

Sources And Importance Of Legal Research

Dr. C B Naveen Chandra*

* Assistant Professor, Vaikunta Baliga College of Law, Udupi.

I) INTRODUCTION:

Legal profession cannot move forward without research and findings. The main reason behind this is the dynamic nature of law. Legal research forms an integral part in the life of law professionals, whether they are law students, lawyers, academicians, practitioners who are interested in legal knowledge. Even if you are someone preparing for a career in law and trying to understand what kind of education is needed for a lawyer¹, legal research will come in handy. With the changing of society and laws every day, it becomes essential to scrutinize the pool of laws and social rules. The primary purpose of legal research remains to either find the lacunas in the laws, so they are made following the society's needs or add some vastness to the subject matter of rules to make it comprehensive

II) MEANING OF RESEARCH:

Research means to investigate, inquire or probe in any particular area of discipline. It is a careful and detailed study of a topic to gather more information about it. This can be done by adding, deleting, updating, separating, or correcting the previous knowledge².

People intentionally or unintentionally are involved in the process of research in their day-to-day life. The human mind is full of curiosity. It conducts an inquiry about something at some point in a day. The term research is itself made up of two words, 'Re' and 'Search'. Re means again, and Search is to scrutinize or probe. In other words, searching, again and again, is what we call research.

According to **M Stephenson and D Slesinger** in the encyclopedia of social sciences, research is, "The manipulation of things, concepts or symbols to generalize to extend, correct or verify knowledge, whether that knowledge aids in the construction of theory or the practice of an art"

There are three objectives of conducting research. These are as follows:

- To contribute to the existing field of knowledge in any specified discipline.
- To get a better understanding of how to formulate policies.
- To answer a specific area of question or fact.

After understanding the meaning of research, it would be much easier to know what legal research is and its objectives. We would also understand the various kinds of legal research³. Also, it is pertinent to note that research must be done carefully and systematically with minimal errors because their outcome impacts the public at large. It must be done in an organized system so that answers to the questions are simplified.

* Assistant Professor, Vaikunta Baliga College of Law, Udupi. Email-cbnaveenchandra@gmail.com

¹ Cohen L Morris "Legal Research S.T West Publishing CO. 1996, 6th edition, page No. 34

² <https://www.mylawman.co.in/2020/05/law-notes-legal-research-types-and.html> last accessed on 10th December 2017

³ DR. Myneni S.R., Legal Research Methodology, page no 12, Allahabad Law Agency, Edition

III) LEGAL RESEARCH:

Law is a subject that has broad dimensions of knowledge in society. There are several laws in India, making it difficult for a prudent man to remember them all. With the growing needs and challenges of society, laws also have to change. This means the area of law is as dynamic as our society. A complementary relationship of law and society here comes to play a vital role.

Therefore, it becomes essential to review the laws and see whether they are suited to the best interests of society or not. Here, legal research comes into play. A systematic finding and ascertainment of the law on any identified topic to advance the science of law is known as legal research.

As discussed earlier, the law is a vast area. With a mass of statutes, constant amendments, and supplementary rules and regulations, it becomes challenging for a prudent man to understand and grasp everything from it.

Therefore, a probe is conducted for different underlying principles and their reasons to make advancements in the law and simplify various acts and statutes.

Legal research is a broad area that leads to an inquiry and investigation consistently made by judges, lawyers, advocates, law students, and legal researchers in the quest for a deeper and fuller understanding of the law. To support legal-decision making, legal research comes into the limelight. It identifies and retrieves the information to make the complex process simplified⁴.

Legal research is defined as the process of identifying and retrieving information necessary to support legal decision-making. There are multiple reasons you might conduct legal research⁵:

- To find “good” case law that backs up your motion or brief
- To provide legal counsel to clients
- To provide a memo or brief for class (law students only)
- To identify case law that refutes an opposing argument
- To support the over-arching narrative of your case

IV) THE LEGAL RESEARCH PROCESS:

Understanding that the legal research process can be overwhelming and time-consuming, we have broken the legal research process down into three key steps:

1. Understand the facts of your case;
2. Gather sources of law;
3. Check your citations for “good” law.

Each of these steps is detailed below, alongside a quick-view checklist.

Step 1: Record the Facts of Your Case and Create a Research Plan

Handling a legal task with authority requires confidence in the process. This is true in any practice, jurisdictional setting, or level of legal expertise. A good process should start by taking time to identify and understand the facts of your case. Ask yourself the following questions:

⁴ <https://chilot.files.wordpress.com/2011/06/legal-research-methods.pdf> last visited on 12th December 2017

⁵ DR. Tewari H.N., “Legal Research Methodology,” page no. 5, Allahabad Law agency, 2nd Edition.

- What is the legal issue at hand?
- What are the details of the case?
- What jurisdiction is most relevant?
- Do you need state or federal case law?

Record your facts in a case management tool before beginning – this can help you develop a course of action and narrow down where to start your research. While it may be tempting to skip this step, a commitment to this process saves you time in the long run by helping you efficiently juggle multiple clients. Not to mention, you will likely need what you’ve recorded to file a motion or brief⁶.

With the facts of the case recorded, you can begin your research. Because this will help you develop a plan for gathering your sources, we will briefly discuss creating a research plan before moving on to

Step 2: Creating a Research Plan

Review the facts you recorded to determine what information you will need to build your case. When legal research first moved online, many attorneys felt the need to start with a free service like Google to identify terms of art before conducting a search in a legal research platform. However, this is no longer necessary. Research platforms like Lexis+ allow you to start your search with a natural language search or question and equip you to quickly comb both primary and secondary sources. Litigators, specifically, can use Fact and Issue Finder – integrated directly with Lexis+ – to help quickly identify the best terms of art for their search.

Creating your research plan is less about planning *where* you will search and more about planning *what* you will search. You know your research can be conducted on one, fully integrated platform. So, what questions will you ask to get started? What legal issues do you need more information about? What filters will you need (jurisdiction, time period, etc.)

Once you know *what* you will search for, you are ready to gather sources.

Step 3: Gather Sources of Law

The next step in your process is to gather relevant sources of law. Below, we detail the difference between primary law and secondary law. Importantly, when gathering sources, **start with secondary law materials**. This helps ensure you are up-to-speed on what experts have to say about a topic before you begin your case law search. Why does this matter? Think about it as building your knowledge base before crafting an argument – you’ll be less likely to make mistakes and more inclined to spot case-winning primary law⁷.

PRIMARY SOURCES OF LAW

A primary legal source is a formal document officially issued by the government that establishes the law on a particular matter, such as a case decision or legislative act. Primary sources are the law. This is the most authoritative step in the legal research process. You can support arguments with primary sources as they are not only authoritative, but precedential and controlling.

⁶ ibid

⁷ <https://chilot.files.wordpress.com/2011/06/legal-research-methods.pdf> last accessed on 12th december 2017.

Your primary sources may include:

- Case law (federal and/or state)
- Orders
- Decisions
- Statutes and regulations
- Constitutions
- Treatises

SECONDARY SOURCES OF LAW

Secondary legal sources are materials that describe or interpret the law. They are educational resources that provide analysis of the law. These documents are cited by attorneys to persuade a court to reach a particular decision in a case, but which the court is not obligated to follow⁸. Start with secondary sources to learn from legal experts that have already explored a given topic.

Secondary sources may include:

- Practice guides
- Legal treatises
- Law review articles
- Scholarly journals
- Legal news
- Jury instructions
- Legal dictionaries and encyclopedias

Step 4: Check to See If You are Using Good Law

The final step in your research process should include a final check to ensure you have used “good” law – this means you are using case law that has been treated positively in court (as opposed to case law that has been overturned or brought into question)⁹.

Check your case citations as you collect them, especially since legal research software can allow a quick view of how your case has been treated in court directly from your search results. However, it is best practice to review your citations once your research process is complete to check for any gaps, changes, or oversights.

Conduct Winning Legal Research

Following this three-step process ensures you’re taking the right measures to find the most accurate, relevant and valuable data to achieve your objectives. Now that you’re ready to conduct winning legal research, take some time to review products and tools that can help you in your path to success.

⁸ <https://www.mylawman.co.in/2020/05/law-notes-legal-research-types-and.html> last accessed on 17th December 2017.

⁹ <https://chilot.files.wordpress.com/2011/06/legal-research-methods.pdf> last accessed on 12th December 2023

LEGAL RESEARCH TOOLS

Legal research is key to drafting effective documents and building winning cases. Legal research solutions have evolved substantially – helping you conduct legal research with increased efficiency and accuracy¹⁰.

Below is a list of legal research tools to help you build a winning case:

- **Lexis+:** This is the premier LexisNexis fully integrated legal research platform. Features such as *Shepard's* at Risk ensures you are citing only the most authoritative sources, with unprecedented visibility into whether a case is at risk of being overruled or undermined. Other Lexis+ features include, but aren't limited to:
- **Brief Analysis:** Get a clear picture of the contents of your legal brief to identify any missteps and bolster your arguments against opposing counsel. Simply upload and file and quickly evaluate the legal authority cited in your (or an opposing) brief in granular detail and receive recommendations for additional searches.
- **Litigation Analytics:** Get the most accurate insights into judges, courts, attorneys, and law firms to ensure your success in litigation. Understand critical insights regarding caseloads, experience across case types, timing to key milestones, and damages by comparing federal districts and judges.
- **Shepard's® Citations Service:** See if a case has been overturned, reaffirmed, questioned, or cited by later cases, or is at risk of negative treatment. Your research needs to provide precedential value. Using reversed or overruled authority doesn't qualify as "Good Law" and your research may be ineffectual or harmful to your case.
- **Practical Guidance:** View professional insights on 20 different practice areas. Accomplish any task with practice notes, annotated templates, and checklists.
- **Legal News Hub:** Receive up-to-the-minute, award-winning journalism and legal news from Law360 and Law360 Pulse anytime you need it — without having to leave the Lexis+ ecosystem. Stay current on critical developments across legal practice areas, with over 70 coverage areas spanning the practice and business of law.

V) SIGNIFICANCE AND OBJECTIVES OF LEGAL RESEARCH:

Law is dynamic as our society is. It operates in a complex structure of society. Behavioral norms and attitudes are controlled and moulded by the law. However, with the nature of these norms changing with time and space, it becomes essential that law becomes adaptable to the changing order of society.

Legal research is also essential to write plagiarism-free content. Plagiarism is a common practice with severe consequences. Most students avoid legal research and stick to paraphrasing or plagiarizing from the content written by others. This can lead to serious consequences such as a copyright complaint, a Google penalty, deduction of marks in universities, etc. So, legal research is an essential step to avoid resorting to such practices. Some students also order free from plagiarism essays from professional writers to succeed with the tasks and help them in their assignments.

¹⁰ Ibid.

Here, in such a situation, legal research becomes essential for the ascertainment of law, clearing ambiguities in the law, identifying the weak points in a direction, and critically examining the order to ensure consistency, coherence, and stability in the law, etc. There are various purposes for which legal research is conducted. These are:

- With various laws, rules, and regulations existing in society, it becomes essential to filter the laws presently applicable to the given situation. It is not easy to find the law or a judicial pronouncement at a particular point in time. Here, legal research makes the task easier. It makes the ascertainment of the law easier and much more helpful.
- It is not always true that law, once made, can never bring rise to any contingency in the future. There exist some ambiguities and gaps which might be removed with the help of legal research. The nature of law is both reactive and proactive in that it answers the question arising out of such ambiguities and gaps. Apart from helping in removing ambiguities, it also helps in determining coherence, stability, and consistency.
- Legal research also helps in predicting the future. It also helps to understand the social factors that had indirectly impacted the making of law. Social auditing of law helps in identifying the gap between the legal ideal and social reality. It further helps in suggesting reforms based on analytical, historical, and comparative research.

VI) KINDS OF LEGAL RESEARCH:

The research can be broadly divided into various types by having a comparative analysis with respect to another kind of research. These are:

a) DESCRIPTIVE AND ANALYTICAL LEGAL RESEARCH

On the basis of	Descriptive legal research	Analytical legal research
Meaning	Descriptive legal research indicates the phenomenon or situation under study and its various characteristics. 'What has happened' and 'what is happening' is the main focus of this research. It does not attempt to answer the question 'why it has happened'. In other words, it does not try to find out the causes of the phenomenon, rather it seeks to describe the study as it is at present.	Analytical legal research indicates the use of already available facts and information to critically study the situation. It analyzes the whole range of facts and information critically.
Methods used	Surveys, comparative and correlational methods, other fact-finding requirements.	Already available facts and information are used for this kind of research.

B) APPLIED AND FUNDAMENTAL LEGAL RESEARCH

On the basis of	Applied legal research	Fundamental legal research
Meaning	It aims to find the solution for the problem practically. Here, a legal researcher tries to do his research in a practical context.	It is concerned with the generalization and formulation of the theory. This research is done merely to increase the knowledge in a field of inquiry.
Also known by	Action research.	Pure research or Basic research.
Central aim	It aims to discover a solution for a pressing practical problem.	It aims to find additional information and thereby to add to the existing knowledge.

c) QUANTITATIVE AND QUALITATIVE LEGAL RESEARCH

On the basis of	Quantitative legal research	Qualitative legal research
Meaning	It is conducting research based on numerical data. It seeks to measure the quantity or amount. A systematic and scientific investigation of quantifiable reports for understanding their inter-relation.	It is basically concerned with the qualitative phenomenon i.e. relating to quality or characteristic. It relies on the reasoning behind various aspects of behavior.
Methods used	Questionnaires, surveys, structured interviews, and experiments.	Participant surveys, unstructured interviews, and life histories.

d) Conceptual and Empirical Legal Research

On the basis of	Conceptual legal research	Empirical legal research
Meaning	It is related to an abstract theory or idea. Generally used by philosophers and thinkers either to develop or re-interpret the existing concept.	It is done by relying upon experience or observation alone, often without due regard for any system or theory. It is also known as experimental research.
Relies upon	It relies upon the existing concept to either re-interpret it into a new concept or formulate from it.	It makes use of experiments and observations of a researcher. It uses facts and data to prove its hypothesis.

VII) IMPORTANCE OF LEGAL RESEARCH:

Legal research provides support for decision-making on complex issues, by providing specific facts and legal precedent that allow you to produce complete answers for clients. Quality legal research is critical to the practice of law.

Historically, attorneys combed through books and libraries for the perfect facts, cases, and issues; now, technology has largely replaced this process. While the prominence of ever-evolving technology has made the process more efficient (and, in many ways, easier), the sheer number of products and options available can be overwhelming¹¹.

VIII) SUGGESTIONS:

Legal research comes with a cost. Legal websites like Manupatra, SCC Online aren't available for free. You would have to spend more than a penny on these sites in order to access their features. However, several authentic websites provide ways to access legal research easily without any hassle. This will be dealt with in the latter part of this article. In this section, the primary purpose is to tell you some tips for conducting effective legal research.

- Always start with secondary sources. Though some people prefer to start from the primary sources, creating from secondary sources is the best way, to begin with, legal research. It helps in saving time and makes the research process effective and efficient.
- You can always start with the news articles. There you will mostly get reliable information and also the opinions of different jurists.
- To find the correct and reliable legal information, you can always refer to the legal websites (discussed later on) to boost your research.
- Try to read judgements as they are a great source of information and can help make articles exhaustive.
- Remember that whatever information you search for and find relevant for yourself, bookmark it somewhere. Otherwise, you will have to go back again and find that pertinent piece of information.
- Also, you can follow the 10-minute rule by Ramanuj Mukherjee (CEO, Lawsikho) to save your time in conducting legal research. The 10-minute rule says that you do the research for 10 minutes and after it, whatever you read, write for 10 minutes. In this way, you will not miss out on any critical points while doing research and writing. This will save you a lot of time and will have a positive effect on your article.
- Avoiding plagiarism at all costs. If you have used somebody's idea in the information you're disseminating, duly credit them. It becomes really easy if you have saved the sources. Also, you

¹¹ <https://chilot.files.wordpress.com/2011/06/legal-research-methods.pdf> last accessed on 12th December 2017

can cite the sources without facing any difficulty. There are different types of citation methods like Bluebook, Chicago, Oscola, etc.

These were some of the practical tips that could help a person conduct effective and efficient legal research.

IX) WEBSITES FOR LEGAL RESEARCH:

Conducting legal research is very easy till one knows how to do it. However, not everyone can access legal databases such as Manupatra, SCC Online etc. Either you have to purchase them, or your college will provide access to them. But don't worry; there are many legal websites you can refer to for your legal research. These all are user-friendly and can be of great use if one looks at its structure. A lot of information can be accessed on these websites very easily.

- **Indian Kanoon**: The Indian Kanoon was founded by Sushant Sinha in 2008. It is one of the best tools that law students can use for understanding complex judgments simply.
- **Livelaw**: The website Livelaw was started by Rashid M.A. in 2013. The most prominent blog in India seeks to create awareness in society by providing accurate and reliable information.
- **iPleaders**: iPleaders was started by the two NUJS graduates Ramanuj Mukherjee and Abhudyay Aggarwal, in 2010. It is an educational start-up whose primary purpose is to make legal education accessible to all. It has its blog called iPleaders blog, which focuses on legal issues and legal questions¹².
- **Path Legal**: It is a legal directory started by Sunil Joseph in 2011. The main aim of Path Legal is to provide free legal advice online, telephone consultation, free legal advice, free LPO training, legal papers etc.
- **Lawctopus**: It was founded by the NUJS graduate Tanuj Kalia in 2010. It is one of the exclusive sites for law students that provide information regarding internships, career opportunities etc.
- **Bar and Bench**: It was established in 2011. It is a place where comprehensive news and analysis is provided for the legal community. The entire legal spectrum of information like interviews, news, column sources are provided on this website.
- **SCC Online**: Eastern Book Company, an internationally renowned publishing house, has its own reliable and comprehensive law reporting of the Supreme court of India through SCC Online. It has been providing its legal services across India. However, if you want to access SCC, you would have to purchase the subscription plan to avail the benefits.
- **Legally India**: It was founded by Kian Ganz in 2009. It is one of the leading blog pages whose primary function is to report news and information that pertains to Indian law firms, Indian lawyers, international law firms and business lawyers in India.
- **Law Times Journal**: Founded in 2014, law times journal is one of the leading online education portals devoted to the law. It believes in promoting free education in the legal sector. Besides this, it also provides resume services that help students in obtaining internships.

¹² <https://www.mylawman.co.in/2020/05/law-notes-legal-research-types-and.html> last accessed on 16th December 2017

X) CONCLUSION:

Henceforth, legal research is fundamental. To understand the intricacies of complex laws, it becomes essential for us to know the process of simplifying them.

One should always start with secondary sources such as commentaries, textbooks, articles, journals, etc. From secondary, one should move on to primary sources, i.e. statutes, constitution, etc. After having a better grasp of these sources, one should analyze and look for relevant information.

There are various kinds of research, any of which can be employed to conduct research. It is a systematic understanding of the law to advance it. Research is essential both for the law and society since they both have an impact on each other. Every method has its value in research. Hurdles that come while conducting research can be best avoided by proper planning by the researcher.

1. BIBLIOGRAPHY:

a) BOOKS

- Cohen L Morris “Legal Research”, S.T West Publishing Co. 1996, 6th Edition.
- DR. Tewari H.N “Legal Research Methodology”, Allahabad Law agency, 2nd Edition.

2. WEBLIOGRAPHY

- <https://chilot.files.wordpress.com/2011/06/legal-research-methods.pdf>
- <https://www.mylawman.co.in/2020/05/law-notes-legal-research-types-and.html>
- <https://www.questionpro.com/blog/what-is-research/>
- <https://owlcation.com/academia/Why-Research-is-Important-Within-and-Beyond-the-Academe>
- <https://www.mojocreator.com/blog/general/why-is-research-important/>