

**Non enforcement of policies for the betterment of  
disabled**

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## **LEGAL RESEARCH**

### **MEANING:**

Research means to search or to find out and examine again. This is the very essence of the process of acquiring new knowledge. In its ordinary sense, research means an act of searching into a matter carefully and closely. In the academic world, research means a systematic study or investigation of existing facts or knowledge related to any matter undertaken with the object of finding some truth or reality.

Legal research, or law research, usually refers to any systematic study of legal rules, principles, concepts, theories, doctrines, decided cases, legal institutions, legal problems, issues or questions or a combination of some or all of them.

The term legal rules is used to refer to rules recognized and enforceable under any legal system, or rules declared under any constitutional document, or statutory provisions, framed by law making bodies or authorities, or subsidiary legislation, framed by administrative bodies or authorities.

Legal research is an original and fundamental contribution to the knowledge on any subject or discipline leading for its advancement. It is a voyage towards truth. The Encyclopedia Britannica defines research to mean, “the act of searching into a matter closely and carefully, inquiry directed to the discovery of truth and in particular the trained scientific investigation of the principles and facts of any subject, based on original and first hand study of authorities or experiment. Investigation of every kind which has been based on original sources of knowledge may be styled research and it may be said that without research no authoritative work has been written, no scientific inventions or discoveries made, no theories of any value propounded.

## **OBJECTIVES OF RESEARCH**

A researcher may be an academician, a person occupying an administrative position or a businessman. If a person is equipped with the ability to analyse the facts, he is in a better position to take an appropriate decision in the area or field he is engaged in by interpreting and weighing appropriate documents and factors<sup>1</sup>. Every research has its own specific purpose, however, the purposes or objectives of research may broadly be classified as follows:

- i. To familiarize with a phenomenon or to acquire new insights into an existing fact; (exploratory research);
- ii. To determine the frequency with which something occurs or with which it is associated with something else; (diagnostic research);
- iii. To portray accurately the characteristics of a particular object, situation or group; (descriptive research)
- iv. To test a hypothesis of a casual relationship between two objects; (hypothesis testing research);
- v. To separate fact from speculation and wish; (distinguishing research).

## **OBJECTIVES OF LEGAL RESEARCH**

Research is an enquiry for the verification of a fresh theory of supplementing prevailing theories by new knowledge. Since every knowledge is the extension of an existing knowledge, no research can be said to be absolutely new. A researcher while undertaking a project for his work possesses much of information about it and while conducting research, he proceeds onward to acquire more information about it and formulates certain hypothesis on that basis. Thus it is a continuous process of acquiring knowledge through enquiry into existing laws.

The following may be taken as objectives of legal research:

- i. To discover new facts;
- ii. To test and verify old facts;
- iii. To analyse the fact in new theoretical framework
- iv. To examine the consequences of new facts or new principles of law; or judicial decisions;
- v. To develop new legal research tools or apply tools of other disciplines in the area of law;
- vi. To propound a new legal concept;
- vii. To analyse law and legal institutions from the point of view of history ;
- viii. To examine the nature and scope of new law or legal institution;
- ix. To ascertain the merits and demerits of old law or institution and to give suggestion for a new law or institution in place of a old one;

- x. To ascertain the relationship between legislature and judiciary and to give suggestion as to how one can assist the other in the discharge of one's duties and responsibilities; and
- xi. To develop the principles of interpretation for critical examination of statutes.

### **SIGINIFICANCE OF LEGAL RESEARCH**

In modern time law has assumed much significance. It provides for and dominates almost all activities of human beings, it has been accepted that law is perhaps most important instrument of social change. When an individual deals with his property or he enters into employment or he causes injury to someone , he fails to pay his dues or he deals with his spouse and children or the government affects his property or his personal rights, he comes in contract with law and either he or his opponent obtains remedy in accordance with the existing law and where there is no law, according to the discretion of the court. The significance of research may based on justice, equity and good conscience, thus, be summed up as follows:

- i. It helps the government in formulating suitable laws in pursue its economic and social policies
- ii. It helps in solving various operational and planning problems pertaining to business and industry and tax.
- iii. It helps the courts in solving the problem without much delay and in such a way that the problem may not recure at all or at least in near future.
- iv. It helps the legal practitioner in taking a decision as to how he should tackle the problem in hand.

## **APPROACHES TO LEGAL RESEARCH**

Law research is often classified into two categories. When research is concerned with some legal problem, issue or question, it is referred to as doctrinal, theoretical or pure legal research. When legal research also involves a study of some aspect of society or social problem, issue or question, it is sometimes termed as socio legal research.

### **A. Doctrinal Research<sup>1</sup>**

Doctrinal research is essentially a library based study, which means that the materials needed by a researcher may be available in libraries, archives and other data bases. The basic aim of such research is to discover, explain, analyse and present, in a systematic form, facts, principles, provisions, concepts, theories or the working of certain laws or legal institutions.

‘Justice, fairness, protection of rights, freedom and liberty’ are often used by the researcher as the criterion to evaluate the relevance or effectiveness of laws, concepts or legal institutions. The underlying aim of such research is to gain and present new knowledge and ideas or to suggest change and reform.

### **B. Socio-Legal Research<sup>2</sup>**

Socio-legal research refers to the study of some aspect of ‘law in operation, law in context, and law in action’ which means a study of how law operates in a social context or how law deals with a social problem, issue or question.

1, 2 Legal Research and Writing Methods by Anwarul Yaqin pgs 7 8

The term socio- legal research is used to refer to a study that combines legal research within an investigation of some problem, or question which is essentially of a social nature and uses techniques of data used in social science research. Usually the underlying aim of such study is to determine the nature and extent of the adequacy and inadequacy of the existing law, or the need for a new law, or to ascertain whether an efficacious use of law can offer some kind of solution or answer to a problem or question or whether law can be used as an instrument of control, change and reform.

Some of its basic features are stated below:

- i. Social research is a systematic study into social, political or other fact – conditions, to discover unknown or partly known factors working behind a particular phenomenon or to understand why something happens and to draw inferences ad general conclusions.
- ii. It is an attempt to ascertain why and how human beings behave in a certain way in certain factual situations.
- iii. It is to identify the cause and effect of a certain problem.
- iv. Social research may often be carried out with a view to ascertaining peoples' ideas, views, attitudes or values, on a certain legal or social problem or question. Many surveys and opinion polls are carried out with this object in view.
- v. Social research is essentially a field – study, where a hypothesis is usually framed and then sought to be tested or verified, or a question is raised and sought to be answered. It is carried out by collecting data

and information using the methods developed by the social sciences, such as sociology, psychology, criminology, education.

**One major socio legal problem is disability and the non enforcement of any policies for the betterment of the disabled.**

## **INTRODUCTION TO TOPIC**

There are 600 million persons<sup>1</sup> with disabilities in the world today. 80% of them live in developing countries. A staggering 90 million people in India are disabled. That's almost one in every ten.

These figures are not mentioned to create any sympathy for persons with disabilities. The aim of mentioning these figures here is to illustrate that still 600 million persons with disabilities are being prevented from contributing to the world society (whether socially or economically) because of the barrier called disability.

The majority of persons with disabilities live in less developed countries where people lack access to essential services such as health care. Moreover, there exists a clear relationship between poverty and disability. The risk of impairment is greater for a family that lives in poverty, while and at the same time, a disabled family member places higher demands on the family's resources.

1. [en.actlearning.org](http://en.actlearning.org)

Among persons with disabilities, the following form particularly vulnerable groups that face discrimination based on two grounds: women, children, elders, victims of torture, refugees and displaced persons, and migrant workers. For instance, women with a disability are discriminated against because of their gender and also because of their disability.

However, there has been a shift in international thinking on disability from largesse-based perspective to rights-based perspective. The world for and of the disabled is changing at a rapid pace and the aspirations as well as expectations of people are also changing as fast. Advances in medical and surgical sciences, breakthroughs in technology, greater understanding of the causes of disability and improved methods of coping with it, increasing consciousness of civil rights and the emergence of people with disabilities displaying skills and knowledge to improve their own lives, are some of the factors which have contributed to the new thinking. It is now recognized that the disabled deserve a dignified status in society on the same terms as the non-disabled. Disabled people are a vast minority group, which has been subjected to direct and indirect discrimination for centuries in most countries of the world, including India. }

The human rights movement has boldly and categorically shifted the attention of policy-makers from the mere provision of charitable services to vigorously protecting their basic right to dignity and self-respect. In the new scenario, the disabled are viewed as individuals with a wide range of abilities and each one of them willing and capable of utilising his/her potential and talents. Society, on the other hand, is seen as the real cause of the misery of people with disabilities since it continues to put numerous barriers as expressed in education, employment, architecture, transport, health and other activities.

## **MAJOR STEPS INVOLVED IN DOING LEGAL RESEARCH**

Research work is not something which can be completed in one stroke or in one step. It consists of a number of closely related activities which very often overlap, and therefore, it becomes difficult to ascertain where one step ended and the other began. The various guidelines in this regard are<sup>1</sup>:

- 1. Formulation of research problem**
- 2. Extensive survey of literature**
- 3. Formulation of hypothesis**
- 4. Collection of material**
- 5. Analysis of material**
- 6. Testing of hypothesis**
- 7. Generalisation and interpretation**
- 8. Preparation of report**

**1. Formulation of research problem:** At the very outset, the researcher must choose the area in which he wants to carry on research. After selecting the area, he is required to select a specific topic or subject for his study. Once the topic is determined or the problem is ascertained, then the feasibility of the solution that researcher has in mind is considered before a working formulation of the problem can be set up.

Formulating a research problem involves two steps :

- (a) Understanding the problem thoroughly
- (b) Re shaping that understanding into meaningful terms to arrive at a concrete result.

**2. Extensive survey of literature:** once a problem is formulated, a brief summary of it should be prepared. For this the researcher must undertake an extensive survey on the available literature on the subject: preferably connected with the problem. Academic

journals, conference proceedings, Government reports, reference books and textbooks, depending on the nature of the problem must be seen.

**3. Formulation of hypothesis:** When the literature relating to the problem is extensively surveyed, researcher should state in clear terms the hypothesis. A hypothesis is the tentative assumption made in order to draw out and test its logical consequences. The development of hypothesis is important since it provides the focal point for research.

**4. Collection of material:** A research cannot be said to be duly carried out unless the relevant materials have been examined. The collection of relevant materials is most difficult and comprehensive work.

The collection of materials depends upon the research design selected by the researcher and the selection of research design depends usually upon the answer of the following questions:

1. What is the study about?
2. Why is the study being made?
3. Where will the study be carried out?
4. What type of data is required?
5. Where can the required data be found?
6. What techniques of data collection will be relevant?
7. How will the data be analysed?
8. In what way the report is to be prepared?

Relevant materials may be divided into two categories:

- (a) Primary materials – are found in the original documents, such as reports of Parliament, reports of Commission, Gazette and reports of judgements, etc.
- (b) Secondary materials are found in those documents which are prepared on the basis of primary documents e.g. Comments of jurists on the judgements, writings, textbooks,

digests, etc. This procedure of collecting information or material is significant if the researcher is engaged in doctrinal research. If however, he is engaged in empirical or non doctrinal research, he may follow any one or more of the following methods:

1. By observation: In this process the researcher uses his own observation to find out the relevant material or data without interviewing any person. It helps in having an idea as to the current happening of the events and is not complicated by either the past behaviour or by future plans. This process however is not very significant or helpful, where large surveys are desirable.

2. By personal interviews: in this method the researcher comes into personal contact of person whose mind he wants to know for the purpose of deriving a conclusion. He preconceives certain questions and those questions are placed before the person concerned and on the basis of the answer given by him, conclusions are arrived at. Interview can be conducted either by sitting across the table or by telephone.

3. By sending questionnaires: the researcher, if wishes to come in contact with of a good number of persons, it is not possible for him to have audience with each one of them individually; then the best way is to prepare questionnaires and send them to all the relevant persons with a request to return the same after completing. The questionnaire should be prepared very carefully so that it may prove to be effective in collecting the relevant information.

**5. Analysis of material:** Once the requisite materials are collected, the researcher undertakes to analyse them. In case of doctrinal research, the researcher can proceed smoothly if he is well aware of the principles of interpretation and construction. He is required to examine the facts of each case, the principles applied to that fact, the line of argument taken, relief sought and provided, and if necessary the history or legislation, etc.

In case of empirical research, since the emphasis is on data, statistics, questionnaire, etc, the analysis of data is conducted through coding, tabulation and then drawing statistical references. The data so collected should be so arranged that it may lead to some useful result.

**6. Testing of hypothesis:** After analysis of materials or data, the researcher can examine if the material or data after analysis support his hypothesis. The hypothesis testing ultimately results in either accepting the hypothesis or in rejecting it or in making amendment to it.

**7. Generalisation and interpretation:** The research work whether doctrinal or non doctrinal will proceed towards generalisation and interpretation, if the hypothesis has been tested positive. If it results in negative, the question of generalisation and interpretation does not arise. The purpose of generalisation and interpretation is to build up a theory to be applicable in future to adjudicate upon similar and identical problems.

**8. Preparation of report:** The penultimate task in a research work is to write a report of the exercise work done so far. It should be prepared with great care and caution because, it is this report that gives credit to the researcher.

## **HYPOTHESIS**

A hypothesis states what we are looking for. When facts are assembled, ordered, and seen in a relationship, they constitute a theory. The theory is not speculation, but is built upon fact. Now, the various facts in a theory may be logically analyzed, and relationships other than those stated in the theory can be deduced. At this point there is no knowledge as to whether such deductions are correct. The formulation of the deduction, however, constitutes a hypothesis; if verified it becomes part of a future theoretical construction. It is thus clear that the relation between the hypothesis and theory is very close indeed<sup>1</sup>. One scientist, in this connection, has stated: "in practice a theory is an elaborate hypothesis which deals with more types of facts than does the simple hypothesis. The distinction is not clearly defined." \while it is true that the two can never be satisfactorily separated; it is useful to think of them as two aspects of the way in which science adds to knowledge. Thus a theory states a logical relationship between facts. From this theory other propositions can be deduced that should be true, if the first relationship holds. These deduced propositions are hypotheses. A hypothesis looks forward. It is a proposition which can be put to a test to determine its validity. It may seem contrary to, or in accord with, common sense. It may prove to be correct or incorrect. In any event, however, it leads to an empirical test. Whatever the outcome, the hypothesis is a question put in such a way that an answer of some kind can be forthcoming. It is an example of the organised scepticism of science, the refusal to accept any statements without empirical verification. Every worth-while theory, then, permits the formulation of additional hypotheses. These, when tested, are either proved or disproved and in turn constitute further tests of the original theory. In either case they may be of use to existing theory and to make possible the formulation of still other hypotheses. Such a simple outline, unfortunately, fails to indicate that the formulation of useful hypotheses is one of the most difficult steps in scientific method.

## **PROBLEMS IN FORMULATING THE HYPOTHESIS**

The fundamental need of a hypothesis is to guide sound research. Without it, research is unfocused, a random empirical wandering. 'The results cannot even be stated as facts with a clear meaning. The hypothesis is the necessary link between theory and the investigation which leads to the discovery of additions to knowledge.

The chief difficulties in the road to the formulation of useful hypotheses are three. First among these is the absence of (or the absence of knowledge of) a clear theoretical framework. Second is the lack of ability to utilize that theoretical framework logically. And third is the failure to be acquainted with available research techniques so as to be able to phrase the hypothesis properly.

Still closer to the formulation of a hypothesis would be to suggest the study of empirical regularities. This type of research would be represented by the study of such things as the ecological distribution of mental disorders, the acceptance of contraceptive practices in Latin America, or the marital adjustment of rural Southerners. Such questions do suggest the type of data to be gathered, but they are hypotheses of a low level of abstraction; they merely predict that some type of patterning will appear without predicting what that pattern will be.

On the other hand, if we actually begin with a broad theory, and by deduction predict a social regularity as a relationship between two or more factors, we may develop a hypothesis.<sup>2</sup> We might then obtain such formulations as the following, although space does not allow a statement of the entire chain of theoretical reasoning upon which they are based, or the detailed definitions necessary:

(1) Principle: Rather extensive, but relatively unsystematized data show that members of the upper occupational class strata experience less unhappiness and worry and are subject to more formal controls than members of lower strata.

1, 2 Goode and Hatt; *Methods in Social Research* pgs 56-72

Deduction: Our hypothesis would then predict that this comparison also applies to the marital relationships of members of these strata and would predict that such differential pressures could be observed through divorce rates. There should be an inverse correlation between class position and divorce rates. Again, we would have to define our terms carefully and show the systematic connection between our original premises and our deduction, but the result can be tested by the degree of our correlation.

The above example indicates not only the difficulty of formulating a hypothesis, but also the need to do so. Early in any investigation a definite hypothesis should be formed. At first this may not be very specific. In such an instance it is referred to as a "working hypothesis," which will be subject to modification as the investigation proceeds. The utilization of a hypothesis, however, is necessary for any useful research results

**Non implementation of law leads to non enjoyment of benefits by disabled.**

The government has implemented the *Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995:*

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 establishes responsibility on the society to make adjustments for disabled people so that they overcome various practical, psychological and social hurdles created by their disability. The Act places disabled people at par with other citizens of India in respect of education, vocational training and employment. The Act has several provisions to ensure equal opportunities, protection of rights and full participation of disabled people in mainstream activities of the society. The State has been entrusted with the responsibility to prevent disabilities, provision of medical care, education, training, employment and rehabilitation of persons with disabilities.

Furthermore, it provides that implementation of the intentions and provisions of the Act shall be done through constituting of coordination committees at the Central and State levels with

the Welfare Minister as the chairperson and officials of ministries and departments concerned, NGOs working with and for disabled people and eminent people with disabilities as members to coordinate disability-related activities of the Government, NGOs and others.<sup>1</sup> The Indian disability law treats disability as civil rights rather than a health and welfare issue. The law recognises the importance of consultation with disabled people on issues, which directly or indirectly affect them.

## **DEFINITION**

Disabilities are conventionally defined in medical science on a three-point scale established by the World Health Organisation in 1980 ranging from impairments, disabilities and handicaps. The World Health Organisation, in its International Classification of Impairments, Disabilities and Handicaps, makes a distinction between impairment, disability and handicap. These three concepts are defined by it as follows:

(a) *Impairment* is “any loss or abnormality of psychological, physiological or anatomical structure or function”. Impairments are disturbances at the level of the organs, which includes defects in or loss of a limb, organ or other body structure, as well as defects in or loss of a mental function.

(b) *Disability* is a “restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being”. It describes a functional limitation or activity restriction caused by impairment<sup>2</sup>.

(c) A *handicap* is a “disadvantage for a given individual, resulting from an impairment or disability that limits or prevents the fulfilment of a role that is normal (depending on age, sex and social and cultural factors) for that individual”. The term is also a classification of

1,2 [www.wikipedia.org](http://www.wikipedia.org)

“circumstances in which disabled people are likely to find “Person with Disability” means a person suffering from not less than forty per cent of any disability as certified by a medical authority.

The categories, which may be considered to be included in the definition of “disability”, are:

*1. Difficulty in speaking.*—This category of disability is not included in the Act; whereas this category is covered under the scope of disability by the World Health Organisation in international categorization.

*2. Disability of the internal organs.*—It is submitted that the term disability should not only include disability of the external organs, but it should also include disability of the internal organs like kidney, lungs, heart. A person belonging to this category also lacks physical ability to do many kinds of physical jobs. Further, it could be said that mental disability directly relates to the brain, which is an internal organ. Thus, disability of an internal organ like brain can be included in the term “disability”; disability related to other internal organs should also be included in the term “disability”.

*3. Eunuch.*—It is submitted that this category should be considered both at the national and international level to be included in the category of disability. This is a section of human being, which is living a life without dignity. These people are fit physically and mentally. So as to say, they are in better condition than other persons with disabilities. This section is deprived of very many human rights and fundamental rights. They are disabled but their disability is not of the character which prevents them from performing day-to-day functions. Because of the social stigma attached to them they are deprived of their family property, right to pursue a profession, right to education and right to get a dignified funeral ceremony after death. Their existence as human being is denied

just because they are not categorized as male or female. As a result, they are totally segregated from the human society and the mainstream, because of this they are forced by the circumstances to get involved in antisocial activities and crimes.

*4. Persons suffering from AIDS.*—A person suffering from AIDS carries with him a social stigma in the same way as that of a person who is leprosy-cured. AIDS weakens the immunity system of a person, which in turn reduces their normal capacity to work. They are prone to health hazards. So, providing special protection is necessary not only for them but also for the society at large.

**The Main Provisions of PWD Act are:**

- I. Prevention and Early Detection of Disabilities
  - II. Education
  - III. Employment
  - IV. Affirmative Action
  - V. Non-Discrimination
  - VI. Research and Manpower Development<sup>1</sup>
  - VII. Recognition of Institutions for Persons with Disabilities
  - VIII. Institution for Persons with Severe Disabilities
  - IX. Social Security
  - X. Miscellaneous
- I. Prevention and Early Detection of Disabilities
    - 1. Surveys, investigations and research

2. Promote prevention of disabilities
3. Screening of children and awareness campaigns

## II. Education

1. Free education till the age of 18 years
2. Appropriate transportation, removal of architectural barriers and modifications in the examination system
3. Right to free books, uniforms and other learning materials
4. Special school for children with disabilities
5. Scholarships
6. Non-formal education
7. Teacher's training institutions

## III. Employment

1. Not less than 3% vacancies in government employment reserved for persons with disabilities
2. Suitable schemes for training and welfare of persons, relaxation of upper age limit and regulating the employment
3. Health and safety measures at place of employment
4. Reservation in poverty alleviation schemes

## IV. Affirmative Action

1. Schemes to provide aids and appliances<sup>1</sup>
2. Allotment of land at concessional rates for house, business, special recreational centres, special schools, research schools, factories by entrepreneurs with disability.

<http://www.indiatogether.org/health/disability/dact.htm#sthash.2AUv46lw.dpuf>

## V. Non-Discrimination

1. Adapt public buildings, rail compartments, buses, ships and aircrafts to permit easy access to persons with disabilities
2. Adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit the wheel chair users to use them conveniently.
3. Braille and sound symbols in lifts
4. All the places of public utility shall be made barrier-free
5. No employee can be sacked or demoted if they become disabled during service, although they can be moved to another post with the same pay scale. No promotion can be denied because of impairment

## VI. Research and Manpower Development

Research in the following areas may be sponsored and promoted

1. Prevention of disability
2. Rehabilitation including Community Based Rehabilitation (CBR)
3. Development of assistive devices
4. Job identification
5. On site modifications of offices and factories
6. Financial assistance for undertaking research

## IX. Social Security

1. Financial assistance to Non-governmental organizations (NGO)
2. Insurance coverage
3. Unemployment allowance

## X. Miscellaneous

1. Grievance redressal

2. Chief Commissioner – Centre

3. Commissioner for persons with disabilities – States

A Medical Board (consisting of at least three members out of which at least one shall be a specialist in the particular field for assessing locomotor/visual including low vision/hearing and speech disability, mental retardation and leprosy cured, as the case may be) issues permanent disability certificate. Thus it becomes a part of a spectrum of activities conducted by a rehabilitation team.

### **RESEARCH DESIGN**

The function of the hypothesis is to state a specific relationship between phenomena in such a way that this relationship can be empirically tested. That is, the hypothesis must be empirically demonstrated as either probable or not probable. The basic method of this demonstration is to design the research so that logic will require the acceptance or rejection of the hypothesis, on the basis of the resulting data. This requires control of the observations in order to eliminate other possible relationships. A basic aspect of research design, therefore, is setting up the research so as to allow logical conclusions to be drawn.

To design, is to plan, that is, designing is the process of making decisions before the situation arises in which the decision has to be carried out. Designing is thus a process of deliberate anticipation, directed towards bringing an expected situation under control.

**A good research should be able to explain these aspects:**

1. What to observe, i.e. what is the study about?
2. Why to observe, i.e. why is the study being made?
3. Whom to observe?
4. How to observe, i.e.
  - a) where will the study be carried out?
  - b) what type of data is required?

- c) where can one find the relevant data?
- d) what techniques of data collection be used?
- e) how to analyse the data?
- f) what inference can be drawn?
- g) in what style the report will be prepared?

### **Characteristics of a good research**

A good research should satisfy the following four conditions<sup>1</sup>:

(i) **Objectivity:** Objectivity simply means, objects oriented research. The objectivity of the findings pertains to the methods of collection of data and scoring of the responses. In such research, the investigation generally uses closed ended questionnaires in which multiple choice questions is given and the respondents are asked to choose the answers therein.

(ii) **Reliability:** Reliability refers to consistency throughout a series of measurements. For example, if researcher frames a question: what is the cause of unemployment? And he is consistently obtaining the same reply, then he can say surely there are elements of reliability. There are different methods in determining the reliability of the responses given out by a respondent.

(iii) **Validity:** it means measuring tools should be used for which it is made. For instance, a nuisance test, construed for measuring nuisance should measure only nuisance and nothing else.

(iv) **Generalisation:** Generally, researcher selects a sample or group of people for his research as it is next to impossible to survey total population. Generalisation means with how much authority and confidence, an investigation can say that the same finding will be obtained even if data is collected from the whole population. If same inferences are applicable to a larger group, generalisation is said to be prevailing.

1. Legal Research Methodology by Shipra Agrawal pages 88-89

## **Sampling design for legal research**

### Census and Sampling methods

The primary purpose of the legal research is to discover principles that have universal application. For this, the data has to be collected and analysed. There are two methods of data collection i.e. Census Method and Sampling Method<sup>1</sup>.

**Census Method:** when the whole area or population of persons is contacted, the method is known as Census Method. Population is constituted of all the individuals, things, events, documents or observation cases, etc belonging to a designed category characterising specific attributes which a particular study should principally cover.

**Sampling Method:** most research studies are based on samples. When a small group is selected as representative of the whole, it is known as Sampling Method. The method of selecting for study a portion of the universe with a view to draw conclusions about the universe in toto is known as 'sampling'.

### **Merits or Advantages of Sampling**

- (1) **Saving Of Time-** Comparatively smaller number of units are studied in sampling method and naturally it requires much less time than in census method
- (2) **Less Expensive-** Sampling method requires a small staff to collect the data and it requires less money.
- (3) **Detailed study-** When the Units are less in number, a more minute observation and detailed study is possible.<sup>2</sup>
- (4) **Accuracy of Result-** In census method if there is mistake in data collection, the whole results go wrong. In sampling method, we can calculate the sampling error and make the study accurate.

(5) **Administrative convenience**- a small sample is usually more convenient for an administrative point of view as the units of sample can be easily manageable.

(6) **Impossibility of the use of census method**- When the universe is too vast and geographical scattered so that every unit cannot be contacted, the sampling method should be followed.

(7) **Scientific base**- As the statistical tools are being used in the sampling method, it has its scientific base.

#### **Collection of Data in Socio Legal Research:**

Data collection is related to: Primary and Secondary Sources of data.

(a) Primary or internal source of data: it is original information collected for the first time. It is also called an internal source of data as the data is collected directly from the subjects. They are obtained from living persons directly related to the problem or through observation.

(b) Secondary or external source of data: This information is obtained from outside, either a published source or from someone else who has already worked on the subject. They save a researcher the labour of collecting data again and prevent unnecessary expenditure. They can be broadly divided into two types: (a) Personal documents and (b) Published documents. Personal documents consist in life histories, diaries, letters, and memories. Public documents come from public bodies, Government and private organisations.

## **Interview Method**

The interview is the oldest and most often used device for obtaining information among human beings. As a data gathering technique, it is a verbal method of securing data. It is a conversation with a purpose. It is a face to face interpersonal role situation in which one person (the interviewer) asks the person being interviewed (the respondent) questions designed to obtain answers pertinent to the research problem<sup>1</sup>. Interview consists of verbal responses between two or several persons.

Characteristics of an interview:

1. Interview is a social contact to study human behaviour.
2. It has got a definite objective, i.e. securing certain information.
3. It involves face to face contact between the interviewer and respondent<sup>2</sup>.
4. It is a way of finding out the problem in a social research.
5. It is an oral verbal method of securing data.

The success of an interview is based on three aspects:

1. It depends on the capacity of the interviewer to build rapport with the respondent.
2. The right type of question should be asked in the right manner.
3. Recording of the responses properly and accurately at the time of interview.

The unstructured interview is based on flexible and non pre determined questions. The interviewer bases his interview on the purpose rather than the form. The unstructured interviews involve relatively much lesser standardisation or relevant techniques and observations<sup>3</sup>. The content, sequence and wordings are entirely in the hands of the interviewer.

The interview is adjusted to the level and conditions of the respondent.

1, 2, 3 Legal Research Methodology By Shipra Agrawal pages 160 162

The wording and the sequence of questions are changed keeping in view the response pattern.

The discussion with respondents is more informal in nature mainly aimed at collecting the maximum information.

#### **Steps to be taken in conducting an interview:**

- 1. Understanding the problem-** The researcher must have a thorough knowledge of the nature of the problem under study, its various aspects, importance of the study, and effects upon various classes and situations.
- 2. Preparation of interview guide-** Interview guide is a brief written document giving an outline of the different aspects to be studied. It gives a general plan for the interview.
- 3. Selection of cases-** Cases may be selected through any one of the different methods of sampling. The cases selected must be pertinent one and available for interview.
- 4. Preparation of Schedule-** A schedule must be prepared with proper care keeping in view the characteristics of scheduled questionnaire.
- 5. Training the interviewer-** Sufficient training should be given to the interviewers explaining the object of the study.

#### **Questionnaire Method**

Questionnaire Method is one of the most suitable methods for the investigation of socio legal problems. Questionnaire is a list of questions to be answered by a group of people, especially to get facts or information about their views. It is used to obtain knowledge about facts already known to the informant.

Careful choice of questions:

1. Questions which have a direct bearing on the problem itself should be included.
2. Questions, whose answers can be secured more easily from other sources should be excluded.
3. Questions that are likely to yield inaccurate answers should be avoided.
4. Questions which involve too much mental effort on the part of the informant should be avoided.
5. The questions should be practicable.
6. Personal questions which may embarrass the informant should be avoided.

The respondents for these techniques will be parents/guardians of the disabled children, doctors, teachers, lawyers, NGO's.

## **PROBLEMS IN IMPLEMENTATION**

Even after the enactment of the Indian Act, the aims and purposes with which the Act was enacted are not served. The reasons are some lacunas in the Indian Act, as well as lack of implementation. And, these are the reasons why India is lagging behind in the international arena from the country like US, which has enacted the Americans with Disabilities Act, 1990 (hereafter referred as the US Act). A developing society has to be sensitive to the needs of the disabled. Cognitive adjustments can change the way disabled people function, the attitudes they encounter. "The Persons with Disabilities Act, 1995"(PDA) is the Indian attempt to bring about change but due to lack of implementation, it has not made much difference.

Section 44 of the PDA states: "Establishments in the transport sector shall, within the limits of their economic capacity and development for the benefit of persons with disabilities, take special measures to

- Adapt rail compartments, buses, vessels and aircraft in such a way as to permit easy access to such persons.
- Adapt toilets in rail compartments, vessels, aircraft and waiting rooms in such a way as to permit the wheel chair users to use them conveniently."

In India the authorities concerned are yet to prescribe and ensure implementation of specifications for 'accessibility'. Despite the statutory provision, even after 5 years we have failed to take any concrete steps towards its implementation.

Under the PDA the Chief Commissioner and Commissioners for Persons with Disabilities are envisaged to be the watchdog bodies with the powers of a civil court. However very few facilities have been provided to these offices and they thus remain ineffective.

## **JUDICIAL RESPONSE:**

In *Javed Abidi v. Union of India*<sup>1</sup> the petitioner's grievance was that there was lack of facilities like providing aisle chair and ambulift by Indian Airlines. The petitioner contended that it was a social obligation of the Airlines and the Airlines must provide these minimum facilities to permit easy access to the disabled persons, particularly those who are orthopedically impaired and suffer from locomotor disability. The major grievance of the petitioner was that Indian Airlines was not giving any concession to such disabled persons for their movement by air even though such concessions are being given to only blind persons, who are also disabled persons under the Act. The Court held that those suffering from locomotor disability to the extent of 80% and above would be entitled to the concession from Indian Airlines for travelling by air within the country at the same rate as has been given to those suffering from blindness on their furnishing the necessary certificate from the Chief District Medical Officer to the effect that the person concerned is suffering from the disability to the extent of 80%.

In of *D.N. Chanchala v. State of Mysore*<sup>2</sup> this case involved the issue of reservation of seats for various categories of persons and classification on university basis under Articles 14 and 15(4) of the Constitution of India, but the Hon'ble Supreme Court tried to extend the equitable principle of preferential treatment under Article 15(4) to persons with disability to bring them in the mainstream by giving them equal opportunity in the field of education.

**In *National Federation of Blinds, U.P. Branch v. State of U.P.***<sup>3</sup>. the question to decide before the Allahabad High Court was, whether the Lucknow Development Authority while giving preference for allotment of plots and houses to blinds and other handicapped persons, should also accord in the rates of the land?

1-1999 1 SCC 467, 2-1971 AIR SC 1762, 3-2000 (2) AWC 1234, (2000)

The Court referred to Section 43 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 which provides for scheme for preferential allotment of land for certain purpose. The Court ordered the respondent to not only give preference in the matter of allotment of land and houses to handicapped persons, but also to provide concessional rates to handicapped persons.

## **CONCLUSION:**

We can thus say that there has been a shift in international thinking on disability from largesse-based perspective to rights-based perspective. The world for and of the disabled is changing at a rapid pace and the aspirations as well as expectations of people are also changing as fast. Advances in medical and surgical sciences, breakthroughs in technology, greater understanding of the causes of disability and improved methods of coping with it, increasing consciousness of civil rights and the emergence of people with disabilities displaying skills and knowledge to improve their own lives, are some of the factors which have contributed to the new thinking. It is now recognized that the disabled deserve a dignified status in society on the same terms as the non-disabled. Disabled people are a vast minority group, which has been subjected to direct and indirect discrimination for centuries in most countries of the world, including India. }

PDA can be an effective statute if there is better implementation. Guidelines should be formulated and implemented. All efforts must be made to disseminate information on the rights of the disabled. Pressure groups and advocacy groups should actively work towards the implementation. The voice of the disabled is weak and society has to come out stronger. The participation of the disabled is imperative to the movement.

Awareness is the most important factor that decides the effective utilization of any program intended for welfare of community. It plays an essential part in the ultimate

Psycho-socio-vocational rehabilitation of its beneficiary. Therefore it is necessary to frequently assess the awareness of any program among its beneficiaries, implementers and any contact persons to know the success or effectiveness of it.

## **BIBLIOGRAPHY**

### **Books referred:**

1. Dr. TEWARI H.N.; Legal Research Methodology; 2006; Allahabad Law Agency; pages 1-5,
2. Yaqin Anwarul; Legal Research and Writing Methods; 2004; Lexis Nexis Butterworths Wadhwa Nagpur; pages 7-9,
3. Goode and Hatt; Methods in Social Research; 1952; McGraw Hill Book Company Inc; pages 56-72
4. Singh R.A.P; Methods in Social Research; 1990; Printwell Publishers Jaipur; pages 16-22
5. Agrawal Shipra; Legal Research Methodology; 2009; Allahabad Law Agency; pages 57-65

### **Websites referred:**

<http://www.indiatogether.org/health/disability/dact.htm#sthash.2AUv46lw.dpuf>

[www.wikipedia.org](http://www.wikipedia.org)

[en.actsllearning.org](http://en.actsllearning.org)