

ENCROCHMENTS IN COMMUNIDADE LANDS

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1.1 MEANING OF RESEARCH¹

The word ‘Research’ is composed in two syllables, re and search. The dictionary defines the former as a prefix meaning again a new or over again and the latter as a verb meaning, to examine, closely and carefully to test and try or to probe. Together they form a noun describing a careful, systematic, patient study and investigation in some field or knowledge to undertake to establish facts or principles or one can also define research as a scientific and systematic search for pertinent information on a specific topic.

According to *Lundberg*, “Research is a method sufficiently objective and systematic to make possible classification, generalization and verification of the data observed.”

M. H. Gopal defines research as, “essentially a systematic inquiry seeking facts through objective verifiable methods in order to discover the relationship among them and to deduce from them broad principles or laws.”

These three features put together define ‘Research’. When we say we are undertaking Research, it implies at least three things:

1. An examination or investigation is being undertaken.
2. To establish some principle or to find some fact or to answer some problem on some other similar objective.
3. With a well defined method.

¹ Cited in *Legal Research Methodology*, by Shipra Agarwal, Allahabad Law Agency, first edition 2003, pg no.1-3

1.2 OBJECTIVE OF RESEARCH²

The main aim of research is to find out the truth which is hidden or which has not been discovered as yet. Though every research has its own specific purpose, however, the purposes or objectives of research may broadly be classified as follows:

1. To gain familiarity with a phenomenon or to achieve new insights into the existing facts (studies done keeping in view this object known as exploratory or formulative research studies).
2. To portray accurately the characteristics of a particular object or groups; (Descriptive studies).
3. To determine the frequency with which something occurs or with which it is associated with something else (Diagnostic research).
4. To test a hypothesis of a casual relationship between two objects (hypothesis testing research)

1.3 INTRODUCTION

The comunidades (or gaunakris) were governed by village associations, which was the decision-making body and had as its members all the “original settler families” (Gaunkars) of the village who jointly lay claim to the entire village lands. The village associations supervised the lands of the village under the jurisdiction of the comunidade and the rents collected were used for public works. Surplus rent was distributed equally among all gaunkars as dividends (jonos). Membership to the comunidade was, however, bounded on two counts: gender (male) and descendance.

² Cited in Legal Research Methodology, by Shipra Agarwal, Allahabad Law Agency ,first edition 2003, pg no.3

The comunidades were essentially village agricultural associations. A major part of their assets were the lands (khazans) recovered by reclamation from marshes and the tidal waters with the help of bunds (embankments). All cultivable village lands were leased by public auction. The land leases were transferable by inheritance but there were restrictions on transfer by sale or change of land use for purposes other than contracted with the comunidade at the time of the lease (which constitutionally had to be agricultural). The barren and uncultivated lands on the periphery of the village were leased out for a fixed rent. After 25 years, the lessee was entitled to ownership of the land. The perceived reason for this is on the one hand to provide an incentive to the farmer to develop the land, and, on the other, to allow the village to increase the area of productive land for cultivation.³

1.4 BACKGROUND

Meaning

The Comunidades/or Village Communities of Goa are not a creation nor an establishment by any State Ruler/Government at any point of time. The said Comunidades are known to have come into existence sui juris and prior to coming into existence of the State itself. It stands recorded that it is the settled communities that first developed the land by clearing the jungles and bushes and established their own Villages, installed their own respective Village Deity and introduced their own private laws to be governed by it. Historical records show that these Village Communities, then commonly known as Gaunkaries or Gaunponn in Goa, came to be constituted at a stage in human social evolution when nomadic life of people moving and wandering with cattle in search of green pastures came to a halt in a given locality and over a

³ <http://www.parrikar.org/misc/comunidade.pdf>

land that belonged to no one before them, with an intention to have permanent settlement thereof.⁴

COMUNIDADE LANDS ARE ABSOLUTE PRIVATE PROPERTIES

It stands agreed and solemnly declared by the State, at part III of the Preamble of the above said Diploma Legislative No. 2070 dated 15.4.1961, that the land in the Village of the given Comunidade in Goa is an absolute private property of the respective Comunidade and without the element of any grant and or conferment of Proprietorship Title by the State/Ruler and/or without any State land Tenure relationship, ab initio. For this reason, it stands further declared that the Doctrine of Domino Util and Domino Directo which is applicable in cases where the land stands granted and or assigned by the State to the members of the public, to hold or to own any such land as Proprietors and/or Tenure holders, is not applicable in cases where land stands granted and or assigned by the Village Communities/Comunidades. This declaration is said to be founded on historical truth as revealed to the then Portuguese Government by Cunha Rivara, the then authority in the Administration of Portuguese Government in Goa and who is known to have investigated the case of Comunidades with reference to the laws of such age old Village Communities prevailing in the rest of the States in India at the relevant point of time and before the British Rulers interfered with.⁵

⁴ <http://www.goasu-raj.org/gen/articles/19.asp>

⁵ <http://www.goasu-raj.org/gen/articles/19.asp>

Brief History

The **Comunidades** of [Goa](#) were a form of land association developed in Goa, [India](#), where land-ownership was collectively held, but controlled by the male descendants of those who claimed to be the founders of the village, who in turn mostly belonged to upper caste groups. Documented by the [Portuguese](#) as of 1526, it was the predominate form of landholding in Goa prior to 1961. In form it is similar to many other rural agricultural peoples' form of landholding, such as that of pre-Spanish Bolivia and the [Puebloan peoples](#) now in the [Southwestern United States](#), identified by [Karl Marx](#) as the dualism of rural communities: the existence of collective land ownership together with private production on the land.⁶

Codified by the Portuguese

Comunidades were a variant of the system of *gaunkari* system called *gramasanstha* (ग्रामसंस्था) that pre-existed the arrival of the Portuguese, but was codified by them. The term *gram* in *gramasanstha* refers to the village. *Comunidades* is the [Portuguese](#) word for "communities". The *khazan* system of managed wetlands in Goa is an offshoot of the *gaunkari* system, but now quite distinct from the *comunidades*.⁷

⁶ http://en.wikipedia.org/wiki/Comunidades_of_Goa

⁷ http://en.wikipedia.org/wiki/Comunidades_of_Goa

Members and dividends

Members of the comunidades were called *gaonkars*, or *zonnkars* (in Portuguese, *jonoeiros*). The former were the members of the village, the latter were entitled to *zonn*, or *jono*, which is a dividend paid by the comunidade to *gaunkars* and *accionistas*, the holders of *acções* (sing. *acção*), or shares. The system applied equally to agricultural land and to village housing.⁸

A big relief : A Supreme Court judgement serves as a deterrent to the indiscriminate land grab

Even as Goans lament and watch helplessly as the once verdant and fertile land of their ancestors, is sullied, raped and disfigured by huge housing complexes, innumerable hotels, specialty hospitals and white-elephant government projects put-up by unscrupulous builders from Delhi, Mumbai and Goa, ably abetted by pliant local politicians, an effective weapon of control wielded by the Country's Apex Court lies with the State's highest bureaucrat – the Chief Secretary.⁹

The stalling of implementation of the Regional Plan 2021 notwithstanding, a judgment by the Supreme Court in dismissal of a Civil Appeal filed against the State of Punjab arising out of a Special Leave Petition (Civil) CC No.19869/2010 should have served as a deterrent to the indiscriminate land grab and use of 'community lands and water bodies for purpose of

⁸ <http://www.navhindtimes.in/goa-news/comunidade-has-not-considered-single-application-land-last-10-yrs-noronha>

⁹ <http://claim-for-commons.blogspot.in/2013/04/a-big-relief-supreme-court-judgment.html>

housing and other ostensible government and private development projects — which in Goa could certainly encompass Comunidade properties.¹⁰

The two member bench of the Supreme Court, comprising Honorable Justices Markandey Katju and Gyan Sudha Mishra, while disposing of the Civil Appeal No.1132/2011 @ SLP (C) No.3109/2011 filed by a local builder /developer against the Punjab Government, pointed out that ‘since time immemorial there have been common lands inhering in the village communities in India variously called ‘Gram Sabha Land’, Gram Panchayat Land (in many North Indian States) (sic), which were for centuries used for common benefit of villagers of the village for various purposes, for e.g. for their cattle to drink and bathe, for storing the harvested grain, for grazing ground, as a maidan for their children to play, threshing floor, carnivals, circuses, ramlila, cart stands, water-bodies, passages, cremation ground , graveyards etc..’

The Justices observed that ‘these lands stood vested through local laws in the State and were generally treated as inalienable in order that their status as community land is preserved. There were no doubt exceptions to the rule which permitted the Gram Sabha/Panchayat to lease out some of this land to landless laborers and members of Scheduled Castes/ Tribes. But this was done only in exceptional cases’.

The Honorable Justices Markandey Katju and Gyan Sadhu Mishra, while dismissing the Appeal, were caustic in their ruling. They said, “We find no merit in this Appeal. The Appellants herein were trespassers who illegally encroached on to the Gram Panchayat land

¹⁰ <http://claim-for-commons.blogspot.in/2013/04/a-big-relief-supreme-court-judgement.html>

using muscle power/money power and in collusion with officials and even the Gram Panchayat. We are of opinion that such kind of blatant illegalities must not be condoned. Even if the appellants have built houses on the land in question they must be ordered to remove their constructions, and possession of the land in question must be handed back to the Gram Panchayat. Regularizing such illegalities must not be permitted because it is Gram Sabha land which must be kept for the common use of villagers of the village.”¹¹

While annulling a letter from the Government of Punjab ‘permitting regularization of possession of these unauthorized occupants’, the Supreme Court Bench opined that ‘such letters are wholly illegal and without jurisdiction. Such illegalities cannot be regularized and we cannot allow the common interest of the villagers to suffer merely because the unauthorized occupation has subsisted for many years.’¹²

.Finally in conclusion, the Supreme Court Bench directed “all State Governments in the Country to prepare schemes for eviction of illegal/ unauthorized occupants of Gram Sabha/ Gram Panchayat/ Poramboke/ Shamlat land and these must be restored to the Gram Sabha/ Gram Panchayat for common use of villagers of the village.”

For this purpose, the Chief Secretaries of all State Governments / Union Territories of India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or

¹¹ http://articles.timesofindia.indiatimes.com/2013-05-01/goa/38957216_1_goa-land-communidade-bill

¹² <http://claim-for-commons.blogspot.in/2013/04/a-big-relief-supreme-court-judgement.html>

huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession,” the Supreme Court Order has specified.

1.5 HYPOTHESIS¹³

A hypothesis is a tentative statement which expresses the nature or relationship between two or more variables usually in the form of cause-effect relationship... ‘Hypo’ means less than or under; and ‘thesis’ means idea or general opinion to be defended by a person and thus “hypothesis” means an idea formed beforehand which has less value than the generally formed view.

Hypothesis is a proposition, condition or principle which is assumed, perhaps without belief, in order to draw out its logical consequences and by this method to test its accord with facts which are known or may be defined.¹⁴

- i. The importance of hypothesis can be more specifically stated as under:
- ii. The formulation of hypothesis provides a study with focus. It tells us with specific aspects of a research problem to investigate.
- iii. As it provides direction to research, it tells us what data to collect and what not to collect, thus preventing the review of irrelevant literature and the collection of useless or excess data.
- iv. As it provides a focus, the construction of a hypothesis enhances objectivity in a study.

¹³ Legal Research Methodology- by Dr. S. R.Myneni

¹⁴ Webster’s New International Dictionary.

- v. A hypothesis serves the function of linking together related facts and information and organizing them into one comprehensible whole.
- vi. It may enable us to add to the formulation of theory and help you to bridge the gaps in the body of knowledge

The Characteristics of Hypothesis:

- a. Hypothesis should be capable of verification
- b. A Hypothesis should be simple, specific and conceptually clear
- c. A hypothesis should be related to the body of knowledge
- d. A Hypothesis should be operationalisable.

TYPES OF HYPOTHESIS

P. V. Young¹⁵ has divided hypothesis into three broad categories:

UNIFORM: Uniform hypothesis relate to the existence of empirical uniformities.

COMPLEX- The complex types are concerned with complex ideal type. They aim at testing the existence of logically desired relationships between empirical uniformities.

ANALYTIC: The Analytic hypothesis deals with the relationship of analytic variables. They are aimed at finding out the relationship between changes in one property leading to changes in another.

Another classification divides Hypothesis into-

NULL HYPOTHESIS: The Hypothesis may be classified as hypothesis stating relationship and hypothesis which study the existence of no relationship between variables or null

¹⁵ Cited in Legal Research Methodology, by Shipra Agarwal, Allahabad Law Agency ,first edition 2003, pg no.81

hypothesis. When a hypothesis is constructed stipulating that there is no difference between the two situations, groups, outcomes, on the prevalence of a condition or phenomenon, this is called a Null Hypothesis and is usually written as H_0 . A crude Null Hypothesis is one which is at low level of abstraction and it does not lead to higher theoretical research. A refined hypothesis is one which has more significance in research.

HYPOTHESIS OF DIFFERENCE : A hypothesis in which a researcher stipulates that there will be a difference but does not specify the magnitude is called a hypothesis of difference.

HYPOTHESIS OF POINT – PREVALENCE: A hypothesis in which a researcher stipulates that there will be a difference and knows also the magnitude is called a hypothesis of Point-prevalence.

HYPOTHESIS OF ASSOCIATION: Any type of hypothesis, including a null hypothesis, can become the basis of an inquiry. When a Null Hypothesis becomes the basis of an investigation, it becomes a research hypothesis.

SOURCES OF HYPOTHESIS

Goode and Hatt¹⁶ have given the following sources of Hypothesis:

- a. A General Culture: The general pattern of culture helps not only to formulate a hypothesis, but also to guide its trend.
- b. Scientific theory- Theory gives us the basic idea of what has been found to be correct and the knowledge of theory leads us to form further generalizations and these generalizations form the part of the hypothesis.

¹⁶ Cited in Legal Research Methodology, by Shipra Agarwal, Allahabad Law Agency ,first edition 2003, pg no.83

- c. Analogies- Sometimes a hypothesis is formed from the analogy. A similarity between the phenomenon is observed and hypothesis is formed to test whether the two phenomenon are similar in any other respect.
- d. Personal Experience-Hypothesis is formulated according to the way in which an individual reacts to culture, science and analogy. The facts will be true but the hypothesis may be formulated when a rightful individual sees it in a rightful perspective

The Researcher has done following Hypothesis:

- Improper functioning of authorities has led to encroachment in comunidade land.

LEGAL REGIME

Legal researchers do not make systematic research into facts of social, political and economic conditions which give rise to the individual rules, acts or codes. They also examine the socio-legal and other effects of those acts or rules.¹⁷

Characteristics of Legal Research-

1. The legal research deals with the social and behavioral phenomena. It studies behavior of human beings as members of society, and their feeling responses, attitudes under different circumstances.
2. Legal research is carried on both for discovering new legal facts and verification of the old ones.
3. Legal research tries to establish causal connection between various human activities.¹⁸

LAW AGAINST ENCROCHMENT

ROLE OF ADMINISTRATOR

Chapter XII of Code of Communitade deals with Encroachment of Communitade lands and remedies for their recovery. Chapter XII further divided into two sections. Where, section I deals with 'Encroachment of lands and remedies for their recovery' and Section II states 'Encroachment discovered while making the survey'.¹⁹

Article 371 authorises Dy. Collector to take actions against the encroachments in communitade lands. The complaint can also be made before Administrator if Communitade.

¹⁷Legal Research Methodology - Dr. S.R Myneni

¹⁸Legal Research Methodology - Dr. S.R Myneni

¹⁹ Diploma N. 2070; Code of Communitade, pg. 90-96

Art 372A states about regularization of encroachments made before 15-6-2000, so it can be observed that the concerned authorities had failed to take an appropriate action against illegal encroachments.

ROLE OF VILLAGE PANCHAYAT IN ILLEGAL ENCROCHMENTS:-

Panchayats are empowered to do all acts necessary for or incidental to the carrying of the functions entrusted assigned or delegated to it and in particular and without prejudice to the foregoing powers to exercise all powers specified under the Goa Panchayat Raj Act, 1994.²⁰

Action against Illegal Constructions:

The Village Panchayats are empowered to take action for removal or demolition of any construction which is erected without the written permission of the Panchayat under *section 66 (3) and 66(4)* of The Goa Panchayat Raj Act, 1994. Any person can approach the Village Panchayat for initiating action against the illegal construction with a written complaint containing the following details:

- 1) Name and address of the person involved in illegal constructions.
- 2) Survey Number, Ward Number and location where the construction is undertaken.
- 3) Name of the Village.

Where the Panchayat fails to initiate any action, the complainant can approach the Block Development Officer for stoppage of the work and issue of directions to the panchayat for taking action against the illegal construction. If the Panchayat fails to take action in spite of the above, the person can approach the Deputy Director of Panchayats with his grievance, who shall assume the powers of the Panchayat under *section 66(5)* of the Act and take necessary action for demolition of the illegal structure.²¹

²⁰ <http://www.goasu-raj.org/gen/articles/19.asp>

Bill prohibiting building on government, comunidade land introduced:

The state government introduced the Goa land (Prohibition on Construction) (Amendment) Bill, 2013, to restrict construction on government and comunidade land in the state.

The bill seeks to amend Section 4 of the Goa Land (Prohibition on Construction) Act, 1995 (Goa Act 20 of 1995) (hereinafter referred to as "said act") so as to bring within the ambit of the said act, the land leased by or an institution belonging to and or controlled by the government. The bill further seeks to amend Section 5 of the said act so as to enhance the fine as specified therein and also to specify fine for failure to take action by any authority under Section 6 of the said Act.

The bill also seeks to amend Section 6 of the said act so as to make provisions for removing any unauthorized construction on the basis of entries in Form I & XIV, also provide for action to be initiated only upon partition of the land and changing records accordingly and lastly attaching any construction material in such lands without issuing any notice in that regards.²²

²¹ Citizen charter:_ DIRECTORATE OF PANCHAYATS

²² http://articles.timesofindia.indiatimes.com/2013-05-01/goa/38957216_1_goa-land-communidade-bill

SAMPLING DESIGN FOR LEGAL RESEARCH

The primary purpose of the legal research is to discover principles that have universal applications. For this, the data has to be collected and analyzed. There are two methods of Data Collection:²³

CENSUS METHOD- When the whole area or population is contacted, the method is known as Census method. If the size of the units of the study is small one, census method is generally used to collect data.

SAMPLING METHOD- When a small group is selected as representative of the whole, it is known as Sample Method “It is a smaller representation of large whole.”

MERITS OF SAMPLING

Saving of time, less expensive, detailed study, Administrative convenience, Impossibility of use of the Census Method, Scientific base etc.

DEMERITS OF SAMPLING

Chances of bias, Need of Specialized knowledge, Difficulties in sticking to sample, Less Accuracy, Impossibility of sampling.

²³ Cited in Legal Research Methodology, by Shipra Agarwal, Allahabad Law Agency ,first edition 2003, pg no.105

PROCEDURE TO SELECT SAMPLE

- (i) Preparation of Source list
- (ii) Deciding the sampling unit
- (iii) Selecting the sampling techniques

TYPES OF SAMPLING

(I) **PROBABILITY SAMPLING**- In this method it is possible to state in advance the probability that any given unit will be included in the sample. Once such a probability model is set up, a mechanical procedure is devised to select elements from the population.

(a) Random Sampling- It is the form applied when the method of selection assures each individual or element in universe on equal chance of being chosen.

Methods of drawing Random sample are Lottery method, Random numbers, selection from sequential list, Grid system etc.

(b) Systematic Sampling- It requires that the population of be accurately listed in such a way that each element of the population can be uniquely identified by its order.

(c) Stratified Sampling- In this method the population is first divided into a number of strata based on same characteristics, such as age, sex, educational level etc. and then a simple random is taken from each stratum and such samples are brought together to form the total sample.

(d) Cluster sampling or Sub-sampling- A sampling procedure in which the sampling unit is a cluster of elements and after selecting a sample clusters, information is collected on each element in the sampled clusters.

(II) NON-PROBABILITY SAMPLING – In this technique sample is not based on the probability with which a unit can enter the sample but by other consideration such as common sense, experience, intention and expertise of the sampler. The main defect of such samples is that they are biased samples. The following techniques represent the non-probability sampling:

(a) Representative sampling, (b) Judgment sampling, (c) Accident sampling and (d) Purposive sampling.

(III) QUOTA SAMPLING- In this method both stratification and judgment is used. In this type, samples of prefixed size are taken from each stratum of the universe using judgment sampling method

❖ The researcher for the purpose of its study will use Sampling Method.

METHODS OR TECHNIQUE OF LEGAL STUDIES

A method is the way of approaching a problem. The truth involved in a problem can be found only by following systematic steps. The type of steps to be applied depends largely on the object sought to be achieved and the nature of the study. Hence every science has its methodology, so is the legal studies. Thus, by legal method, we mean 'essential techniques of law study'.

Techniques are different from methods. Techniques are merely means and differ as per nature of the subjects. They are the way of collecting data. Most of the techniques are repetitive and routine and require mechanical skill on the part of a researcher. Methods on the other hand relate to research as a whole from the beginning to the end. A method stands independently and its nature remains the same throughout.

OBSERVATION METHOD²⁴

Observation is an accurate watching and noting of the phenomena as they occur in nature with regard to the cause and effect or mutual relations.

In socio-legal research, one of the most important and extensively used methods is observation. It is both most primitive and the most modern method of study. Generally observational technique is adopted for testing hypothesis where structured methods cannot be employed.

²⁴ Cited in Legal Research Methodology, by Shipra Agarwal, Allahabad Law Agency ,first edition 2003, pg no.149

TYPES OF OBSERVATION

A. Uncontrolled and controlled observation- In uncontrolled observation, observation is made in the natural surroundings and the activities are performed in their usual course without being influenced or guided by an external force. The observer visits the place of occurrence of phenomenon in order to observe. However in Controlled Observation, controls are imposed on the observation or on the object. The following are a few control devices generally used in the controlled observation:

Preparation of a detailed observation plan.

- (b) Use of observational schedules.
- (c) Use of mechanical appliances like Photos, tape-recorders etc.
- (d) Use of Hypothesis
- (e) Use of Socio-metric Scales
- (f) Use of Control Groups
- (g) Use of team observations.

B. Participant and Non-Participant Observation- In participant observation, the investigator actually participates in the activities of the group under investigation. The researcher associates himself with the group under investigation. Whereas in Non-participant Observation observer does not actually participates in the activities of the group, but simply observes them from a distance. In this type although the observer associates himself with the group physically he keeps aloof from its activities which

he observes the phenomenon as it occurs passively. They are called as “Quasi-participant observations” or “partial participate observations”.

C. Structured and unstructured Observation- In structured observation the units to be observed are carefully defined, information to be collected is recorded, the source of data is selected and the conditions of observation are standardized. It is used mostly in studies designed to provide systematic description or to test casual hypothesis. Whereas the unstructured observation is exactly the opposite of structured observation. In this type of observation, the observer does not know in advance which aspects of the situation will prove relevant. The observer’s understanding is likely to change as he proceeds.

D. Intra-Subjective and Inter-Subjective Observation- The test of intra-subjectivity (or reliability) is that repeated observations of a constant phenomenon by the same observer will yield constant data while the test of inter-subjectivity consists of finding that repeated observant of a constant phenomenon by different observers yield constant data.

INTERVIEW METHOD (SCHEDULE 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 (interviewer) asks the person being interviewed (the respondent). Interview may classified into various types such as

Structured interview, Unstructured interview, Focused interview, Repetitive interview, the clinical interview, The non-directive interview and the depth interview.

Schedules are used as tools to elicit information in structured interviews. The schedule is the form containing some questions or blank tables which are to be filled by the workers after getting information from the informant. There are various kinds of Schedules such as Observation schedule; Rating schedules document schedules and interview schedules.

QUESTIONNAIRE METHOD- Questionnaire method is one of the most suitable methods for the investigation of socio legal problems. Tool of Questionnaire is used for collecting data from large, diverse, varied and scattered persons from different places. Questionnaire is a list of questions to be answered by a group of people, especially to get facts or information about their views. Questionnaires can also be divided into structured and unstructured questionnaires. Structured questionnaires may be further divided into closed form and open-end questionnaires.

SURVEY METHOD- The literal meaning of survey is to see over something from a high place. The term is used for technique of investigation by direct observation of a phenomena or collection of information. Surveys are categorized into four kinds; they are (i) General and Specific surveys, (ii) Regular and adhoc survey, (iii) Preliminary and Final Survey and (iv) Census and sample survey.

There are basically two types of survey (i) Interview survey, (ii) Questionnaire Survey (iii) telephone interview (iv) Group Survey, and (v) Panel Survey.

CASE STUDY METHOD- This study is more suitable for the study of a fewer persons and to find out the root cause for a particular problem. It is the oldest method and was introduced by Fredric Le Play in social scientific Investigation.

PROJECT TECHNIQUE METHOD- The observation, interview and case study methods depend upon the willingness and participation of the respondents. At times, the respondents may be unwilling to discuss controversial topics. They may not like to express their opinion or views due to fear. To get the desired data under such unfavourable conditions, indirect techniques have been devised. Project Technique is one of such indirect techniques of data collection.

CONTENT ANALYSIS - In content analysis, the research procedures involve of books, magazines, newspaper, radio programmes, T.V. Serials etc. for analysis and this in turn is used to test hypothesis.

CAUSE AND EFFECT ANALYSIS (CASUALITY) - Causality means the principle that nothing can happen without a cause and it is related to the relation of cause and effect. One of the objectives of research is finding the cause for the existence of the problem. So in this method the researcher has to establish the cause and effect relationship.

- ❖ The researcher in his study will use Observation, questionnaire, Interview and Case study method..
- ❖ For the purpose of Questionnaire and Interview method researcher will consult NGO groups, Administrator of Comunidades, Advocates, Officers of Comunidades, Office of Collector,escirav(village clerks).
- ❖ The Researcher may ask following questions
 - a. What is your opinion regarding the amendments of 2001 in Code of Comunidade?
 - b. What you think that whether authorities under Code of Comunidade are functioning properly?.
 - c. How many cases of encroachments were reported last year in Goa?

DATA COLLECTION

Collection of data is regarded as fascinating phase of research. Through the collection and handling of information, the researcher begins to feel the actual excitement of research. A researcher can either collect the data himself or rely on others for their collected data or information available with them.

A datum is what is observed, is manifest or phenotypical. Data is socio-legal studies, as in other sciences are based on our sense-observations. In data collection, a stimulus (questions, tests, pictures or other objects) is presented to the respondent (subject). The stimuli may be classified as systematic stimuli and unsystematic stimuli. By systematic stimuli we mean those that are kept constant while objects are changed. The unsystematic stimuli are those which lack standardization. E.g. questions asked in informal interviews.

The settings for the collection of data may be classified as (i) informal, (ii) formal unstructured and (iii) formal structured.²⁵

Data collection is related to (i) Primary and secondary Sources of data, (ii) Census and sampling techniques, and (iii) Methods of Data collection.

The methods of data collections are: (i) Observation Schedule, (ii) Interview Schedules, (iii) Questionnaires, (iv) Project techniques and case study methods.

²⁵ Cited in Legal Research Methodology, by Shipra Agarwal, Allahabad Law Agency ,first edition 2003, pg no.138

PRIMARY AND SECONDARY SOURCES OF DATA COLLECTION

Primary or field source or internal source of data- It is original information collected for the first time. It is also called as internal source of data as the data is collected directly from the subjects. This primary source can again be sub-divided into:

(a) Direct primary sources- The researcher personally goes and observes events, things, behavior, activities and so on. Observation can be of three sub-types: (i) Participant observation, (ii) non-participant observation, and (iii) quasi-participant observation. Direct observation is the best, but difficult. In some cases, it may be either legally inadmissible or physically impossible.

(b) Indirect primary: As the researcher cannot observe things which occurred long back, he needs to contact those persons who have made observations relevant to his research. This can be done through interviews, questionnaires or schedules.

Secondary or external sources of Data- This information is obtained from outside, either a published source or someone else who has already worked on the subject. They can be broadly divided into two types: (a) Personal documents, which consists of life histories, diaries, letters, memories and (b) Published documents which come from public bodies, government and private organizations. This category also includes Books available in

libraries, records, published statistics, reports of newspapers and journals with special report, film or T. V. Programme, tapes and so on.

- ❖ The researcher will opt for primary source for data collection by way of Interviewing Judges and advocates.
- ❖ The researcher will also opt for Secondary source by referring to books articles and reports on comunidade in Goa.

ANALYSIS AND FINDINGS

After the data have been collected, the researcher shifts his attention to their analysis. Analysis of data may be considered as having a reference to the process of viewing the data in the light of the hypothesis or research question as also the prevailing theories and drawing conclusions that will make some contribution in the matter of theory formulation or modification.

The stages of analysis are:²⁶

- (i) Use of non-qualified data, determination, formulation and conceptualization.
- (ii) Preparation of a tentative Classificatory scheme; (iii) The application of categories to the raw data through coding (iv) the tabulation of responses (v) statistical analysis of data (vi) drawing of inference about casual relation (vii) interpretation.

(A) STATISTICAL ANALYSIS OF DATA

In order to estimate the reliability of generalizations to the populations from the data, statistical methods are useful. The statistical methods that are used to summarize the obtained data are called as descriptive statistics, whereas the statistical methods utilized in making and evaluating generalizations from the data are known as sampling statistics.

²⁶ As per Claire Sellitz and Stuart Cook Cited in Legal Research Methodology, by Shipra Agarwal, Allahabad Law Agency ,first edition 2003, pg no.215

(B) PICTORIAL ANALYSIS OF DATA

Tabulation of Data- Putting in a tabular form in such a manner that the variable are so arranged so as to enable the application of statistical techniques to them.

(a) Line Graph- This is a plot of one variable against another in a set of axis (namely 'X' axis and 'Y' axis) in such a way that the reader gets a pictorial image of the relationship.

Eg. To show growth in cases of paedophilia in recent years.

(b) Pie Chart- basically used for distribution of entities wherein a subtotal of all constitutes the whole.

(c) Frequency Polygon- Frequency is founded and it is plotted against the variable in the set of axis.

(d) Histogram-A frequency Polugon is converted into vertical columns wherein the Para of each column represents the size of the disorder, problem etc.

- ❖ The researcher will adopt Line graph and Pie Chart for the purpose of showing percentage.

CONCLUSIONS AND SUGGESTIONS

In this stage the hypothesis is compared with the conclusions drawn on the basis of data. In case a hypothesis fits the findings, the theory which suggested the hypothesis would be proved. If the hypothesis is disproved the blow of disproof will pass on to the theory which originated the hypothesis.

It has been observed that comunidade is the ancient institution which came into existence during the period of Kingdom system in goa. From the source of data and material on record we can say that Commuidade lands were properly registered on the registry during Portuguese regim. But after independence, there were no proper records, which resulted into encroachments on large amount. Inorder to curb the encroachments in the comunidade land, the laws should be made more strong. There is a need to bring out anendments in the Dpiloma No. 2070 (CODE OF COMUNIDADE). T here is need to bring out a computrisation of records of comunidade. It has been observed that comunidade does not come under the purview of Right to Information Act. Therefore, opportunities were taken by some of the officials of comunidade, therefore it is a need to bring the comunidade under the purview of RTI. It has been observed that there is no separate tribunals inorder to govern the comunidade matters, only the Administrative of Comunidade involved in multiple functioning, so there is a need to bring oput separate tribunals inoredr to curb the encroachment. And, filally most important thing is that, the grant of leases and auctions under comunidade should be made more strict.

Suggestions

1. There is a need of separate tribunals to be established under the Code inorder to curb the encroachments.
2. There is a need to translate the records in Portuguese language to English language.
3. The records should be computerized.
4. The Comunidades and Administrator should be brought under the purview of RTI inorder to curb the encroachments.
5. The Code of Comunidade should be amended, inorder to make the grant of land under lease more strict and inorder to bring out some penal amendments into it.

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