified by observation or experiment.
- It is therefore also known as ***experimental research***.
- In empirical research, it is necessary to get facts firsthand, at their source.

- In such a research, the researcher must first provide himself with a working hypothesis or guess as to the probable results.
- He then works to gets enough facts (i.e. data) to prove or disprove his hypothesis.

## 2.3. RESEARCH METHODS AND RESEARCH METHODOLOGY:

- The term ‘research methods’ 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.
- In other words, ‘research methods’ 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 methods’ therefore, can be put into the following three groups:

1. Collection of Data.
2. Relationships b/n the data and the unknown.
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 is 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***.
- 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).

- 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.

- A study of 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 therefore.
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.

## 2.4. Scope of Legal Research in the Common Law System and the Civil Law System:

- **In the common law system:**
- Legislature enacts substantive law.
- Executive wing of a State, drawing authorization from a substantive law, supplements the substantive law in the form of rules, regulations, statutory orders, notifications and byelaws.
- While courts, as and when called upon, interpret the ‘law’ and gives finality to it through their judicial pronouncements.
- Courts, particularly higher ones, however, do not only ‘apply’ law to the ‘facts’ and ‘issues’ brought and agitated before them but also, through their judicial pronouncements, ‘make’ law.
- They are, generally, bestowed with wide judicial discretion.

- They are empowered to determine ‘legality’ as well as adjudicate ‘finality’ of ‘law’ or ‘legal provision’.
- The lower courts are bound by ***‘precedent’.***
- In the common law system, therefore, the basic assumption is that if there is a judicial decision in the past having facts and legal issues similar to those in the case currently before the court, the outcome of the past case should control the outcome of the present case.
- Therefore, in the common law system Legislature, Executive as well as Judiciary do constitute ***‘source’ of law***.
- A legal researcher, with a view to understanding ‘law’ on a particular topic or subject, therefore has to ‘locate’, ‘appreciate’ and analyze apt Acts of Parliament, subsidiary legislative instruments, if any, and judicial pronouncements.
- He has to focus his attention on the primary source materials, like the Constitution and Statutes (along with statutory instruments), and leading judicial pronouncements (the precedents).

- **In the Civil Law System:**
- Acts of Parliament, supplemented by appropriate Regulations and Directives, if any, do constitute ‘primary’ sources of ‘law’.
- Courts are required only to ‘apply’ them.
- In no way, they are expected to ‘make’ law through their judicial pronouncements.
- Hence, the law of precedent, unlike in common law jurisdictions, is irrelevant.
- Nevertheless, a judicial statement of a higher court may have an inspirational or persuasive value in terms of its reasoning.
- In civil law system, a legal researcher, with a view understanding law on a topic, therefore, has to merely concentrate on the primary sources of law.

- However, there is hardly any material difference in the nature and scope of legal research in these two legal systems- the common law and the civil law system.
- In both the systems, broad strategy and utility of legal research is alike.
- They only differ in their emphasis on the material required/used for carrying out legal research.
- A legal researcher from the common law jurisdiction relies heavily upon, and gives importance to, apt statutory materials (the Constitution, statutes and other statutory instruments) and case reports (including case comments and case digests) for ‘ascertaining’, ‘understanding’ and ‘appreciating’ law on the topic or area of his inquiry.
- A legal researcher from a civil law system, on the other hand, focuses and prominently relies on the statutory materials for ‘ascertaining’, ‘understanding’, and ‘appreciating’ law.

- Under both the legal systems, a researcher has to resort to identical methods of data collection and of analysis when he is interested in highlighting ‘social dimension of law’ or ‘gap’ between the legal idealism and social reality or assessing ‘impact of law’ on the social behavioral pattern.
- In other words, the strategy and paradigm of socio-legal research in both the systems are similar.
- Ethiopia is a civil law country.
- Nevertheless, the Ethiopian legal system exhibits some common law elements.

## 2.5. Importance (Purpose) of Legal Research:

❃Legal research is necessary for the purpose of:

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.

- Legal research 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:

## 2.6. Who Does Legal Research?

- By a Legislator
- By a Judge
- By a Lawyer
- By a Law Teacher and Student of Law

## 2.7. Legal Research and Methodology:

- Law is 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).

## 2.8. Sources of Information:

- The various sources of information may be categorized into: primary, secondary and 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, thesis 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*** (thesis leading to Ph.D. 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), 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 original information/observations about the identified research problem.
- They are indeed indispensable for any legal researcher.

## Secondary Sources:

- Secondary sources of information furnish the information derived from primary sources.
- These sources organize the information in a systematic manner and in a planned way.
- These secondary sources include:

✓ textbooks,
✓ treatises,
✓ commentaries on statutes,
✓ abstracts,
✓ bibliographies,
✓ dictionaries,
✓ encyclopedias,
✓ indexes,
✓ reviews, and
✓ thesaurus.

- ***Textbooks, legal treatises, and commentaries on statutes*** constitute significant secondary sources of legal research.
- Textbooks and legal treaties 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.
- ***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*.
- ***Encyclopedia*** is a book of information in the form of condensed articles on every subject.

- It furnishes greater details (of the subjects dealt there under) than a dictionary.
- 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.
- ***Indexes*** are alphabetical listing of subjects and/or authors of the literature included therein.

- ***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.
- With an ever-increasing list of technical words.
- Thesaurus 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:

- 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 in valuable 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.

## 2.9. Major Stages in Legal Research:

- Legal Research involves a three-stage process.
- Each one of them warrants skill.
- The Research processes are:

- Research Planning,
- Research Implementation, and
- Presenting of Research Findings.

- *Research planning* requires the necessary sub-skills for:
- fact collection,
- legal analysis,
- legal knowledge,
- problem identification,
- fact analysis,
- further fact collection,
- identification of avenues of research, and
- generation of key (search) words

- **Research implementation**, as the second-stage processes, involves the skills pertaining to:
  - identification of problems for resolution,
  - identification of relevant research source materials,
  - location of the source materials,
  - effective use of the source materials,
  - analysis of research findings,
  - application of findings to the identified problem(s), and
  - identification of further problem(s).

- While the third-stage process, i.e. presentation of research findings, requires the skills necessary for:
  - identification of the (research) recipients' needs,
  - selection of appropriate format or framework,
  - use of clear and succinct language, and
  - use of appropriate language-style (informatory, advisory, recommendatory, or demanding).
- A cumulative reading of these three-stage processes of legal research leads to the following major processes that, like any other research, involve in legal research.
- They may be presented in a flowchart as under:

Identification and Formulation of a Research Problem

↓

Review of Literature

↓

Formulation of a Hypothesis
(where feasible)

↓

Research Design

↓

Collection of Data

↓

Analysis of Data

↓

Interpretation of Data

↓

Research Report

# Chapter 3: Types of Legal Research: Doctrinal and Non Doctrinal

## General Overview

- Doctrinal legal research is a research into legal doctrines through analysis of statutory provisions and cases by the application of ***power of reasoning***.
- It gives emphasis on analysis of legal rules, principles or doctrines.
- While non-doctrinal legal research is a research into ***relationship of law with other behavioral sciences.***
- It gives prominence to relationship of law with people, social values and social institutions.
- It endeavors to highlight the relationship between law and other behavioral sciences and social facts.
- It involves ***empirical inquiry*** into the operation of law.

- Doctrinal legal research endeavors to develop ***theories***.
- Non-doctrinal legal research endeavors to see as to whether the theories, the doctrines, that we have assumed are ***appropriate to apply in society*** at a given time, are still valid and relevant.
- Non-doctrinal legal research helps to test whether the theories assumed (in law) work in the way they should be.
- Doctrinal legal research is ***'research in law'*** while non-doctrinal legal research is ***'research about law'.***

- DLR involves a systematic exposition, analysis and critical evaluation of legal rules, doctrines or concepts, their conceptual bases, and inter-relationship.
- A doctrinal legal researcher indulges into analysis of ***'black-letter'*** of law.
- While a non-doctrinal legal researcher is interested in knowing ***'law-in-action'*** through ***empiricism***.

- DLR is nicknamed as ***'arm-chair research',*** or '***basic*** or ***fundamental research***'.
- While, non-doctrinal legal research, which gets its data primarily from sources other than law [i.e. society] and focuses on 'social reality of law' rather than on 'law' itself, is also known as '***empirical research***', '***socio-legal research***', '***sociology of law***' or '***non-library research***'.

# DOCTRINAL LEGAL RESEARCH:

- DLR is research ‘about’ what the prevailing state of legal doctrine, legal rule, or legal principle is.
- A legal scholar undertaking doctrinal legal research takes one or more legal propositions, principles, rules or doctrines as a starting point and focus of his study.
- DLR involves:

1. Systematic analysis of statutory provisions and of legal principles involved therein, or derived therefrom, and
2. Logical and rational ordering of the legal propositions and principles.

- The researcher gives emphasis on substantive law rules, doctrines, concepts and judicial pronouncements.
- Classic works of legal scholars on the ***law of torts*** and ***administrative law*** do furnish outstanding examples of DLR.
- DLR may be ***analytical***, ***historical*** or ***comparative***.
- ***Historical*** legal research, unlike analytical one, deals with the past.
- It throws light on the past to understand the present.
- It explores the circumstances that led to the adoption of the existing law.
- ***Comparative*** legal research involves comparative study of comparable laws or legal institutions from different jurisdictions.
- It exhibits the lessons that can be learnt from each other's ***failures*** and ***achievements***.

## Aims and Basic Tools of Doctrinal Legal Research:

## Aims:

- Aims of DLR are:

1. aims to study case law and statutory law, with a view to find law,
2. aims at consistency and certainty of law,
3. To some extent, looks into the purpose and policy of law that exists, and
4. aims to study legal institutions.

- Therefore, DLR should not be undermined merely because it revolves around statutes and judicial decisions.
- It immensely contributes to the continuity, consistency and certainty of law.

## Basic Tools of DLR:

- The basic tools of a doctrinal legal researcher are:

1. statutory materials,
2. case reports,
3. standard textbooks and reference books,
4. legal periodicals,
5. Parliamentary Debates and Government Reports, and
6. Micro films and CD-ROM.

- These tools, depending upon the nature of information they contain, may be re-categorized into ***primary*** and ***secondary*** sources of information.
- ***National Gazette*** and ***Case Reports*** fall as ***primary***, while the rest fall in the secondary.

## Advantages and Limitations of DLR:

## Advantages:

- DLR has a number of advantages:

1. It provides ***quick answers to the problem*** at hand. Empirical research, unlike doctrinal legal research, takes much more time to draw conclusions.
2. Legal principles or doctrines, with sound reasoning lead to ***a well-developed law***. In this context, evolution and development of law of ***torts*** and of ***administrative law***, for example, stand as classic ***testimony of doctrinal legal research.***
3. DLR contributes in our 'understanding' of 'law', legal concept or doctrine, and legal processes in a better way.
4. DLR uses to fill the gap and loopholes in the substantive laws.
5. DLR helps in theory building.
6. DLR supports to predict the future fate of existed laws.
7. DLR provides a sound basis for non-doctrinal legal research.

## Limitations:

- DLR, in spite of the above-mentioned strengths, suffers from certain limitations of worth nothing:

1. Ultimately the research output become '***subjective***' and exhibit the ***researcher's 'perception***' about the inquired subject-matter.

- Thus, different scholars may perceive a legal fact or doctrine differently with equally convincing logical reasoning.

2. DLR, undeniably, becomes ***merely theoretical*** and devoid of any social facts.

3. DLR does not involve a study of the factors that lie outside law or legal system but have directly or indirectly influenced the operation of the law.

4. DLR gives prominence to traditional sources of law and judicial pronouncements of appellate courts.

- The actual practice and attitude of lower courts and of administrative agencies with quasi-judicial powers, whose judgments remain unreported, are left unexplored in doctrinal legal research.

## NON-DOCTRINAL LEGAL RESEARCH OR SOCIO-LEGAL RESEARCH:

- Prominent reasons and arguments stressing the need for inquiry into social facets of law are:

✓Almost every modern civilized State perceives '***law***' as an active instrument of socio-economic justice and thereby a vehicle of ***social engineering***.

✓It becomes necessary to look into the 'factors' or 'interests' of the Legislature that play significant role in setting the legislative process in motion and in identifying the beneficiaries thereof and the reasons therefore.

✓The Legislature, armed with sociological practical feedback, can fulfill its job in a more satisfactory manner.

- To remove the bottlenecks for the operation of the law or to minimize their influence on the law so that the law can be made an effective instrument of socio-economic transformation.
- To identify the gaps between actual social behavior and legal norm demanded by the law then to strengthening potentials of law as a vehicle for socio-economic justice.

## Aims and Basic Tools of NDLR:

## Aims:

- In a non-doctrinal legal research, the researcher tries to investigate through empirical data how law and legal institutions affect or mold human attitudes and what impact on society they create.
- He endeavors to look into ‘social face or dimension’ of law and ‘gap’, if any, between ‘legal idealism’ and ‘social reality’.
- Non-doctrinal legal research, thus, involves study of ‘social impact’ of law (existing or proposed) or of ‘social-auditing of law’.

- The researcher tries primarily to seek, among other things, answers to:
- Are laws and legal institutions serving the needs of society?
- Are they suited to the society in which they are operating?
- What forces in society have influenced shaping or re-shaping a particular set of laws or legal norms?
- Are laws properly administered and enforced or do they exist only in statute books?
- What are the factors, if any, responsible for poor or non-implementation of the laws?
- What are the factors that influenced the adjudicators (courts or administrative agencies) in interpreting and administrating the laws?
- For whose benefit a law is enacted, and are they using it? Have the intended ‘legislative targets’ benefited from the law? If not, for what reasons? Where do ‘bottlenecks’ lie?
- What has been impact of the law or legal institutions in changing attitude of the people or molding their behavior? and what are the social obstacles in realization of the expected behavior or change?

- The inquiry, in ultimate analysis, relates to:

A. the legislative processes (inquiring into the initiation and formalization of law, and the forces, factors or pressure groups that played significant role in its making and with what objectives),

B. its social assimilation (involving an inquiry into its operational facets and the factors that are responsible for making it dysfunctional), and

C. its impact on the intended beneficiaries (involving a post-natal study of the law).

- Most of non-doctrinal legal research, thus, seeks:

1. to assess the impact of non-legal factors or events upon legal processes or decisions, or
2. to find the ‘gap’ between legal idealism and social reality, or
3. to identify and appraise the magnitude of the variable factors influencing the outcome of legal processes and decisions-making, or
4. to trace the consequences of the outcome of legal decision making in terms of value gains and deprivations for litigants, non-litigants, non-legal institutions.

- The distinguishing characteristics of a non-doctrinal legal research are:

1. it lays down a different and lesser emphasis upon legal doctrines and concepts,
2. it seeks answers to a variety of broader questions,
3. it is not anchored exclusively to appellate case reports and other traditional legal sources for its data, and
4. it invariably involves the use of research perspectives, research designs, conceptual frameworks, skills, and training not peculiar to law trained personnel.

- To put it differently, non-doctrinal legal research aims at highlighting the ‘gaps’ that exist between the ‘law-in-the statute book’ (that is, the image of law projected in the books) and ‘law-in-action’ (that is, the perception it exhibits in reality), and impact of law on the social behavior.
- The former discloses the gap between legal idealism and social reality and thereby it highlights the disjunction that exists between the law-in-the books and the law-in-action.
- While the latter, highlights the factors that are thwarting the operation of law and thereby diminishing the attainment of its goal.
- It helps us to find out the deficiencies in an enactment and the problem of its implementation and its impact on the society.

## Basic tools:

- There are several ways of collecting empirical data for social-legal research.
- The required information can be collected from the identified respondents in a face-to-face interaction by administrating them a set pre-determined questions or through sketchy questions prepared by the respondent.
- These methods of data collection are known as ‘interview’ and ‘schedule’ respectively.
- The pre-determined questions can also be administered to the respondents indirectly through post, fax, emails or any other appropriate methods of communication.
- This method of data collection is known as ‘questionnaire’.
- A socio-legal researcher can also collect the required information by systematic ‘observation’ of a phenomenon, behavior of his respondents or institutions that constitute focus of his study or by studying other existing records that reflect the phenomenon under his inquiry.

- The basic tools of data collection for a socio-legal research are:

1. interview,
2. Questionnaire,
3. schedule,
4. interview guide,
5. observation, participant or non-participant, and
6. published or unpublished materials (such as Census Reports, Reports of Governmental and/or Non-Governmental Agencies, and appropriate literature on sociology of law).
7. The first four methods of data collection are ‘primary sources’ of empirical data as they are used in getting the required information ‘directly’ from the respondents.
8. While the last one is ‘secondary source’ of information as the researcher collects the necessary information ‘indirectly’ from published and/or unpublished documents.
9. Further, ‘interview’ and ‘schedule’ involve direct ‘oral communication’ between the information-giver (respondent) and the information-seeker (investigator), while ‘questionnaire’ involves ‘written communication’ between the researcher and his respondents.
10. In ‘observation’, unlike in interview, schedule and questionnaire, the researcher uses his ‘eyes’, rather than ears, for collecting data. Hence, it is a ‘visual method’ of data collection.

- Interview, a verbal technique of data collection, may be structured or unstructured.
- The former involves the use of a set of pre-determined questions and highly standardized technique of recording responses thereto.
- The latter, as opposed to the former, is characterized with flexibility of approach to questioning the respondents and lesser-standardized way of recording the responses.
- Interview is the most commonly used method of data collection in the study of human behavior.
- It is regarded as ‘a systematic method by which a person enters more or less imaginatively into the life of a comparative stranger’.
- It is used to either secure the information from the person who alone knows the subject or a particular matter.

- Interview is the most effective method of gaining information about a person's perceptions, beliefs, feelings, attitudes, opinions, motivations, anticipations or plans. It also enables the interviewer to further authenticate the information flowing from the respondent by observing his facial reactions and other gestures during his narration. However, interview, as a method of data collection, is an art. Not everybody can resort to it, unless he is trained in formulating questions, their administration and recording responses thereto.
- One of the limitations of the interview is the involvement of the individual in the data he is reporting and the consequent likelihood of bias.
- Even if we assume the individual to be in possession of certain facts, he may withhold or distort them because to communicate them is threatening or in some manner destructive to his ego.
- Thus, extremely deviant opinions and behavior, as well as highly personal data, have long been suspect when obtained by personal interviews.
- Another limitation on the scope of the interview is the inability of the respondent to provide certain types of information.
- Memory bias is another factor which renders the respondent unable to provide accurate information.

- Questionnaire is that method of data collection in which a number of typed or printed pre-determined questions are used for collecting data.
- It is usually mailed to the respondents with a request to respond the questions in the space provided therefor and to send it back to the investigator.
- Like interview, questionnaire may be structured or unstructured.
- The questions may be open-ended, close-ended, mixed or pictorial.
- This method is quite popular and useful when information is to be sought from numerous respondents who are scattered in a vast area.
- Compared to interview, it works out to be cheaper and quicker.
- It also facilitates uniform tabulation Schedule is referred to as a form filled in during a personal interview in which both the interviewer as well as the respondent are present.

- In this method, the investigator himself presents the questions to the respondent and records his response.
- Questionnaire and schedule have much in common. In both the forms of data collection, the wordings of the questions are the same for all the respondents.
- However, at the same time there are two prominent differences between the two.
- *First*, questionnaire is usually mailed to the respondents for filling in their responses to the questions listed therein, whereas schedule is referred to a form filled in by the interviewer during his personal interview with the respondent.
- *Secondly*, questionnaire, due to its impersonal nature, is rigid, whereas schedule, which like in interview allows the investigator to clarify questions, if they are not clear to the respondent, is more flexible.

- There is yet another related tool of data collection, which is popularly known as interview guide.
- It contains only the topic or broad headings on which the questions are to be asked to the respondents.
- The researcher formulates questions on these topics on the spot and records the responses thereto.
- Interview guide is generally used in case of qualitative or in-depth interviews.
- Observation, which involves a visual method of data collection, becomes a scientific method of data collection if it, in the context of subject-matter of inquiry, is planned systemically, recorded systematically, and is subjected to checks and controls on validity and reliability.
- Observation may be participant or non-participant.
- In the former, the investigator mingles with the respondents to observe and record a phenomenon.
- While in the latter, he observes and records a phenomenon from distance.

- Published or unpublished documents/reports may also serve as useful sources of information requisite for a socio-legal research.
- However, the investigator needs to carefully scrutinize the information and to ensure himself about reliability and adequacy of the data before he uses the information in his inquiry.

## Advantages and Limitations of Non-Doctrinal Legal Research:

## Advantages:

- Non-doctrinal legal research seeks answers to a variety of questions that have bearing on the social-dimension or social-performance of law and its ‘impact’ on the social behavior.
- In fact, it concerns with ‘social-auditing of law’.
- Hence, socio-legal research has a number of advantages.
- A few prominent among them are:

- ✓ *First*, social-legal research highlights the ‘gaps’ between ‘legislative goals’ and ‘social reality’ and thereby ‘depicts’ a ‘true picture’ of ‘law-in-action’.
- ✓ It particularly highlights the ‘gap’ in relation to:

I. the practice of law enforcers, regulators and adjudicators and

II. the use or under-use of the law by intended beneficiaries of the law.

- ✓ The regulatory body, existing or created under the law, vested with the power to monitor and enforce the law, may, due to some prejudices or apathy towards the ‘beneficiaries’ or sympathy towards their adversaries, be professionally ‘inactive’ in enforcing the law.

- Non-doctrinal legal research highlights the ‘reasons’ behind making the law ‘symbolic’, less-effective or ineffective.
- It also reveals the extent to which the beneficiaries have been (or have not been) able to ‘use’ the law and the ‘reasons’ or ‘factors’ that have desisted/are desisting them from using it.
- Through empiricism, non-doctrinal legal research highlights the underlying currents or factors (like unawareness on part of the beneficiaries, unaffordable cost in seeking the legal redress, or the fear of further victimization if the legal redress is pursued, and the like) that have been desisting them from seeking the benefits that the law intended to bestow on them and to seek legal redress against those who prevent them from doing so.

- It, thus, exposes the ‘bottlenecks’ in operation of law.
- Secondly, non-doctrinal legal research carries significance in the modern welfare state, which envisages socio-economic transformation through law and thereby perceives law as a means of achieving socio-economic justice and parity.
- Through empiricism, socio-legal research assesses ‘role and contribution of law’ in bringing the intended social consequences.
- It also helps us in assessing ‘impact of law’ on the social values, outlook, and attitude towards the ‘change(s)’ contemplated by law under inquiry.

- It highlights the ‘factors’ that have been creating ‘impediments’ or posing ‘problems’ for the law in attaining its ‘goal(s)’.
- Thirdly, non-doctrinal legal research provides an ‘expert advice’ and gives significant feedback to the policy-makers, Legislature, and Judges for better formulation, enforcement and interpretation of the law.
- Fourthly, socio-legal research renders an invaluable help in ‘shaping’ social legislations in tune with the ‘social engineering’ philosophy of the modern state and in ‘making’ them more effective instruments of the planned socio-economic transformation.

## Limitations of Non-doctrinal Research:

- First, non-doctrinal legal research is extremely time consuming and costly as it requires a lot of time for collecting the required information from field.
- Further, it calls for additional training in designing and employing tools of data collection and entails greater commitments of time and energy to produce meaningful results, either for policy-makers or theory-builders.
- Secondly, socio-legal research, needs a strong base of doctrinal legal research.
- A legal scholar who is weak in doctrinal legal research cannot handle non-doctrinal legal research in a meaningful way.

- It may turn out to be a futile exercise leading to no significant results.
- Thirdly, the basic tools of data collection, namely interview, questionnaire, schedule and observation, are not simple to employ.
- They require specialized knowledge and skill from the stage of planning to execution.
- Each one of them is bridled with a number of difficulties.
- A researcher has to have a sound skill-oriented training in social science research techniques.
- A cumulative effect of this limitation of non-doctrinal legal research and of the one mentioned in secondly is that a well-trained social scientist cannot undertake socio-legal research without having a strong base in doctrinal legal research.

- Similarly, a scholar of law, though having a strong base in legal principles, concepts or doctrines as well as in doctrinal legal research, cannot venture into non-doctrinal legal research unless he has adequate training in social science research techniques.
- In either case, non-doctrinal legal research becomes a mere nightmare for both of them.
- A way out, therefore, seems to be an inter-disciplinary approach in investigating legal problems.
- However, inter-disciplinary legal research has its own difficulties and limitations.
- Fourthly, invariably public opinion, influences contents and framework of law.
- Law, most of the times, also seeks to mold and/or change the public opinion, social value and attitude.

- In such a situation, sometimes it becomes difficult for a non-doctrinal legal researcher to, on the basis of sociological data, predict with certainty the ‘course’ or ‘direction’ the law needs to take or follow.
- Such a prediction involves the maturity of judgment, intuition, and experience of the researcher.
- He may fall back to doctrinal legal research.
- Nevertheless, sociological research may be of some informal value to the decision-makers.
- Fifthly, sometimes, because of complicated social, political and economic settings and varied multiple factors a socio-legal researcher may again be thrown back to his own ideas, prejudices and feelings in furnishing solutions to certain problems.

- Sixthly, Socio-legal research becomes inadequate and inapt where the problems are to be solved and the law is to be developed from case to case (like in administrative law and law of torts).

## INTER-RELATION BETWEEN DOCTRINAL AND NON-DOCTRINAL LEGAL RESEARCH

- These two broad types of legal research- doctrinal legal research and non-doctrinal legal research- are overlapping rather than mutually exclusive.
- It is difficult to draw a sharp theoretical or pragmatic line of differentiation between the two.
- In doctrinal legal research the main objective is to clarify the law, to take a position, to give reasons when the law is in conflict, and, perhaps, to suggest methods for improving the law.

- It involves the identification of ‘fact’, its underlying policy, and ‘measures’ for improvement.
- While non-doctrinal legal research gives emphasis on understanding ‘social dimension’ or ‘social facet’ of law and its ‘impact’ on the ‘social attitude’.
- It gives emphasis on ‘social auditing of law’.
- In doctrinal legal research legal materials, such as statutes, regulations, and cases, are used, whereas in non-doctrinal legal research, materials from other fields, like sociology, are sought and used.
- Doctrinal legal research and non-doctrinal legal research, thus, are not mutually exclusive.
- They compliment each other.

- Non-doctrinal legal research cannot supplant doctrinal legal research.
- It can be a valuable supplement or adjunct to doctrinal legal research.
- It is now accepted that theoretical research without any empirical content is hollow and that empirical work without supporting theory is shallow.

# UNIT 4: MODELS OF LEGAL RESEARCH AND CURRENT TRENDS IN LEGAL RESEARCH

- Models of Legal Research:

1. Evolutive and Evaluative
2. Identificatory and impact studies
3. Projective and Predictive
4. Collative
5. Historical
6. Comparative

- Current trends in legal research:

1. Mono-disciplinary legal research
2. Trans-disciplinary legal research
3. Inter-disciplinary legal research

## 1. Evolutive and Evaluative:

- A legal research gets the label of ‘evolutive model of legal research’ when a researcher endeavors to find out ***how a legal fact, rule, concept, an institution or the legal system itself come to be what it is today.***
- He attempts to trace the origin and development of a legal fact, [such as rule against self-incrimination or double jeopardy], or a legal institution, [like the institution of an ombudsman or a judicial institution, say the Federal Supreme Court of Ethiopia].
- Such legal research can also be undertaken even to trace the development of a given law, like the development of constitutional law of a country.

- **Evaluative** model of legal research aims at expounding the logical coherence of concepts, elements, facts and interests of legal phenomenon individually, of their relationship *inter se* and their relationship with the concepts, elements, facts and interests outside the legal system for determining and defining the terms and presuppositions used in law.

- The research is to ascertain the nature, scope and source of law in order to explain what law is, and also to spell out several propositions used in law.

## 2. Identificatory and impact studies:

- Almost every law, other than procedural law has certain 'legislative goal(s)' to attain, and 'legislative targets' to handle through 'law'.
- A legal researcher, through an identificatory legal research, seeks to ascertain the '***beneficiaries***' of a particular law or legal provision.
- His interest is to find out the persons (or group of persons) for whose benefit the identified law (or legal fact) is made to exist.

- To be more precise, he seeks to answer the question-which are the parties expected or intended to be benefited by a given rule, concept, institution or the system of law.
- Identification of the parties intended to be benefited by a particular law or legal fact help to ascertain the legislative intent or object of that law or legal fact and to seek and clarify the justification for its existence.
- It also helps to ascertain the legal framework and strategy employed in it to help the ‘intended’ beneficiaries.

- It further helps to ascertain whether the intended beneficiaries are actually being benefited or not.
- An identificatory legal research serves to assess the utility of the law or a legal fact under inquiry.
- Such a model of legal research, for example, can be successfully used by undertaking research into the law relating domestic violence, child abuse or harmful traditional practices.
- Impact of law studies endeavor to assess effectiveness or actual result of an established or a newly conceived law, legal provision, rule or institution.

- Here legal researcher gives emphasis not on contents of the substantive law under inquiry but on its ultimate impact on the society or its legislative target.
- His focus is not merely on the law as is found in the Codes, Statutes, judicial pronouncements and treatises but on its operation or ‘law in action’.
- He intends to study and understand the effects of the working of law and legal institutions on the life of the individuals and society at a particular time and place.
- The focus of inquiry, thus, is the ‘law in action’ and on the behavioral and attitudinal changes of the people effected by law.

- He intends to record and explain how a particular legal fact works within a given social setting.
- The investigation involves identification of non-legal factors or forces that affect the legal fact(s) in bringing about the intended changes in the society and their interaction with legal facts.

## 3. Projective and Predictive:

- A legal researcher generally uses projective model of legal research when he wants to anticipate and highlight effects of a draft legislation or a proposed legal measure.
- Such a legal research is mainly attitudinal, intended to anticipate the probable response in terms of rejection or acceptance of a proposed measure.

- Its purpose is to identify the parties who stand for and against the proposed law or legal measure and to locate determinant variables and situations for peoples' apathy or sympathy.
- ***Predictive*** legal studies are used when a legal researcher intends to anticipate and highlight ***possible misuse of the proposed law or legal measure.***
- Such a legal research helps the lawmakers to minimize or to do away with the possible undesirable consequences of the proposed measure.
- Predictive legal studies are generally carried out by Law Commissions, Parliamentary Committees or Joint Select Committees, invariably, before a proposed legal measure takes formal shape and becomes operational.

## 4. Collative:

- When a legal researcher prepares ***a digest of laws, statutory provisions, judicial pronouncements or annotated bibliography on a particular topic or subject***, that research gets the label of collative legal research.
- Here the legal researcher collects all the relevant materials, with or without its summary, on a given topic and arranges/classifies them in a logical manner.
- Digests of cases and statutes, like *Halsbury's Statutes of England* and *Yearly Digests* (of cases published by All India Reporter, India), published by well-known law publishers fall in this category of legal research.

- It would be a mistake to undermine this type of legal research as inferior to other types of legal research.
- Properly collated legal material, which is reliable, reasonably extensive and classified logically, is as much contribution to legal writing as any other material.
- A well-collated material will serve a useful purpose by reducing the labor of researchers.
- It offers reliable versions of the law.
- Collative material has its own value and collative research is an end in itself.

## 5. Historical:

- In historical legal research, a legal researcher intends to trace historical antecedents of a legal fact.
- Tracing history of a particular legal fact becomes significant for its following attributes.
- *First*, it becomes useful, rather warranted, when the present statute or statutory provision has raised meaningful queries and it becomes necessary to explore the circumstances in which the present position came out.
- In such circumstances, it gives a significant clue to the reasons why it (the particular law or legal provision) was framed in the form in which now it appears.

- It helps to remove certain doubts about the legal fact.
- *Secondly*, it supplies the researcher the reasons that justify the present position.
- It would also exhibit that a particular existing provision, fully justifiable at the time when it was introduced, is no longer so justifiable because the reasons and the circumstances that justified its inclusion are no longer valid or exist.
- *Thirdly*, it discloses the alternatives, different than the currently adopted ones, which were considered and rejected by the lawmakers and reasons therefore.
- Such a revelation not only exhibits the sound and valid reasons for rejection of an alternative but also discloses the comparative positive and negative attributes of different alternatives that were thought of (or rejected) and of that are adopted in the legislation under inquiry.

- In this way, it initiates or contributes in legal reforms.
- *Fourthly*, history of a legal fact, when traced deeply and arranged logically, shows the gradual evolution of the law or legal fact on certain lines, and thereby of general trend of its change.
- It shows the way the legal fact is evolved.
- *Fifthly*, historical background of law enables law-makers to know the principles used or followed by Legislature from home or abroad in earlier identical law(s) as very few pieces of legislation are original in the sense of being pure innovations of a skilled draftsman.
- In majority of the cases, Legislature consults and adapts earlier statutes or makes use of principles laid down or proposed in decided cases.

- *Sixthly*, historical background of law or a statutory provision helps judiciary (particularly in Common Law jurisdictions) in interpreting law in a more rational and pragmatic way as historical research helps it to know the historical and political spirit in which that particular law (or a legal provision) came into existence and for what reasons.
- Laws are not made in a vacuum.
- They are passed in order to meet some needs of society.
- *Seventhly*, a law may have relevant international background when it is enacted to give effect to the treaty obligations accepted by the government towards other countries.

- The practical importance of an understanding and knowledge of that wider political context is evidenced by the increasing willingness of the courts to take account of relevant international instruments when construing the legislation.

## 6. Comparative:

- A comparative legal research carries significance as Legislators imitate each other and try to learn from each other’s experience.

## CURRENT TRENDS IN LEGAL RESEARCH:

### 1.Mono-disciplinary legal research:

- ‘Mono-disciplinary legal research’ as the discipline involved is only one, i.e. ‘law’.
- All doctrinal legal researches obviously fall in this category.
- However, mono-disciplinary legal research, in spite of its potentials to contribute in bringing clarity, consistency and certainty in law and initiating reforms in law, has its own limitations.
- It is addressed to a limited audience-the members of the profession –judges and lawyers and it is meant to assist them in the discharge of their day-to-day professional tasks.
- It does not fully reflect the social dimensions of law.
- Therefore, the feedback it supplies to the policy-makers is merely partial.

## 2. Trans-disciplinary legal research:

- An inquiry into a legal fact transgresses the discipline of ‘law’ and touches upon the disciplines ‘related’ to law.
- Such a legal research, to distinguish it from the former one, may be labeled as trans-disciplinary legal research.
- It is worth to recall here that law does not operate in a vacuum.
- It operates in a complex social setting.
- It has certain roles to play in a society.
- Each legal rule, in ultimate analysis, intends to apply and govern a factual situation of life.
- He goes ‘beyond law’ and peeps into other disciplines, with which ‘law’ is proximately connected.
- Socio-legal research generally falls into the category of trans-disciplinary legal research.

- Trans-disciplinary legal research, compared to mono-disciplinary legal research, has more potential for contributing to the advancement of knowledge and development of law as it depicts comparatively holistic picture of the legal fact under inquiry.
- However, trans-disciplinary legal research may be:

✓ quasi-disciplinary,

✓ multi-disciplinary, or

✓ inter-disciplinary in nature.

- Quasi-disciplinary legal research is a research undertaken by the same scholar of law in different perspectives that transgress the discipline of law.

- For example, legal research undertaken by a scholar of law, well conversant with religious literature, delves into personal laws and highlights niceties of legal issues associated therewith, or a writer on taxation laws makes use of his learning in accountancy or public finance to explain in depth the legal rules, falls in this category.
- A multi-disciplinary legal research, unlike quasi-disciplinary research, involves a study of a common problem by scholars of several disciplines, each studying it from his own specialized angle.
- For example, scholars of law, sociology, or political science may individually study the issues pertaining to gender equality or an affirmative action.

- Inter-disciplinary legal research is a research endeavor undertaken jointly by scholars belonging to different disciplines.
- However, the first and the last sub-types of trans-disciplinary research, *namely*, quasi-disciplinary and inter-disciplinary, have close bearing on legal research.
- Quasi-disciplinary legal research enables a legal scholar to offer more realistic and meaningful policy and reform-oriented proposals in the area of his inquiry.
- However, contribution of a quasi-disciplinary legal research depends upon the depth of scholarship of the researcher in the field of law as well as in the fields allied to law.

- Further, it is bridled with the difficulty of making a ‘right choice’ of ‘allied’ disciplines.
- A legal researcher will be confronted with more than one option.
- Nevertheless, the problem will be non-existent for a legal researcher who has set out his research objectives in unambiguous terms, formulated his research problem in a precise manner, and clearly fixed dimensions of his inquiry.
- This will help him to be on the ‘right’ path in his research journey.

## 3. Inter-disciplinary legal research:

- Inter-disciplinary legal research is the research done by a legal scholar in close association with scholars from other disciplines related with law, such as sociology, anthropology, political science, history, philosophy, psychology, and economics.
- It is a sort of concerted or cooperative effort by several scholars belonging to different disciplines to integrate their disciplinary insights, and to apply integrated insight to the study of legal problems.
- An inter-disciplinary legal research, compared to mono-disciplinary and quasi-disciplinary legal research, leads to better insight into the legal fact under investigation.

- It also results into offering more sound and sophisticated solutions to problems than can be suggested with the aid of mono-disciplinary and quasi-disciplinary legal research.
- However, inter-disciplinary legal research suffers from some operational difficulties:

1. The question regarding what and how many disciplines should be combined in the research endeavor may sometimes become difficult to resolve.

✓ It requires a lot of planning and decision-making.

2. Priorities and interests of research in different disciplines vary; therefore, the lack of consensus upon the 'issues to be resolved' may create operational difficulties in a cooperative research.
3. Sometimes it becomes difficult to develop 'communication' between the research partners belonging to different disciplines.

4. Every discipline has its own research tools, techniques and methods.

- ✓ They vary from discipline to discipline.

5. A sort of ‘tension’ among the participants may arise as they proceed with research.

- ✓ Each participant, consciously or unconsciously, may be tempted to see that his discipline dominates the other in the research endeavor.

6. A cooperative legal research requires compatible habits of the scholars involved therein and a working atmosphere that puts every one at ease.

# UNIT 5: HYPOTHESIS

## INTRODUCTION

- Formulation of hypothesis becomes essential in studies involving use of empirical research techniques.
- ‘Hypothesis’ is derived from two words: ‘*hypo*’ means ‘under’, and ‘thesis’ means an ‘idea’ or ‘thought’.
- Hence, hypothesis means ‘idea’ underlying a statement or proposition.
- In fact, the word ‘hypothesis’ is derived from the Greek, *hypo* (means under) and *tithenas* (means to place).
- It suggests that a statement when it is placed under evidence as a foundation becomes hypothesis.

- It is a tentative statement of presumed relationship between two or more concepts or variables.
- A hypothesis needs to be formulated in such a way that one can gather empirical evidence for verifying or refuting its correctness.
- It may prove correct or incorrect.
- But in either case, it leads to an empirical test.
- Whatever may be the outcome, the hypothesis is a question put in such a way that an answer of some kind can be forthcoming.
- If a hypothesis is empirically proved, the problem, which was tentative in the beginning of the research, is answered.
- The statement ceases to be a mere proposition.

- It becomes a verified fact.
- If hypothesis is not proved, the statement, in the absence of empirical support, merely remains as a proposition, probably, seeking for validity in future.
- Nevertheless, such a disproved hypothesis may lead to an alternative or additional hypothesis.
- A hypothesis need not necessarily be true.
- However, it needs to recollect here that hypothesis needs to be empirically tested.
- What a researcher, therefore, has to convince and ensure himself that he needs to formulate such a proposition, though tentative, he can work with and put it to empirical test and that the proposition guides his research.

## SOURCES OF HYPOTHESIS:

❖A few prominent sources of hypothesis are:

1. Hunch or intuition
2. Findings of other
3. A theory or a body of theory
4. General social culture
5. Analogy
6. Personal experience

# Hunch or intuition:

- A hypothesis may be based simply on hunch or intuition of a person.
- It is a sort of virgin idea.
- Such a hypothesis, if tested, may ultimately make an important contribution to the existing science or body of knowledge.

# CHARACTERISTICS OF A WORKABLE HYPOTHESIS OR USABLE HYPOTHESIS:

❁A ‘workable’ or ‘usable’ hypothesis would be the one that satisfies many of the following criteria:

1. Hypothesis should be conceptually clear
2. Hypothesis should be specific
3. Hypothesis should be empirically testable
4. Hypothesis should be related to available techniques
5. Hypothesis should be related to a body of theory or some theoretical orientation

## ROLE OF HYPOTHESIS:

♠A hypothesis, which is a provisional formulation, plays significant role in empirical or socio-legal research.

♠It not only navigates research in a proper direction but also contributes in testing or suggesting theories and describing a social or legal phenomenon.

## Role of hypothesis in navigating research:

➢A hypothesis, by delimiting the area of research, keeps a researcher on the right track in his research journey.

➢It also helps him in sharpening his thinking and focusing attention on the more important facets of the problem under investigation.

- Without a hypothesis, a socio-legal research or empirical research becomes ‘unfocused’ and ‘a random empirical wandering’.
- It prevents a blind search and indiscriminate gathering of masses of data which may later prove irrelevant to the problem under study.
- A hypothesis serves as a sound guide to:

1. the kind of data that must be collected in order to answer the research problem;
2. the way in which the data should be organized most efficiently and meaningfully, and
3. the type of methods that can be used for making analysis of the data.

## Role of ‘tested’ hypothesis:

- A hypothesis needs to be empirically tested to draw some inferences about the initially posited relationship between the variables indicated in the hypothesis.
- Therefore, when it is empirically tested (or not), the initially assumed relationship between the concepts or variables, as the case may be, becomes a proved fact.
- Once a hypothesis is established, it ceases to be a hypothesis.

- In this sense, a hypothesis also performs the following significant functions:

1. To test theories
2. To suggest new theories
3. To describe social phenomenon
4. To suggest social policy

# UNIT 6: RESEARCH DESIGN

## INTRODUCTION

- The process of ***research design*** can be explained by an analogy of an ***architect designing a building***.
- The major research design decisions, which are required to be taken, are to be in reference to the following aspects:

- What is the study about?
- What is the purpose of the study and its scope?
- What are the types of data required?
- Where can the data needed data be found and what are their sources?
- What will be the place or area of the study?
- What periods of time will the study include?

7. What time is approximately required for the study?
8. What amount of material or number of cases will be needed for the study?
9. What bases will be used for the selection of the required material /cases?
10. What techniques of data gathering will be adopted?
11. What type of sampling, if required, will be used?
12. How will the data be analyzed?
13. How best can all these questions be decided upon and what should be make so that decisions ***the research purpose*** will be achieved with minimum expenditure of money, time and energy?

- ***Research design*** is the plan, structure and strategy of investigation conceived so as to obtain answers to ***research questions***.
- The ‘plan’ includes everything the investigator will do from formulating the research problem or the hypothesis to the final analysis of the data and presenting his inferences.
- Research design is closely linked to the ***investigator’s objectives.***
- Research design tells the researcher what observations to make, how to make them and how to analyze the quantitative representation of the observations.
- It constitutes the ***blueprint*** for the collection, measurement and analysis of data.

- ***Research design*** possesses ***three*** important ***characteristics***:

1. it is a ***plan*** that specifies the sources and types of information relevant to the research problem.
2. it is a ***strategy*** specifying which approach will be used for gathering and analyzing the data.
3. it includes the ***time*** and ***cost budgets*** since most studies are done under these two constraints.

## MAJOR CONTENTS OF RESEARCH DESIGN:

- The term ‘research design’ refers to the entire process of planning and carrying out a research study.
- It involves the following ***major steps***:

- Identification and selection of the research problem.
- Research problem and its relationship with previous researches.
- Formulation of hypothesis & its Scope.
- Design of experiment or inquiry.
- Definition and measurement of variables.
- Identification of population for the sampling procedures.
- Tools and techniques for gathering data.
- Editing, coding and processing of data.
- Analysis of data-Selection of appropriate statistical procedures.
- Reporting-description of research process, Presentation.

- The broad outline of the design of a research study may be re-stated in the following ***main steps:***

1. Formulation of the research problem.
2. Decision on population for Sampling.
3. Tools and techniques for gathering data.
4. Determination on mode of the study.
5. Editing, coding and processing of data.
6. Statistical indices for the analysis of data.
7. Mode of presentation of the research report.

- These steps can further be grouped into ***four major stages***:

A. Planning Stage,
B. Designing Stage,
C. Operational Stage &
D. Completion Stage.

- The ***planning stage*** includes the identification, selection and formulation of research problem as well as the formulation of hypothesis and its linkage with theory and existing literature.
- The ***design stage*** consists of drawing up the design of the experiment or inquiry, definition and measurement of variables, sampling procedures, tools and techniques of gathering data.
- The ***operational stage*** deals with the drawing of the ***finances*** and ***budgeting***, recruitment and training of the staff, if necessary.
- The ***completion stage*** is concerned with analysis and interpretation of data.

# ROLE OF RESEARCH DESIGN

❖***Advantages of well-Prepared Research Design are***:

a. Result in the desired type of study with useful conclusions.

b. Lead to reduced inaccuracy.

c. Give optimum efficiency and reliability.

d. Minimize the uncertainty & confusion.

e. Helpful for the collection of research material & required data.

f. Operate as a ‘guide post’ for giving research a ‘right direction’.

g. Minimize the wastage of time and beating around the bush.

# UNIT 7: SAMPLING TECHNIQUES: RANDOM AND NON-RANDOM

## INTRODUCTION

- **Sampling and Population:** The whole group from which the sample is drawn is technically known as ***universe*** or ***population*** and the group actually selected for a study is known as ***sample***.
- Population refers to all of the cases.
- Since it is usually difficult for any researcher to study the entire universe or the total population (people or things) he/she proposes to investigate, it becomes incumbent upon him/her to select a portion of elements taken from the larger portion or population.
- Such a portion is referred as a ***sample*** and the process of drawing these elements from the larger population or universe is called the ***sampling method***.

- **Stratification and Sub-Population**: ***Stratification*** is a technique of dividing the whole group from which the sample is drawn/the population into a number of strata or groups, and thereby those strata is called ***Sub-Population.***
- Again the reason to adopt these techniques may be the vastness of population or other difficulties of ascertaining the universe by taking samples from the whole population.
- ***Samples*** are assumed to represent the total population.
- Confidence in the representativeness of a sample is increased if the population is well defined.

## MAJOR SAMPLING TECHNIQUES: RANDOM AND NON-RANMDOM:

- There are various types of sampling plans which are usually divided into based on ***probability/random*** samples/where the probability of the selection of each respondent is known/ and on ***non-probability/non-random*** samples(where it is not known).
- In probability sampling, statistical inferences about the population can be made from the responses of the sample.
- For this reason, ***probability*** sampling is sometimes referred to as ***representative*** sampling.
- The sample is taken as representative of the population.
- In non-probability samples, you cannot make such statistical inferences.

- A number of ***methods*** are used ***for drawing samples***, and they can be grouped into the following:

1. Simple Random Sampling;
2. Purposive Sampling;
3. Stratified Sampling:
4. Quota Sampling;
5. Multistage Sampling;
6. Convenience Sampling; and
7. Self Selecting Sampling.
8. These methods are categorized into the two broad classifications of sampling techniques.

## Probability/Random Sampling Techniques:

- As to the size of a sample, while probability samples allow you to generalize from sample to population, such generalizations are themselves probabilistic.
- The larger the sample, the lower the likely error in generalizing may be.
- Probability Samples are classified into the following five types of sampling methods:

- Simple Random Sampling
- Systematic Sampling
- Stratified Random Sampling
- Cluster/Area Sampling
- Multistage Sampling

## 1. Simple Random Sampling:

- This involves selection at random from the sampling frame of the required number of persons for the sample.
- It gives each person an ***equal chance*** of being included in the sample.
- It makes ***all possible combination of persons*** for a particular sample size equally.
- It is more suitable in more ***homogeneous*** and comparatively ***larger groups***.
- A random sample can be drawn either by ***lottery method*** or by using ***Tipett's number*** or by ***grid system*** or by selecting from ***sequential list***.

## 2. Systematic Sampling:

- This involves ***choosing a starting point*** in the sampling frame at random, and then choosing ***every $N^{th}$ person***.
- Thus if a sample of 50 is required from a population of 2,000, then every $40^{th}$ person is chosen.
- The problem of simple random and systematic sampling is, that both ***require a full list of the population***, and ***getting this list is often difficult.***

## 3. Stratified Random Sampling:

- This involves dividing the universe or population into a number of groups or strata, where members of a group share a particular characteristic or characteristics(e.g. stratum A may be females; stratum B males).
- There is then random sampling within the strata.

- It is usual to have ***proportionate*** sampling.
- It may sometimes be helpful to have ***dis-proportionate sampling,*** where there is an ***unequal weighting.***
- It is possible to combine stratification with systematic sampling procedures.
- It is the combination of both random sampling and purposive selection.
- In the selection of strata, we use purposive selection method, but in selecting actual units from each stratum, random method is used.

## 4. Cluster/Area Sampling:

- This involves dividing the population into a number of units, or clusters, each of which contains individuals having a range of characteristics.
- The clusters themselves are chosen on a random basis.
- The subpopulation within the cluster is then chosen.
- This tactic is particularly useful when a population is widely dispersed and large, requiring a great deal of effort and travel to get the survey information.
- An example might involve school children, where there is initially random sampling of a number of schools, and then testing of all the pupils in each school.
- This method has the valuable feature that it can be used when the sampling frame is not known (e.g. when we do not have full list of children in the population, in the above example).

## 5. Multistage Sampling:

- This is an extension of cluster sampling.
- This method is generally used in selecting a sample from ***a very large area.***
- It involves selecting the sample in stages, i.e. taking ***samples from samples.***
- Thus one might take a random sample of schools, then a random sample of the classes within each of the schools, and then from with in selected classes choose a sample of children.
- As with cluster sampling, this provides a means of generating a ***geographically concentrated sampling.***
- It is also possible to incorporate stratification into both cluster and multistage sampling.
- Judging the relative efficiencies of these more complicated forms of sampling, and their relationship to the efficiency of simple random sampling, is difficult, and if you are expending considerable resources on a survey it is worth seeking expert advice.

## Non-Probability/Non-Random Sampling Techniques:

- In probability sampling it is possible to specify the probability that any person (or other unit on which the survey is based) will be included in the sample.
- Any sampling plan where it is not possible to do this is called 'non-probability sampling`.
- ***Small-scale surveys*** commonly employ ***non-probability samples.***
- They are usually less complicated to set up and are acceptable when there is no intention or need to make a statistical generalization to any population beyond the sample surveyed.
- They typically involve the researcher using his judgment to achieve a particular purpose, and for this reason are sometimes referred to as ***purposive samples***.
- Their accuracy relies greatly on the ***skill*** and ***experience*** of those involved.

- The ***types of Non-Probability Sampling methods*** are presented as follows:

1. **Quota Sampling:** Here the strategy is to obtain representative of the various elements of a population, usually in the relative proportions in which they occur in the population.

- ✓ Quota sampling is a special form of stratified sampling.
- ✓ According to this method, the universe is first divided into different strata.
- ✓ Then the number to be selected from each stratum is decided.
- ✓ This number is known as quota.

2. **Dimensional Sampling**: It is an extension of quota sampling.

1. The various dimensions thought to be of importance in a survey are incorporated into the sampling procedure in such a way that at least one representative of every possible combination of these factors or dimension is included.

**3. Convenience Sampling**: It involves choosing the nearest and almost convenient persons to act as respondents.

- ✓ The process continues until the required sample size is reached.
- ✓ It is sometimes used as a cheap and dirty way of doing a sample survey.
- ✓ You do not know whether or not findings are representative.
- ✓ This is probably one of the most widely used and least satisfactory methods of sampling.
- ✓ This method is generally known as unsystematic, careless, accidental or opportunistic sampling.

- According to this system, a sample is selected according to convenience of the field workers or researchers.
- The convenience may be in respect of availability of source list and accessibility of the units.
- It is used when universe or population is not clearly defined, sampling unit is not clear or a complete source list is not available.

**4. Purposive Sampling:** The principle of selection in purposive sampling is the ***researcher's judgment*** as to typicality or interest.

- ✓ A sample is built up which enables the researcher to satisfy his/her specific needs in a research project.
- ✓ Accordingly, when the researcher deliberately or purposively selects certain units for study from the population it is known as ***purposive selection***.
- ✓ In this type of selection the choice of the selector is supreme and nothing is left to chance.
- ✓ It is more useful especially when some of the units are very important and, in the opinion of the researcher, must be included in the sample.

**Merits of Purposive Sampling:**

1. A small sample can be representative.
2. The researcher has the final say on the election.

**Demerits of Purposive Sampling:**

1. The selection is biased and prejudiced.
2. The results drawn are unscientific and inaccurate.

**5. Snowball Sampling:** Here the researcher identifies one or more individuals from the population of interest (for e.g. selecting a few judges, prosecutors or advocates for interview in conducting research on effectiveness and efficiency of the Federal judiciary system).

- After they have been interviewed, they are used as informants to identify other members of the population, who are themselves used as informants, and so on.

- Snowball sampling is useful when there is difficulty in ***identifying members*** of the population, e.g. when this is ***a clandestine group.***
- It can be seen as ***a particular type of purposive sample.***
- Both approaches tend to be used in ***field work types of research***, particularly in ***case studies*** and where ***participant observation*** is involved.

# UNIT 8: BASIC TOOLS OF DATA COLLECTION

## Introduction

- The heart of any research design is the ***collection of data.***
- There are two sources of data: the primary and the secondary.
- The primary data is collected mainly through questionnaire and interview schedule.
- Basic Tools of Data Collection are:

i. Interview,

ii. Interview Schedule,

iii. Questionnaire,

iv. Observation:

✓ Participant observation,

✓ Non-participant observation.

- In primary data , the data is directly collected from the respondent.
- Whereas in secondary data the main source is published and unpublished material-As well it is called ***Library research***.

## INTERVIEW:

- Interviewing typically involves you, as researcher, asking questions, and hopefully, receiving answers from the people you are interviewing.
- It is very widely used in social research including the legal research.
- There are many types of interview.

## Types of Interview:

1.**Fully Structured Interview**-has predetermined questions with fixed wording, usually in a pre-set order.

2.**Semi-Structured Interview-**It has predetermined questions, but the order can be modified based upon the interviewer's perception of what seems most appropriate.

3.Question wording can be changed and explanations given.

4.Particular questions which seem inappropriate with a particular interviewee can be omitted, or additional ones included.

**3. Unstructured Interview**-The interviewer has a general area of interest and concern, but lets the conversation develop within this area.

1.It can be completely informal.

2.Both the questions asked and responses given are left flexible and open.

3.Semi structured and unstructured interviews are widely used in flexible, qualitative designs and they are referred as qualitative research interviews.

## General Advice for Interviewers:

As an interviewer you should:

1. Listen more than you speak;
2. Put questions in a straight forward, clear and non-threatening way;
3. Eliminate cues which lead interviewees to respond in a particular way;
4. Enjoy it-Do not give the message that you are bored or scared.

## The Items/Questions of Interviews:

- Three main types are used in research interviews:

1. Closed/Fixed-alternative,
2. Open and
3. scale items.

- Closed questions/fixed-alternative force the interviewee to choose from two or more fixed alternatives.
- Open questions provide no restrictions on the content or manner of the reply other than on the subject area.
- Scale items ask for a response in the form of degree of agreement or disagreement.

- The advantages of open-ended questions are:
- Flexibility;
- Allow you to go into more depth or clear up any misunderstandings;
- Enable testing of the limits of a respondent’s knowledge;
- Encourage co-operation and rapport;
- Allow you to make a truer assessment of what the respondent really believes;
- can produce unexpected or unanticipated answers.

## Questions To Be Avoided in Interviews are:

- In conducting interview the interviewer should avoid the following forms of questions:
- Long questions-The interviewee may remember only part of the question, and respond to that part.
- Double barreled(multiple-barreled) questions.
- Questions involving Jargon.
- Leading questions.
- Biased questions.

## The Sequence of Questions in Interview:

☞A commonly used sequence is as follows:

- ***Introduction-*** Interviewer introduces himself/herself, explains purpose of the interview, assures of confidentiality, and asks permission to tape and/or make notes.
- ***'Warm-up'-***Easy, non-threatening questions at the beginning to settle down both of you.
- ***Main body of interview-***covering the main purpose of the interview in what the interviewer considers to be a logical progression.
- ***'Cool-off'-***Usually a few straight forward questions at the end to defuse any tension that might have built up.
- ***Closure-***Thank you and goodbye.

- Interview may be conducted with ***face-to-face*** interviewing, ***telephone*** interviewing and in this computerization age even through electronic (***e-mail***) communication.

## Advantages of Interviews:

- The interview is a flexible and adaptable way of finding things out.
- Face to face interviews offer the possibility of modifying one's line of enquiry, following up responses and investigating underlying motives in a way that postal and self-administered questionnaires cannot.
- It has the potential of providing rich and highly illuminating material.

## Disadvantages of Interviews:

- Time Consuming,
- Requires careful preparation.

## INTERVIEW SCHEDULE:

- Interviewing itself is an art, but the planning and writing of an interview schedule is all the more so.
- The purpose of a schedule is to provide a standardized tool for observation or for interview in order to attain objectivity.

- By schedule every informant has to reply the same question put in the same language and the researcher has no choice to get the desired reply by putting a different question or changing the language of the same question.
- The order of the questions is also the same and thus the whole interview takes place under standardized conditions and the data received is easily comparable.
- The other purpose of schedule is to facilitate the work of tabulation and analysis.
- In fact, the questions are formed while keeping the tabulation plan in mind.

## SURVEYS AND QUESTIONNAIRES:

## What is Survey?

- Survey research entails the collection of data on a number of units and usually at a single juncture in time, with a view to collecting systematically a body of quantifiable data in respect of a number of variables which are then examined to discern patterns of association.

## QUESTIONNAIRE:

- It refers to a set of questions that a lot of people are asked as way of getting information about what people think or do generally.
- The questions are usually systematically written and printed on papers.

- Most kinds of researches including legal research method involve the use of a questionnaire as the basic approach to fact or information collection.
- Most surveys also involve use of a questionnaire as the basic approach to survey data collection.
- There are three major ways in which questionnaire is administered:

1. **Self-completion-**Respondents fill in the answers by themselves.
2. **Face-to-face interview-** An interviewer asks the questions in the presence of the respondent, and also completes the questionnaire.
3. **Telephone interview**- The interviewer contacts respondents by phone, asks the questions and records the responses.

## OBSERVATIONAL METHODS:

- Fundamentally different approaches to the use of observation methods in enquiry have been employed.
- Two popular extreme types are: ***participant observation/Non-Structured and Non-Participant/structured observation.***
- Participant observation is an essentially qualitative style which has been used in variety of disciplines including in the legal profession.
- Participant observation is a widely used method in flexible designs, particularly those which follow an ethnographic approach.
- Structured observation is almost exclusively linked to fixed designs of both experimental and non-experimental types.

# Approaches to Observation-Classifying Observational Methods:

- One important dimension of the difference in approaches to observation is the degree of pre-structure in the observation exercise.
- This can be dichotomized as formal or informal observation.
- Informal approaches are less structured and allow the observer considerable freedom in the information gathered and how it is recorded.
- They would include note taking and generally gathering information from informants.
- Formal approaches impose a large amount of structure and direction on what is to be observed.
- The observer has only to attend to these pre-specified aspects; everything else is considered irrelevant for the purposes of the study.

- The classes of observational methods in both dimensions will be discussed as follow:

1. **Participant observation-** A key feature of participant observation is that the observer seeks to become some kind of a member of the observed group.

- ✓ This involves not only a physical presence and a sharing of life experiences but also entry into their social and 'symbolic' world through learning their social conventions and habits, their use of language and non verbal communication, and so on.
- ✓ The observer also has to establish some role within the group.
- ✓ The primary data are the interpretations by the observer of what is going on around him.
- ✓ The observer is the research instrument, and hence great sensitivity and personal skills are called for if worthwhile data are to be collected.
- ✓ Participant observation might be useful in a small project: with small groups, for events or processes that take a reasonably short time , for frequent events.

2. **The complete participant-**The complete participant role involves the observer concealing that s/he is an observer, acting as naturally as possible and seeking to become a full member of the group.

3. **The participant as observer-**It is a feasible alternative to have the participant as observer role.

- The fact that the observer is an observer is made clear to the group from the start.
- The observer then tries to establish close relationships with members of the group.
- This stance means that as well as observing through participating in activities, the observer can ask members to explain various aspects of what is going on.

- It is important to get the trust of key members of the group.
- It would appear that this role would have more of disturbing effect on the phenomena observed than that of the complete participant, and several, experienced participant observers have documented this.
- How ever, one effect may be that members of the group are led to more analytical reflection about processes and other aspects of the group's functioning.

4. **The Marginal Participant-**In some situations it may be feasible and advantageous to have lower degree of participation than that envisaged in the preceding sections.

- This can be done by adopting the role of a larger passive, though completely accepted, participant- a passenger in a train or bus, or a member of the audience at a concert or sports meeting.

5. **The observer as participant-**This is some one who takes no part in the activity but whose status ***as researcher is known to the participants.***

- Such a state is aspired to by many researchers using systematic observation.
- However, it is questionable whether any one who is known to be a researcher can be said not to take part in the activity-in the sense that their role is now one of the roles within the larger group that includes the researcher.

# UNIT 9: ANALYSIS AND INTERPRETATION OF DATA

## Doctrinal Legal Research

- Law is a ***normative science*** which lays down norms and standards for human behavior in a specified situation enforceable through the ***sanction of the state***.
- What distinguishes law from other social sciences is its normative character.
- On the other side, law is a social science on account of the simple fact that it regulates human conduct and relationship.
- This fact along with the fact that stability and certainty of law are desirable goals and social values to be pursued, make doctrinal research to be of primary concern to a legal researcher.
- Doctrinal research involves analysis of case law, arranging, ordering and systematizing legal propositions, and study of legal institutions, but it does more-it creates law and its major tool(but not only tool) to do so is through ***legal reasoning*** or ***rational deduction***.

- Most of doctrinal legal research has characteristics of addressing a limited audience-the members of the legal profession (judges, lawyers, advocates and prosecutors).
- And it is meant to assist them in the discharge of their day to day professional tasks.
- The researcher explains the relevant judicial concepts, analyses statutory provisions, picks out judicial dicta, formulates principles deducible from judicial decisions, and arranges the whole material in some logical order.
- An American jurist (Justice Holmes) stated that: the life of law has not been logic: it has been experience.
- This proves the significance of doctrinal legal research in the task of legal profession.
- A few outstanding examples for doctrinal research are carrying out legal research on: ***Family law, Succession law, child rights, law of torts, labor law, administrative law, etc***.

# A General Approach to Legal Research:

- A general approach to legal research can be broken down into ***four basic steps.***
- These steps are:

1. Identifying/Gathering facts,
2. Analyzing Facts,
3. Formulating Legal issues and
4. Doing the Legal Research.

1. **Identifying/Gathering Facts:** Facts are the bases for a legal research.

- Without facts, conducting legal research does not give much sense.
- Legal research does not occur in a factual vacuum.
- The purpose of researching in law is to ascertain the legal consequences of a specific set of actual or potential facts.

2. **Analyzing Facts:** once you have identified and gathered your facts, you are ready to analyze them to determine the legal issues you need to research.

- This analysis involves thinking of words that describe the various aspects or characteristics of your problem, organizing the facts and shaping them.

- The important suggested system for gathering the ***elements of analysis of facts*** common to all legal problems are:

1. Analyzing parties or persons involved in a case under investigation.
2. Places where the facts arose and objects and things involved.
3. Basis of the case or issue involved.
4. Defense or opposite argument to the action or issue.
5. Relief or solution sought.

# UNIT 10: WRITING A RESEARCH REPORT

## INTRODUCTION

- The researcher has to prepare the report of what has been done by him.
- The writing of report must be done with great care.
- The ***layout of the report*** should be as follows:

1. The preliminary pages,
2. The main text and
3. The end matter.

- The ***rule of bibliography*** is system of providing information about our references.

- Bibliography has 3 basic sections, which are:
- ✓ Table of laws,
- ✓ Table of cases and
- ✓ Other bibliographic materials.

## Content and Form of Citations:

1. **Books:** The first reference to a book should contain the following information in the following order:
2. Author's name;
3. Title (underlined or in italics);
4. Edition number, if there has been more than one edition (in parenthesis);
5. Year of publication of that edition (in parenthesis);
6. Number of the volume referred to, if the work has more than one volume;
7. Section, article, number, page, etc. referred to, as appropriate

**A. Title:** The full title should be given, without abbreviation, however, if the title is given in a bibliography and can be shortened conveniently without creating ambiguity, a short from may be used.

- A short form may also be used when there is no bibliography, if on a page at the beginning of the paper a list is made in regular footnote form of the books that will be cited in the short form, and a statement made to that effect.
- Short forms are only used, if at all, for major works cited many times in a paper.
- It is not necessary to give sub-titles; however, if a sub-title is used, it should be made part of the underlined title, but separated from it by a dash.
- In English titles, the first letter of the first word and every important word there after (including all nouns, adjectives, adverbs and names) must be capitalized.
- In Amharic titles and titles of other languages translated into English, follow the same principles of capitalization as in English titles.

**B. Edition Number:** If there has been only one edition, do not state an edition number.

- If there have been several editions, identify the edition referred to by the identification used by the publisher; this will usually be a number.
- Note that an edition is different from a "reprint" "imprint" or "printing".
- A new edition usually involves revisions of, or additions to, the text-Reprints, imprints, and printings do not involve revisions or additions; the original text is merely printed again.
- Reprints, imprints and printings are irrelevant and should not be mentioned.

## C. Date of Publication; Other Facts of Publication:

- If there has been more than one edition, the data of publication to be given is only that of the edition cited.
- As with the edition number, dates of reprints, imprints or printings are not to be given.
- The date of publication appears in parentheses; if an edition number is cited, it appears after the edition number within the same parentheses.
- In some sets of more than one volume, different volumes are published in different years.
- In this case, the date of publication should be the date of publication of the volume referred to.

## D. Number of Volumes:

- Volume numbers should be given in Arabic numerals (that is, 1,2, 3, etc.) whether or not they are given in Roman numerals (that is, I, II, III, etc.) in the book referred to.
- The abbreviation of “volume” (Vol; Vols) should be used.

## E. Section, Article, etc.:

- When reference is made to a section, article, number, chapter, or page, the same numbering or lettering should be used as in the book referred to.
- Usually, it is only necessary to refer to a particular page or pages.
- Sometimes, however, it is more helpful to the reader to refer to a particular article, section, number, or chapter or, it may be helpful to refer to more than one of these.
- The matter is within the writer’s discretion.
- The appropriate abbreviations should be used.

## 2. Articles in Scholarly Magazines and Journals:

- The first reference to an article in a scholarly magazine or journal should contain, in the following order:

- Name of article’s author;
- Title of article ( in quotation marks);
- Name of the magazine or journal (underlined or in italics);
- Volume number;
- Number of the part or issue, if the pages in each part or issue are numbered separately or if a reference to the number is necessary or convenient to a proper identification of the location of the article;
- Date of publication (in parentheses);
- Page or pages where the specific reference may be found.

## 3. Newspapers and News Magazines:

- Reference to an article in a newspaper or news magazine should contain, in the following order:

A. Name of the newspaper or magazine (underlined);

B. Date of the newspaper or magazine referred to;

C. Page where the specific reference may be found;

D. Column where the specific reference may be found, if more than one column on the page.

**Example:** **<u>The Ethiopian Herald</u>,** May 20, 1965, p.3.col.2.

- **Name:** The name of a newspaper or magazine may be silent or ambiguous as to the place where it comes to or is published.
- In this case, put the name of the city or country in parentheses after the name of the newspaper or magazine, but before the date.

**Example**: **<u>The Times</u>** (London), April 15, 1965, p.10, col.5.

## 4. Judicial Decisions:

- The form specified below should be used for administrative decisions of a judicial nature.
- The first reference to a judicial decisions should contain the following information, in the following order:

1. Case Name;
2. Case number; (in parenthesis ) i.e. number if the case is not published (in parenthesis);
3. Court (in parenthesis);
4. Jurisdiction of the court, if other than Ethiopia (in parenthesis);
5. Date of decision ( in parenthesis);
6. Name of reporter or journal where found (underlined or in italics);
7. Volume of reporter or journal where found;
8. Page where specific reference may be found.

***Example:*** Gorfe G/Hiwot v. Aberash Dubarge and Getachew Nega (Federal Supreme Court Cassation Division, 2007), Mizan Law Review, vol. 1 No.1.p.182.