THE TAMIL NADU Dr. AMBEDKAR LAW UNIVERSITY

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SCHOOL OF EXCELLENCE IN LAW

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LEGAL METHODS

STUDY MATERIAL

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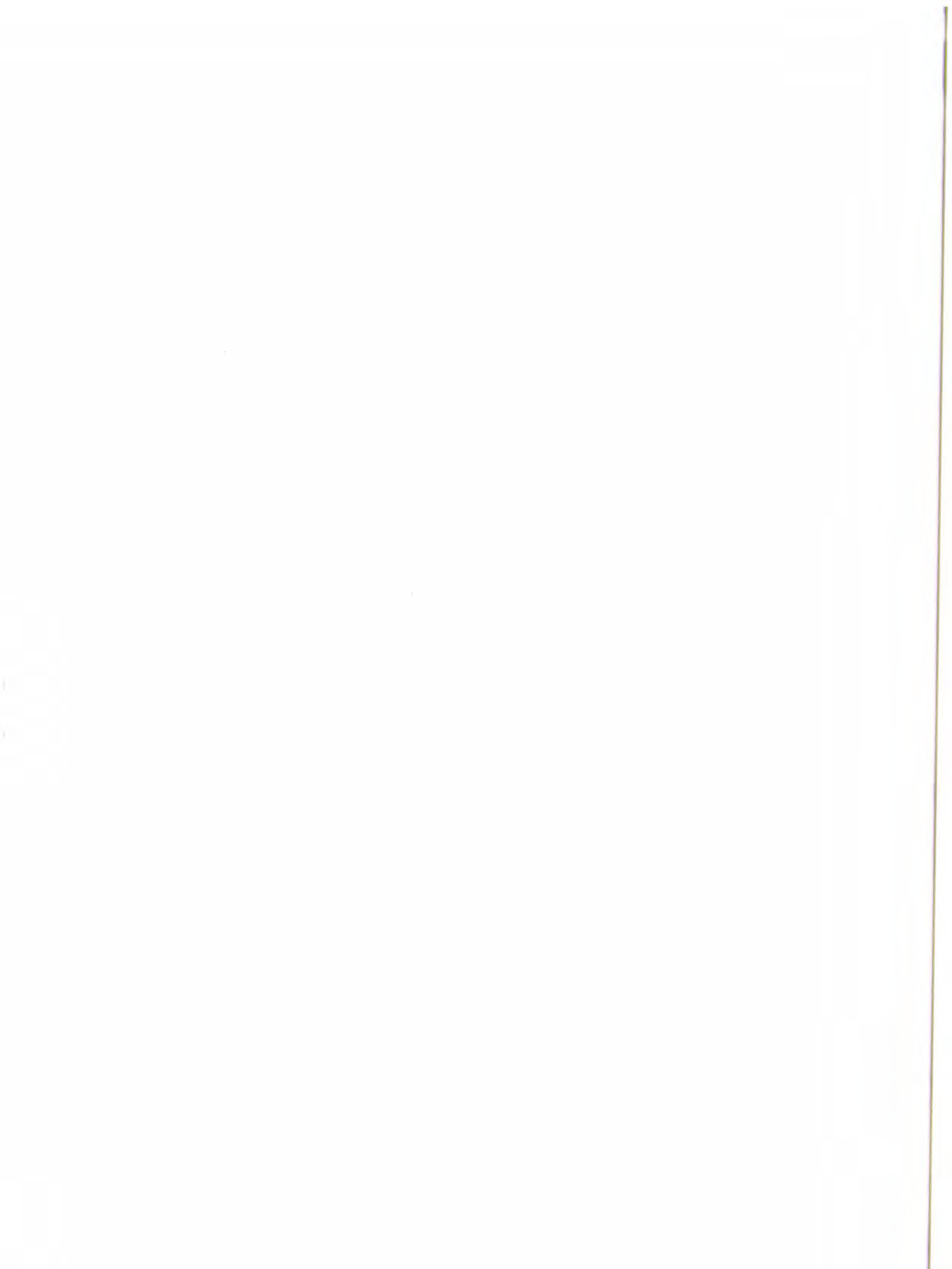

PREFACE

This course material on legal methods is an outcome of the experience based on teaching the subject. Legal method is one of the most highly misinformed and misunderstood subjects. In reality it is a meaningful and purposeful exercise. Students who have participated in the learning process of the subject for sure have explicitly witnessed a massive change in their attitude towards learning law. They have developed a tendency to address the life of law from the perspective of fundamental views. They have been sensible in accommodating the views of others and maintaining a healthy correspondence with their colleagues and that of the learned trainers. They have been in comfort in adapting to various subjects and their learning methods. In nut shell their vision towards learning law as such has been empowered. It is towards expertise.

Now to the so called problems akin to the subject, there exists no problem as such. It is only attitudinal frame, in most instances it tends to happen. It is not a crime however one should learn to take strides rather remain a passive or doubtful spectator. When explained, the subject poses an inherent challenge as it comprises legal philosophy and research at an introductory level. In expansion it is again not mere reference to nature of law, it attributes the skills of reasoning the classification of law, learning the art of interpretation and understanding the skills of approaching the judgements. In the context of research again it is not theoretical alone it introduces the framing of synopsis, which constitutes a research design. As it is taught to the beginners in law, the concept of delivering the subject itself requires good techniques and confidence. The group or the recipients, in case of the traditional five years scheme, may have different backgrounds such as Maths, Physics Chemistry and Biology; History, Commerce, Computer Science, Pure Science and that of Vocational etcetera. They may have less exposure in terms of specialization. In the case of Graduates (3 Year Courses) the difference is they have a branch of study such as Sociology, Political Science, Chemistry, Commerce so and so forth, but they may be varied. In either of the cases you do not have a particular group to rely and introduce a systematic approach. Importantly their learning methods in the past are of distinct nature. One must not forget this subject deals purely about techniques. Therefore activity or reasoning based learning will take certain amount of period, for example 3-4 weeks. Examples of common kind (day to day life activities) will be resorted. Home works or small assignments or self-learning modes will be periodically assigned. The Trainer is in a position to fine tune the skills. All this ensures fixation of chord and imparting the skills of learning the art of learning law as such. It involves reciprocal intellectual process. There is also widespread skepticism that it should be taught only after certain years of exposure. Make no mistake, mostly in all the national legal systems and their educational patterns, for several decades the subject is introduced for the first semester. As said above, it provides confidence to the students. It is a package designed to suit the beginners. Legal Methods is not to teach

Legal Method but to use the methods to understand other law subjects or a lifelong tool in a reasonable manner. Legal methods is vocal about one factor, 'how to study law and the ways to become one with law and society'.

Logically one may take this example, first year students inclusive of both the streams (5 Years and that of 3 Years) study statutory subjects without even having a basic view of the schools of interpretation, they rely upon a good number of case laws or decisional materials, without being informed the methods to associate oneself with a judgement. They are introduced to public laws only in the later semesters; an introduction of public law is required to study all other laws. Ethics of being a student of law is signified, as it is more important for the beginners to inherit right attitude, for themselves and towards the society. Such kinds of examples are many. All of the examples indicate that it is learning law in a flash and defy any experience or internalization, which should not be the way forward. Legal methods ensures intactness, foreseeability and creating sound working culture in the class room environment.

The key word used in legal methods is, it is only introductory in nature. It squarely removes the confusion of overlapping among the other subjects of law. The training period is divided in equal lengths to include the art of reading, writing, thinking, interpreting and that of reasoning the system of laws. The basic pattern relied is by introducing the texts of the law (verifiable data, for example statute laws and judgements).

In this course material I have identified the useful core areas of learning the art of learning law. In essence, the definition of law, classification of law, schools of interpretation, fundamentals of legisprudence, judicial methods and introduction to legal research. I have given the basic substance of all the units. As the subject involves lot of illustrative examples, the course material must be used as an introductory content and again one has to develop the skills by working with the learned faculties. Legal method is equivalent to the formulae "knowledge adopts the methods and methods adapt to the knowledge". As a tutor of this field of knowledge, I only wish that the students fraternity use this valuable opportunity, acquire the necessary training and blossom as an intellectual flower. Waiting for their fragrance! May Almighty (Glory Be Upon Him) increase their knowledge and guide them towards legal service.

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1. INTRODUCTION

1.1 Learn to Learn And Law and Society

The concept of learning as a process involves sincere efforts, participation, internalisation and contribution. The elementary criterion for learning is based on two attributes namely, to live as a student and learn the art of learning, that is, 'How to learn determines what to learn'. As the notion of Law neither as a subject nor as research is independent in terms of epistemological values and societal roots the above said understanding remains indispensable.

1.2 Epistemological roots

The term 'knowledge' derives its origin from the Greek term 'episteme'. Epistemology signifies the study of the science of knowledge. The object of the school of epistemology is scholarship. Every department of education strives for the attainment of such objectives and law is no different. In the pursuit of such an order there are certain central criterions *inter alia* it includes:

i. Transformation into a Student;

ii. Understanding the art of Learning;

iii. Focalisation on the Fundamentals;

iv. Obedience towards the Trainer and Methodology;

v. Working with Team Spirit.

When explained, the *Transformation* concept can be understood by the example of conventional definition of a student-a student who internalises every class as the last class. *Learning* the art of learning is basically two fold, Learn to Unlearn and Unlearn to Learn. Basically it is concentrating on useful lessons and removing the irrelevant and preparing oneself to learn the relevance of scholarship. The *Foundational* aspects of knowledge are pivotal as they set the basic premise, composition or platform towards any set of application. In the context of *Allegiance* towards the trainer and methodology, the trainees must understand that the former belong to such category who have acquired time tested experience wherein they have to fix the chord (chords of communication, reciprocity, utilisation and that of selflessness in pursuit of societal service). As the major challenge of education is regulation of human behaviour, there is a tendency to question the methodology of learning, knowingly or unknowingly. The characteristic components of 'knowingly' would for example, include comparing or distinguishing the attributes, such as language, limited experience, equating the faculties, absence of working culture and in consequence ignorance, smart work, ill advice from senior, materialistic views, living for marks, expectancy to learn with direct notes or guides for the purpose of scoring marks or avoiding analytical mode of teaching (lack of home work may lead to such stance), attitude to consider class room learning as inferior and to join profession as early as possible, impact of schooling, family background, personality traits etcetera. With reference to 'unknowingly' it may involve lack of confidence, expectancy of direct and simple materials to learn, fear factor, concerned about the concept of multiple task, lack of encouragement, late entry to the institution, alien environment, method of learning, impact of schooling, confusion in participating, family background, personality traits etcetera.

Knowingly is worse and lethal than unknowingly. As it isolates the student entirely from the learning environment, in final it also affects the ethical quotient. It will become a disease unless sorted out by the participants. However it should be made clear that as a matter of truth every disease as a cure except old age as theological science as proved right. The preventive medicine is once again the virtue of focalising on learning the art of learning law and not directly learning law as such. In addition the fruits of such therapy can be achieved better and enhanced if there is an effective communication between the teacher and the taught (chord fixation).

Further, years of experience has taught us the eternal fact that the real enemy is inside, one has to systematically regulate the soul. It is a process for resourceful life. The fine virtues of acknowledging the human limitations, appreciating others, extending co-operation, remaining modest and humble in learning, understanding the life of teacher-taught, working without complaints, sharing respect with and for fellow human beings may ensure a balanced life for a student of law. The most common and powerful word used in law is 'sovereign' in terms of authority. It is grossly misused in the legal profession. In the contemporary times, if one asks the general public, the only profession which is questioned with reference to arrogance is that of law. It is not the fault of the profession as such but that of the participants. You don't hear complaints as to, doctors or engineers being arrogant, unethical, create unnecessary problems, fear factors etcetera however it is echoed for us, the legal professionals. It is not the whole fraternity as such to be blamed; there are many great legal personalities who served the society. The message is the society expects standards of good conduct. Let us not forget that today's student is tomorrow's hope. Knowledge is not useful unless one regulates himself or herself towards finer qualities of human values. A good human being is a good law professional. If one examines, no one is sovereign except Almighty or the Creator, a concept very few may disagree. Sovereignty is only to represent not to rule.

Another noted obstacle in learning the discipline is the students concern over exams. It is unwanted and unwarranted. Knowledge based understanding will easily conquer any test. Strategy and smart work is unknown to the world of useful education. Learning law is to enhance the expertise and not to compete as such. On the other side, an exam when properly seen has good proportions. It develops memory, writing, planning, analytical skills to an extent so on and so forth. However, extreme consideration or priority for exams may end in gross misuse of the system. Legal methods requires internalisation, focus, systematic following, if it is directed towards obtaining marks, the methodology is questioned. In short, the very objet of the sacred places of education will be defeated. In consequence, the subject becomes a remote segment. Student is no more a learner. Trainer is no more than a magician without any guidance. It should never happen, as it is a research oriented subject, the benefits are innumerable. One should never restrict learning and adaptation. Patience and systematic study will unlock the doubts. As it is said 'class is permanent and form is temporary'. Exams are temporary, understanding is permanent.

Lastly, a student of law as one of the committed members of the learning fraternity, the display and application of the notion of Active Membership is the need of the hour. Selflessness is a beautiful fabric of its own. It performs a phenomenal role in creating a healthy learning environment; therefore students must appreciate and revere team spirit. It should be demonstrated by sharing the spirit of knowledge and working culture with one another in all possible modes. This virtue gains a crucial status in the field of law, as the student of law without iota of doubt at any level, Academician, Practitioner, Consultant, Judge, Public Servant or otherwise works with and for the cause of others. In particular, in promoting and protecting the conscience of law that is the development of the society at large.

1.3 Law and Society

The system of law in the literal sense originates from the society and also operates in the life of the society. To illustrate, the institution of marriage is regulated by Family Laws or Personal Laws. However, marriage as such is a social phenomenon and not a legal mission; it involves the credentials of the latter. The traditional maxim *ubi societas ibi jus* (where there is society law exists) succinctly affirms that it is for the societal purpose law is relevant and not otherwise. The distinctive point is that Law is not colonised or occupied it adapts due to its nature and therefore the 'dependency' is inevitable. A point which is classified as 'multi or inter disciplinary' in the world of research.

The essence of studying law is to serve the society. Law plays a pivotal role in every one's life. It provides guidance to the societal actors. It regulates the behavioural pattern of the participants, chiefly the general public. Law acts as a mechanism to resolve dispute among the people. It circumvents violence in times of disagreement. Thus, basic understanding of the legal system is required to maintain orderliness in the society. Students of law by involving in the intellectual exercise of learning, act as ambassadors of law and justice. This purpose cannot be attained unless the student's fraternity hone the requisite skills.

1.4 Nature and Scope of Legal Methods

The phraseology of legal methods *per se* reflects the composition of the subject. The term 'Legal' is derived from the Latin term '*legalis*' as to mean permitted by law; the concept 'Methods' stems from the Greek term '*methodos*' as to indicate purity. Methodology is wider and distinct from methods. Methodology may include varied techniques as it is the science of methods. Thus the conjunctive reading of the phrases (Legal and Methods) in the context of education reveals that legal method is a discipline which aims in imparting the requisite understanding of the foundational philosophy of law with popular and well-established/testedtechniques. Law itself is based on context, legal education cannot be adverse. Legal methods, as a primary measure involves in preparing the students to learn the art of learning law and the life of its organs. The knowledge of legal philosophy along with methods remains the knife edge test in understanding the nature of legal methods. In short, a legal method as a subject revolves solely under the tutelage of the *Principle of Knowledge adopts Methods and Methods adapt to Knowledge.*

The content or the structure of the subject includes *inter alia* the following:

i. Introduction to the concept of law and its distinction with legal, legislation, and Justice;

ii. Definition of Law;

iii. Significance of Principles of Law and Legislation;

iv. Classification of Law;

v. Introduction and Inter-linkages of Public and Private Laws;

vi. Significance of Comparative Jurisprudence;

vii. Principles of Interpretation;

viii. Introduction to Judicial Methods;

ix. Art of writing Judgements and Identification of *ratio decidendi*;

x. Introduction to Research and Research in and about Law;

xi. Significance of Philosophy of Legal Research;

xii. Introduction to varied forms of Research;

xiii. Introduction to Multi-disciplinary Approaches;

xiv. Understanding Collection, Analysis and Interpretation of Data;

xv. Utilisation of Law Library;

xvi. Training towards compilation of Synopsis.

The seminal objective of legal methods is to ensure that the students become one with law (oneness of law) and realise their respective crucial roles in the society. Oneness with law is so central, that a sense of belonging prevails. Only with such stances a student may contribute to the society. The schedule of training is planned in such a manner wherein the thesis is on appreciating the techniques to learn the legal philosophy as such. The very objective of learning and participation in the public life is in consonance with the requirement of expertise or specialisation. Further to prepare them to confidently apply them in the schools of law and that of the Courts and other relevant places and circumstances.

In addition, the utility of learning legal methods is developing skills of analysis which in turn chiefly assists the trainee to realise the life of law for its useful application. The basic method of teaching legal methods is the traditional *Socratic* mode. Questioning and indulging in reasoning ensures effective participation. The students are exposed to verifiable data. Home works or small assignments are given on day to day basis. Review assures development of individual skills. At the end of the semester the trainees are well informed about the fundamental approaches to handle texts of the law and texts about the law.

The legal profession either as a subject or institution is always based on multiplicity of factors and actors. In matters of knowledge the quotient of involving and developing propositions is a necessary component. It is not perpetual argument or conflicting views rather it is to convince by way of established reciprocal dialogues. Ethics of lawyering requires effective engagement of dialogues. Thus legal methods foster conclusive views.

1.5 Distinct Features

Legal Methods as a discipline aims to reach the beginners or the first year students of law. It delivers the basic orientation required at this level. In addition the ethical values required for a student of law in imparted on systematic basis. The concepts such as how to study, write, think, understand and interpret law as such is introduced. The focal point is that of the skills aligned to the legal profession.

Legal methods as a discipline is different from all other legal subjects taught. The principal distinction is it provides introduction to all other subjects by inducing critical analysis. It differs from jurisprudence majorly on the concept of developing reasoning skills otherwise it resembles the fabric of legal theory. It has to be remained that one cannot substitute jurisprudence. In this regard legal method as such too follows the science of legal philosophy. It differs from all other subjects covering fundamentals of law as it is foundational plus imparting the qualities required for legal practitioners. It is unlike research as it includes research views with practical training for the under graduates. It is not exactly practice as court craft involves objectives of the clients or litigants. Legal methods, focalises on fostering the techniques of legal education at an introductory level. It is pointed towards expertise. In nutshell it can be said that it is a branch of epistemological insights in legal philosophy with activity based approach.

2. DEFINITION OF LAW

2.1 Introduction

The process of attempting to define the concept of law is yet to attain completion and probably it will never. The reason is as a subject it is vast, complex, convergent, and composite and remains interpretive.It can also be rightly remarked that the only consistent source of law is interpretation as a tool. One may ponder, with the fact that every discipline is composite and how law constitutes an exception. The answer is simple. The innate notion of emergence or emerging behavioural pattern is crucial in the case of law and society. A factor which is always open ended and finds indeterminate compositions. It can be explained. This argument is bolstered by the fact that the academia has propounded many a conventional definition, a clear indicator that it is better to understand 'what ought to be law rather what is'. In addition, the workability of a definition has to be ascertained. As in the field of legal science definitions are structured in terms of lexical (etymological), stipulated (plain meaning), theoretical (tested, proven-disproven), operative (practical) and jurisprudential (philosophical). The conventional definitions in substance are lit in many perspectives namely, human conduct, nature, sovereign, justice, rights based approach, constitutional, international, religious, sociological, political, economic, morals, ethics, administration, sanctions, welfare, limitations, legality, etcetera. It again confirms that it is the element of subjectivity and objectivity is difficult to conceive. In minimum, lawincludes varied set of principles to be operated in the society by and for established actors, within a system.

2.2 Classifications

Universally, there exists three major classifications in law, namely, (i) Divine law-*jus divinum/jus sacrum;* (ii) Natural Law-*jus naturalis;* (iii) Man-made Law-*lex humanae, jus royale/jus nobilius.*

2.2.1 Divine Law

Divine laws reveal that the sole sovereign is Almighty or the Creator and the recipients are the Man kind or the Creations as a whole. The readers or the representatives have a specific identity as Believers. The object of divine laws is twofold. When explained it is the firm demonstration of allegiance or obedience to the Almighty by acts of righteousness and worship. In addition, it is to servethe fellow human beingsand that of the other creations in all possible avenues. The source of divine law is basically found in sacred scriptures otherwise called as *jus sacrum*. In case of any doubt or ambiguity, again the scripture and modes prescribed therein remains the key to interpret. The merit of adhering divine law is it is universal. It more than the concept of religion, it is a way of life. It is based upon on moral and human values. It is non-amendable in nature, hence provides the element of certainty. If properly understood it promotes communal harmony, a fact which will augur well for a plural society. The concept of unity in diversity is fostered. The limitation on *jus divinum* is the non-availability of believers. In the sense, there is no de-meriting as such in the faith it has been imposed by human beings. In consequence absence of religion based governance has led to the loss of implementing the values of such laws. The mode of implementation is by way of organisational pattern.

2.2.2 Natural Law

Laws of Nature and Natural Law differ. One is Laws of Sciences another is Sciences of Law. The former involves human life. The latter regulates human conduct. Examples of laws of nature would include the aspect of breathing, consumption of food, gravity which is imposed. Natural law deals about independent rights and obligations centred on morals and justice, for example, Justice and Self-preservation. It has a universal effect *(nomen universitatis)*. Another difference between the two is laws of nature mostly cannot be violated wherein natural laws can be. Natural laws are commanded by dictates of reason and self-evident values. The authors of natural laws are not humans though utilised by them. As the notion of justice may differ from person to person, they cannot decide its life. It is a research question whether natural law traces its origin from divine law or it is autonomous. The popular view is that it derives its life from the divine law. In cases of doubt it is interpreted by way of the science of reasoning (*causa scientae or recta ratio*).

The merit of natural law is it limits the usage of power. It remains the source of written laws. It promotes human values. The de-merit is that it is subjugated by consent based law. It has a minimum content. It is mostly applied by the judiciary and public laws provide a platform in this regard.

2.2.3 Man Made Law

Manmade laws are the last in terms of the institution of creation of laws or making of law. It is based on the welfare of society. The authors and readers in a democratic society are the people. It depends extensively on reasoning. The mode of reasoning is based on the schools of interpretation, namely textualism and intentionalism. The merits of human laws are it is formal and reliable. The lethal limitation is that of the known phenomenon 'to error is human'. Knowledge is finite and Ignorance is infinite. It is rigid. It involves behavioural pattern. The mode of implementation is through the agencies of the government.

2.3 Public and Private Laws

In general in any democratic society it is the man made laws which are interpreted, it has been further classified in to two segments, Public Laws and Private Laws. Public laws (*jus publicum*) are basically such laws which adhere by the principles of public good and welfare (*pro bono public*). Private laws (*jus privatum*) regulate the rights/duties and interest of individuals amongst themselves (*pro private commado*). The categorisation of public laws is seen from the subjects of International Law, Constitutional Law and that of Administrative Law all other laws come under the category of private laws. It is significant to note that although Public Laws are distinct in their nature, source, development, they are unified or monistic in terms of application. One of the best examples is that of the definition of human rights available under the Indian Protection of Human Rights Act, 1993.

Section 2(1) (d) "Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

The principles of international human rights are enforceable irrespective of the fact whether India is a party or not. Though, the term InternationalCovenants is explained under the Protection of Human Rights Act as to include the International Covenant on Civil and Political Rights and that of the International Covenant on Economic, Social and Cultural Rights, it is based on the school of consensualism whereas principles are rooted on the school of naturalism.

The principles are as follows:

- Prohibition of Genocide, Crimes Against Humanity, War Crimes;
- Right to Self-determination;
- Prohibition of Apartheid or Right Against Racial Discrimination;
- Prohibition of Resort to Threat or Use of Force to Settle International Disputes;
- Prohibition of Torture;
- Prohibition of Slavery;
- Prohibition of Piracy;
- Prohibition of Illicit Traffic in Narcotic Drugs;
- Prohibition of Illicit Traffic in Flesh Trade.

2.3.1 International Law

International Law or the laws of the nations (*jus gentium)* is a body of principles established by eternal power, represented by the State actors, in evolution by International Organisations, Civil Societies for the purpose of public good. In the contemporary times the United Nations Organisations has attained centrality by way of the principle of *universal membership*. The creation of the modern *jus gentium* or new international law is that of the birth of International Organisational Law. The principal distinction between International Law and International Law of Organisation is that the former is based on the allegiance of international community of States originated out of the *Principle of Ordere International Public* (it is pertinent to note that traditional international law was the product of Statist approach fuelled by the European and Western colonial regimes, and international law in its origin did not adhere to such schools and it was the product of *jus divinum*) and in the case of the latter it is the international community of Member States based on the *Principle of Implied Powers*. The fact that the United Nations receives universal solidarity (membership) makes it even more integral and foundational to the existing legal system. To understand this peculiar shift from classical to modern international law. It is also to be noted that in cases involving convergence, interplay or complications of these two Schools, recourse must be made to the trusted tool of principles of interpretation. Thus, in areas of application the *Principle of Consensualism* is relevant for modern international law and the *Principle of Specificity* acts as the rank principle. Thus the current state of law in international law indicates the existence of the Law of United Nations as an integral part of international law. The elementary understanding of the development of international law was discussed in his individual opinion by Judge Alejandro Alvarez in the *Reparations Case*. According to Alvarez J., there are three essential criterions to approach the concept, namely (i) General Principles of the New International Law; (ii) Legal Conscience of the Peoples; (iii) Exigencies of Contemporary International Life (Individual Opinion of Judge Alejandro Alvarez, *Case Concerning the Reparation for Injuries Suffered in the Service of the United Nations*, Advisory Opinion of 11th of April 1949). Importantly, the contemporary school of thought in the international legal scholarship indicates a naturalistic approach. Consent based approach is no more the basis of modern international law. Thus it is based on the foundational pillars of the *Principle of Humanity*.

The concept of institutionalisation of international law in the international life in theory and practice denotes *inter alia* the following:

i. identification of the international legal personalities, for example, the basis and operation of international community, international society and international actors;

ii. understanding the supremacy of international obligations, for example, identification of autonomous principles of the discipline and harmonisation in terms of the UN Charter obligations (Article 103);

iii. strengthening and streamlining the *legisprudence*, that is international legislation or international law making, for example, the determination of principles of international law *vis-à-vis* form and substance, another example is that of developing the *legal formulae* in understanding and utilising the works of the international law commission;

iv. evolving the definitional elements for terms of international legal concern, for example, international law, good faith, international dispute, jurisdiction, international legal entity, legal question (question of law), interpretation, international peace etcetera;

v. exploring international litigation, for example, promoting mechanisms on peaceful settlement of international disputes in co-ordination with the national legal systems;

vi. working for the creation of prudential legal spaces for the complexities associated with the subject, for example, the inter play of the different species (involving people, states, international organisations, regional organisations and non-governmental organisations);

vii. developing new techniques to reconcile the difficulties arisen out of the convergence or over lapping of *lex generalia* and *lex specialis* in the subject, for example, in situations involving massive violations of human rights, to adopt principles of interpretation, suitable to apply international law along with international human rights law, international refugee law, international humanitarian law, international disarmament law, international environmental law and that of international criminal law;

viii. researching on the availability and functioning of international dispute settlement bodies, for example, unlike forum shopping it is to create institutionalised expert judicial bodies in the requisite *lex specialis*, to illustrate, due to the increase of transnational labour disputes (international labour migration, forced labour and illicit trafficking in child labour as some of the threatening contemporary issues) establishment of international labour court or tribunal;

ix. to search for solutions in line with the modern challenges and trends of the discipline which together represent the evolution and conceptualisation of the international legal system, for example, comprehensive negation of the concept of negative vote (veto), to reform the UN in the path of rule of law;

x. revisiting the avenues of research in developing the futurological perspectives on the subject, for example, fixation of the real (who is) sovereign phenomenon, Almighty, People or State (*jus gentium* was rooted with *jus divinum*, Almighty through *jus sacrum* (laws of the scripture);

xi. development of appropriate schools to revive the subject for survival and pragmatic application, for example, humanisation;

xii. promoting international academic legal scholarship as the major source of modern international law, for example the third world approaches to international law blended with multi-disciplinary approaches to counter the problems caused by the Statist international legal philosophy;

xiii. working towards the realisation of international justice, that is protecting and promoting the welfare of the victims of international crimes (*delictum juris gentium*), importantly concentrating on progressively developing the subject towards the prevention of such crimes.

2.3.2 Constitutional Law

Constitutional Law in general in a democratic society constitutes the basic law of the land representing the will of the people. Constitutional Law also generates from the concept of Constitutionalism. It is based on the concept of rule of life. It is also addressed as the living or organic law, as it is relevant for the present and that of the future generations. Constitution acts as a touch stone for the legality and operation of all other statutes. Besides, there are Constitutions which are not solely based on will of the people and attribute allegiance to theological or religious laws. Thus Constitution indicates the basic fabric of system of governance. In terms of interpreting the Constitution, the principles emanate from it. In the case of the Indian Constitution, the pass port to study, understand and interpret it, is that of the Freedom Movement.

The term 'Constitution' as such indicates a designation, establishment, organisation, association etcetera. However, when it adds the suffix 'of India' then it gains supremacy. It is formulation of the Government. It is to the whole of India. The General Clauses Act under Section 3 (15) defines the term Constitution to mean the Constitution of India.

When explained the Constitution of India is a research oriented documented drafted by the drafting committee headed by the legendry patriot Dr.B.R.Ambedkar. The Constitution attests that it is built upon the strong foundations of social justice and public policy. Nevertheless, as Dr. B.R Ambedkar remarked, howsoever it is drafted, if it is ruled by bad lot it will turn as a bad instrument. Perhaps, the challenge lies in preserving the balance between the rule of life and that of the rule of law. Rule of power shall never be allowed to occupy the mainstream.

The preamble of the Constitution is the key to study and understand the intensity of the instrument. Understandably, the freedom movement of India remains the basic source of the Constitution. The preamble affirms that people are the authors as well as the recipients. The notion of Sovereign, Socialist, Secular, Democratic and Republic is characterised. Importantly, the concept of Secularism based on the *Principle of Unity in Diversity* bolsters the life of a plural society in a harmonious manner. In short Constitution of India is the touch stone for all other laws in India.

3. LEGAL MAXIMS AND LEGAL TERMS

3.1 Introduction

The fields of human knowledge stem from the roots of society. The social set up through its evolution sets the phase of knowledge of different sciences including the legal science. The history of legal system although propounded and developed by all nations, the modern legal system is traced to the established practices of the Greco-Roman legal system. Law emerged from those countries were Latin and Greek flourished. As a consequential effect, the principles of law emanated from such societies in the form of *maxims.* Maxims are similar to legal formulae. Maxims contain propositions of law. In terms of collection they are rooted with European legal system. Initially maxims were tested in terms of utility and social relevance, subsequently the experience acquired by way of its application ensured they are operative.

3.2 Utility of Legal Maxims

The advantages of relying upon the maxims are as follows:

- Evidence of Principles of Law (un written law/*jus non scriptum*);
- Uniform practice throughout all legal systems;
- Integral part in the life of organs of law;
- Promotes conceptual clarity;
- Source of principles of interpretation;
- Adaptability of comparative jurisprudence;
- Jurisprudential values.

3.3 Select List of Maxims

1. *a verbis legis non est recedendum* (there shall be no departure from the words of law);
2. *absoluta sentential expositore non indigen* (an absolute judgement needs no expositor);
3. *ab identitate rationis* (by identity of reason);
4. *a contrario sensu* (in the opposite sense or view);
5. *actus curiae neminem gravabit* (act of the court shall prejudice none);
6. *actus deinemini facit injuriam* (act of Almighty does not injure);
7. *actus non facitreum, nisi mens sit rea* (act does not constitute guilt unless done with a guilty intention);
8. *action personalis moritur cum persona* (a personal right of action dies with the person);
9. *actus legis nemini est damnosus* (act of legislation shall prejudice none);
10. *actus legitimus* (a legal act);

11. *actus me invite factus, non est meus actus* (an act done against my will is not my act);

12. *ad similes casus* (to like cases);

13. *aequitas legem sequitur* (equity follows the law);

14. *affirmanti non neganti incumbit probatio* (burden of proof is upon him who affirms, not upon him who denies);

15. *alterum non laedere* (to injure no one);

16. *allegans contraria non est audiendus* (he is not to be heard who alleges things contradictory of each other);

17. *ambiguitas latens et ambuigitas patens* (latent and obvious ambiguity);

18. *amicus curiae* (friend of the court);

19. *animus hominis est anima scripti* (intention is the soul of an instrument);

20. *arma in armatos sumere jura sinunt* (law permits to take arms against the armed);

21. *argumentum a simili valet in lege* (an argument from analogy is good in law);

22. *audi alteram partem* (hear both the sides);

23. *beneficium competentiae* (the benefit of competence);

24. *benedictaestexpositioquando res redimitur a destructione*(that exposition is to be commended by which the matter is rescued from destruction);

25. *bona fide possessor facit fructus consumptossuos* (a possessor in good faith makes the fruits consumed his own);

26. *brevitatis causa* (for the sake of brevity);

27. *casus omissus et oblivioni datus disposition communis juris relinquitur* (a case of omissions can in no case be supplied by a court of law, for that would be to make laws);

28. *causa proxima et non remota spectatur* (the near and not the remote cause is regarded);

29. *causa scintiae* (cause or means of knowledge);

30. *capax doli* (capable of wrong doing);

31. *cessante ratione legis, cessatipsalex* (when the reason for law ceases, the law itself ceases);

32. *cursus curiae estlex curiae* (practice of the court is the law of the court);

33. *consensus facit jus* (consent makes law);

34. *contomporanea est optima et fortissima in lege* (contemporaneous exposition of law is the best exposition of law);

35. *constructio legis non facit injuriam* (legal construction inflicts no wrong);

36. *contra bonos mores* (against good morals);

37. *corpus delicti* (the gist of crime);

38. *comitas legum* (comity of laws);

39. *commodum ex injuria sua nemo habere debet* (no one should take advantage by his own wrongful act);

40. *consuetudo loci est observanda* (the custom or usage of a place is to be observed);

41. *coram non judice* (before one who is not a competent judge);

42. *confession facta in judicio omni probatione major est* (judicial admission is stronger than any proof);

43. *crimen falsi* (the crime of falsehood);

44. *cursus curiae est lex curiae* (the course or procedure of the court is the law of the court);

45. *damnum absque injuria* (damage inflicted without legal wrong);

46. *de jure communi* (according to the provision of the common law);

47. *delegate potestas non potest delegari* (a delegated power cannot be delegated);

48. *de minimis non curatlex* (the law cares not for trifles);

49. *dolus praesumitur contra versantem in illicito* (fraud is presumed against one engaged in an illegal act or transaction);

50. *enumeration unius est exclusion alterius* (the special mention on one thing implies the exclusion of another);

51. *ex captio res judicata* (one suit one decision);

52. *ex debitio justitiae* (out of debt to justice);

53. *ex debito naturali* (arising from natural obligation);

54. *ex dolo malo non oritur actio* (no right of action can have its origin in fraud);

55. *executio juris non habet injuriam* (the carrying out of the law inflicts no wrong);

56. *ex gratia* (out of kindness);

57. *ex post facto* (by reason of a subsequent fact);

58. *ex turpi causa non oritur actio* (an illegal contract cannot be enforced);

59. *ex nudo pacto non oritur actio* (no right of action arises from a contract entered into without consideration);

60. *ex sua natura* (in its own nature or character);

61. *ex proprio motu* (of his own accord);

62. *ex jure representationis* (according to the law of representation);

63. *ex jure naturae* (according to the law of nature);

64. *ex justa causa* (for a just cause or sufficient reason);

65. *ex justitia* (according to justice);

66. *fiat justitia ruat caelum* (let justice prevail, though heavens fall);

67. *falsum in uno falsum in omnibus* (false in onething, false in all);

68. *frausest celare fraudem* (it is fraud to conceal fraud);

69. *fictio juris* (fiction of law);

70. *fides servanda est* (good faith is to be preserved);

71. *generalia specialibus non derogant* (general things do not derogate from special things);

72. *grammatica falsa non-vitiat chartam* (grammatical error does not vitiate a writing);

73. *haeres legitimus est quem nuptiae demonstrant* (he is the lawful heir whom the marriage indicates);

74. *honeste vivere* (to lead an honourable life);

75. *ignorantia juris non excusat* (ignorance of law has no excuse);

76. *impossibilium nulla obligation est* (there is no obligation to perform what is impossible);

77. *impotentia excusat legem* (inability excuses the non-observance of the law);

78. *in jure non remota causa sed proxima spectatur* (in law, the direct cause is regarded and not the remote cause);

79. *in detrimentum animi* (to the injury of the soul);

80. *index animi sermo* (language is the index of the purpose);

81. *in dubio sequendum quod tutius est* (in a doubtful case that course is to be followed which is the safer);

82. *in essentialibus* (in the essential parts);

83. *in integrum* (entirely, to the fullest extent);

84. *in limine* (at the outset);

85. *in propria causa nemo judex* (no one can be a judge in his own cause);

86. *in situ* (in its place);

87. *interest reipublicae ut sit finis litium* (it is for the interest of the State that there should be an end of law suits);

88. *impotentia excusat legum* (impossibility is an excuse in the law);

89. *in majorem evidentiam* (for more sure evidence);

90. *ipsum corpus* (the thing itself);

91. *ipso jure* (by the law itself);

92. *in rigore juris* (according to strict law);

93. *judex est lex loquens* (judge speaks law);

94. *judicia posterior sunt in lege fortiora* (later judgements are stronger in law);

95. *judicium est quasi juris dictum* (judgement is a declaration of law);

96. *judiciis est jus dicere, non dare* (duty of the judge is only to adjudicate and not to legislate);

97. *jura naturalis sunt immutbalia* (laws of nature remain unchangeable);

98. *jus ex injuria non oritur* (a right does not arise out of a wrong);

99. *jus gentium* (law of the nations);

100. *jus publicum privatorum pactis mutari non potest* (a public law or right cannot be altered by bargain or agreements of private persons);

101. *jus respicita equitatem* (the law pays regard to equity);

102. *justitia non est neganda, non differenda* (justice is neither to be denied nor delayed);

103. *legis interpretatio legis vim obtinet* (interpretation of law obtains the force of law;

104. *legis constructio non-facit injuriam* (legal construction inflicts no wrong);

105. *lex est dictamen rationis* (law is the dictate of reason);

106. *lex neminem cogit ad vana sen inutilia peragenda* (the law compels no man to do that which is futile or fruitless);

107. *lex est normarecti* (law is a rule of right);

108. *lex injusta non estlex* (an unjust law is not a law);

109. *lex posterior derogate priori* (a later statute derogates from a prior);

110. *lex prospicit, non respicit* (law prescribes a rule for the future, not for the past);

111. *lex semper intendit quod convenit rationi* (the intendment of a law is always in accordance with reason);

112. *lex vigilantibus, non dormientibus, subvenit* (law assists the wakeful, not the sleeping);

113. *longa possession jus parit* (long possession begets right);

114. *loco parentis* (in the place of a parent);

115. *locus regitactum* (the place governs the act);

116. *majori minus inest* (the greater includes the less);

117. *manifesta probatione non-indigent* (what is manifest needs no proof);

118. *major continet in se minus* (the greater contains the less);

119. *malo animo* (with evil intent);

120. *malus usus est abolendus* (bad custom or usage is to be abolished);

121. *medius est jus deficiens quam jus incertum* (law that is deficient is better than law that is uncertain);

122. *minor tenetur in quantum locupletoir factus* (a minor is bound to the extent to which he has been enriched or benefited);

123. *misera est servitus ubi jus est vagum aut incertum* (obedience to law becomes a hardship when that law is unsettled or doubtful);

124. *necessitas non habet legem* (necessity knows no law);

125. *necessitas publica major est quam privata* (public necessity is greater than private);

126. *necessitate juris* (by necessity of law);

127. *nemo debet esse judex in propria causa* (no one ought to be a judge in his own cause);

128. *nemo potestre nunciare juri publico* (no one can renounce a public right);

129. *nemo agit in seipsum* (no one acts against himself);

130. *nemo dat quod non habet* (no one can give what he has not got);

131. *nemo debet bis puniri pro uno delicto* (no one should be punished twice for the same offence);

132. *non est informatus*(he is not informed);

133. *non videntur qui errant consentire* (those who are mistaken are not deemed to consent);

134. *non compus mentis* (of unsound mind);

135. *obedientia est legis essential legis* (obedience is the essence of law);

136. *ob publica mutilitatem* (on account of public utility or for the public advantage);

137. *omnis interpretation vel dectavat, vel extendit, vel restringit* (every interpretation either declares, extends, or restrains);

138. *optima legume interpres est consuetude* (custom is the best interpreter of the law);

139. *pacta sunt servanda* (pacts must be respected);

140. *pater est quem nuptiae demonstrant* (he is the father whom the marriage indicates);

141. *pari passu* (on an equal footing or equal grade);

142. *pari in parem non habet imperium* (one sovereign cannot subjugate another);

143. *praesumendumest pro libertate* (the presumption is in favour of liberty);

144. *praesumptio juris* (a legal presumption);

145. *pro bono publico* (for the public good);

146. *probatio prout de jure* (a proof according to law);

147. *pro gravitate admissi* (according to the gravity of the offence);

148. *proprietas verborum servande sunt* (proprieties of words are to be preserved);

149. *pro private commado* (for private convenience);

150. *provisione legis* (by provision of the law);

151. *publica vindicta* (the defence or protection of the public interest);

152. *quaestio voluntatis* (a question of intention);

153. *quid pro quo* (something given in return for something else);

154. *quid juris* (what is the law);

155. *qui facit per alium facit per se* (one who acts through another acts himself);

156. *qui tacet consentire videtur* (he who is silent is supposed to consent);

157. *qui bene distinguit bene docet* (he who distinguishes well, teaches well);

158. *ratihabitio mandato comparatur* (ratification is equivalent to mandate);

159. *ratio legis est anima legis* (reason of law is the soul of law);

160. *ratio scintiae* (reason of knowledge);

161. *reddendo singular singulis* (by applying or assigning each to each);

162. *rebus ipsis et factis* (by the facts and circumstances themselves);

163. *res communes* (common things);

164. *res gestae* (things done);

165. *respondeat superior* (let the master answer or be responsible);

166. *restitutio in integrum* (entire restitution);

167. *res integra* (a matter untouched, by decision);

168. *res inter alios acta alteri nocere non debet* (a transaction between others does not prejudice one who was not a party to it);

169. *res ipsa loquitor* (thing itself speaks);

170. *salus populi est suprema lex* (welfare of the people is the supreme law);

171. *scintilla juris* (spark of law);

172. *sic utere tuo ut non alienum laedas* (use your property in such a nature not to injure others);

173. *semper in dubiis benigniora praeferenda* (in doubtful matters the more liberal view is always to be preferred).

174. *semper pro legitimatione praesumitur* (the presumption is always in favour of legitimacy);

175. *sine quo non* (without whom nothing can be effectually done);

176. *socius criminis* (an associate or accomplice in the commission of a crime);

177. *spes successionis* (the hope or expectancy of a succession);

178. *stare decisis et quieta non movere* (do not disturb the settled things);

179. *strictissimae interpretationis* (according to the strictest interpretation);

180. *suppression veri* (suppression of truth);

181. *suum cuique tribuere* (to give to everyone that which is his own);

182. *suppression very expression falsi* (a suppression of truth is equivalent to an expression of falsehood);

183. *testimonia ponderanda sunt, non numeranda* (testimonies are to be weighed not numbered);

184. *tutius erratur ex parte mitiore* (it is safer to err on the side of mercy);

185. *uberrima fides* (good faith of the most full character);

186. *ubi onus ibi emolumentum* (where the burden is, there is the profit or advantage);

187. *ubi jus ibi idem remediem* (where there is a right, there is a remedy);

188. *ubi jus incertum, ibi jus nullum* (where the law is uncertain, there is no law);

189. *ultra valorem* (beyond the value);

190. *ultra vires* (beyond the power);

191. *usus fit ex iteratis actibus* (usage arises from repeated acts);

192. *ut res magis valeat quam pereat* (better to make law operative rather null and void);

193. *uti posseditis juris* (you may have the territory as per law);

194. *veritas est justitiate mater* (truth is the mother of justice);

195. *verbis standum ubi nulla ambiguitas* (one must abide by the words where there is no ambiguity);

196. *vinculum juris* (bond of law);

197. *vis major* (a greater or superior power);

198. *viperina est expositie qua corropit viscera textus* (it is a poisonous exposition which destroys the vitals of the text);

199. *volenti non fit injuria* (to a willing person injury is not done);

200. *vox emissa volat-litera scripta manet* (a word spoken flies away-a writing remains).

3.4 Legal Terms

Legal methods also introduce legal terms or jargons. Medicine involves the regime of human body as for as law in concerned it is the world of words. In every walk of legal life, the vocabulary of law regains high reverence. When explained the legal organs and that of the participatory actors systematically rely upon legal terms and phrases which also includes greek and latin terms. It has been institutionalised.Law as such does not have a language but in practise it has been evolved. The language of law is attributed as *legalese*. The experts in such field of knowledge are addressed as *juri linguist*. It has to be reminded that language in the legal education is a means and not the substance of it. The substance as such is the societal requirements. Thus, a student of law has to be well acquainted in terms of learning and using such terms. Therefore it is advisable that students take use of legal dictionaries and other related books on legal maxims. The legal adjectives are also addressed as popular, industrious or technical terms. This attribute also differentiates a law student from other disciplines.

3.5 List of Salient Legal Terms

1. Absurdity
2. Aberration
3. Abrogate
4. Abridgement
5. Acknowledgement
6. Acceptance
7. Accomplice
8. Accused
9. Acquiescence
10. Acquittal
11. actus reus
12. Adoption
13. Administrative
14. Affirmative
15. Affidavit
16. Agency
17. Agreement
18. Alibi
19. Alternative
20. Alimony
21. Amicable
22. Ambit
23. Admonition
24. Ambiguous
25. Amendment
26. Amicus curiae

27. Antedate
28. Analogy
29. Ancillary
30. Ap ɔstasy
31. Appeal
32. Appellate
33. a priori
34. Arbitrary
35. Arrest
36. Arrears
37. Autopsy
38. Award
39. Bar
40. Bailable
41. Bailment
42. Barrister
43. Bench
44. Bequeath
45. Benami
46. Bicameral
47. Bias
48. Binding
49. Bond
50. Breach
51. Bye-laws
52. Capital
53. Causal
54. Casual
55. Causation
56. Case Law
57. Canons
58. Cardinal
59. Carnage
60. Cession
61. Civil
62. Citation
63. Circumstantial
64. Classification
65. Clemency
66. Code
67. Codicil
68. Colourable Legislation
69. Codification
70. Cognate
71. Cognizance
72. Common Law
73. Comity
74. Comparative
75. Competency
76. Commencement
77. Compliance
78. Compromise
79. Compound
80. Conclusive
81. Conciliation
82. Conflict
83. Connivance
84. Conscience
85. Conscious
86. Consent
87. Consultation
88. Construction
89. Consideration
90. Concession

91. Concurrent
92. Conjunction
93. Contrary
94. Contradistinction
95. Conjugal
96. Corroboration
97. Counterfeit
98. Contempt
99. Content
100. Contentious
101. Context
102. Continuum
103. Constitution
104. Consolidation
105. Contractual
106. Convict
107. Conferment
108. Conveyance
109. Convention
110. Conversion
111. Copyright
112. Court
113. Corpus juris
114. Criminal
115. Crime
116. Culpable
117. Curative
118. Custody
119. Custom
120. Damages
121. Damage
122. Document
123. Declaratory
124. Decree
125. Deed
126. Deemed
127. Defect
128. Definition
129. Decision
130. Deceit
131. Delict
132. Delinquency
133. Delegation
134. defacto
135. Defamation
136. Defence
137. de jure
138. Demeanour
139. Dereliction
140. Derogation
141. Desertion
142. Dictum
143. Discharge
144. Dispositive
145. Dispute
146. Discretion
147. Discrepancy
148. Doctrine
149. Directory
150. Domicile
151. Dower
152. Drafting
153. Duress
154. Due diligence

155. Easement
156. Equity
157. Equality
158. Encroachment
159. Endeavour
160. Entrenched
161. Entitlement
162. Enactment
163. Election
164. Enforceability
165. Escheat
166. Error
167. Espousal
168. Estoppel
169. Evidence
170. Evasion
171. Execution
172. Exemption
173. Executive
174. Exigency
175. Extrinsic
176. Extra-territorial
177. Extent
178. Expiry
179. Exploitation
180. Expropriation
181. Exhumation
182. Expert
183. Fiction
184. Fraud
185. Frivolous
186. Forum
187. Fundamental
188. Functional
189. Fugitive
190. Fetters
191. Fair Procedure
192. Facts
193. Fee
194. Federal
195. Flagrant
196. Fiduciary
197. Fraternity
198. Forfeiture
199. Forthwith
200. Garnishee
201. Gender
202. Government
203. Gratuity
204. Grant
205. Gift
206. Guardian
207. Guild
208. Guilt
209. Goodfaith
210. Habeas corpus
211. Harbouring
212. Hazardous
213. Hearsay
214. Hierarchy
215. Hardship
216. Harmonious
217. Held
218. Homicide

219. Hostile
220. Hypothecation
221. Immunity
222. Impunity
223. Imminent
224. Interpretation
225. Impugned
226. Interim
227. Intention
228. Imposition
229. Implied
230. Immoral
231. Identity
232. Illegal
233. Illegitimacy
234. Inchoate
235. Inference
236. Infraction
237. Infringement
238. Inherent
239. Inheritance
240. Inconsistency
241. Insurgency
242. Instrument
243. Inquisition
244. Injunction
245. Impound
246. Impeachment
247. Implead
248. Implication
249. Irrebuttable
250. Irreparable
251. Intravires
252. Jeopardy
253. Judgement
254. Juridical
255. Judicial
256. Jurisdiction
257. Jury
258. Jurisprudence
259. Justice
260. Juvenile
261. Laches
262. Law
263. Legal
264. Legislation
265. Legitimacy
266. Levy
267. Lexicon
268. Liberty
269. Liability
270. Limitation
271. Litigation
272. Logic
273. Loco parentis
274. Locus standi
275. Majority
276. Malafide
277. Material Facts
278. Malice
279. Mandatory
280. May
281. Maxims
282. Means

283. mens rea
284. Methods
285. Merger
286. Minority
287. Miscarriage
288. Misfeasance
289. Mistake
290. Misuse
291. modus operandi
292. modus vivendi
293. Motive
294. Morality
295. Modification
296. Must
297. Municipal
298. mutus mutandis
299. Nature
300. Natural Justice
301. Necessity
302. Negligence
303. Negative
304. Norm
305. Non-obstante clause
306. Notification
307. Notion
308. Notary
309. Nullified
310. Objective
311. Obligation
312. Obscurity
313. Ocular
314. Offence
315. Onus
316. Operative
317. Order
318. Ordinance
319. Overrule
320. Overlap
321. Overview
322. Ownership
323. Pact
324. Pardon
325. Parent Act
326. Parity
327. Parole
328. Parliament
329. Perjury
330. Penal
331. Pending
332. Perpetual
333. Person
334. Personal Law
335. Pleading
336. Plaint
337. Plaintiff
338. Pledge
339. Possession
340. Power
341. Practice
342. Prerogative
343. Preamble
344. Precedent
345. Presumption
346. Principles

347. prima facie
348. Privilege
349. Privity
350. Privacy
351. Probability
352. Probation
353. Proof
354. Procedure
355. Promulgation
356. Promissory
357. Prosecutrix
358. Prospective
359. Proprietary
360. Proposition of Law
361. Property
362. Proportionality
363. Protocol
364. Proviso
365. Provision
366. Proximity
367. Punitive
368. Purview
369. Purpose
370. Punishment
371. Quasi
372. Quantum
373. Qualification
374. Question of Law
375. Question of Fact
376. Quorum
377. Ratio
378. Rashness
379. Reasonable
380. Reasoned
381. Rebuttal
382. Recidivist
383. Recommendation
384. Recognition
385. Redundancy
386. Reference
387. Referendum
388. Refugee
389. Regulation
390. Rejection
391. Relaxation
392. Relevance
393. Relief
394. Relinquish
395. Remand
396. Remorse
397. Remedy
398. Remoteness
399. Reparation
400. Repatriation
401. Report
402. Repeal
403. Reprisal
404. Repugnancy
405. Repudiation
406. res subjudice
407. Reservation
408. Residuary
409. Respondent
410. Restorative

411. Restriction
412. resjudicata
413. Restitution
414. Retroactive
415. Review
416. Revision
417. Revival
418. Revocation
419. Rendition
420. Renunciation
421. Right
422. Saving Clause
423. Sanction
424. Schedule
425. Scope
426. Secular
427. Severability
428. Seizure
429. Settlement
430. Section
431. Sedition
432. Sentence
433. Shall
434. Short Title
435. Source
436. Social
437. Solemn
438. Solitary
439. Solicitor
440. Sovereign
441. Spurious
442. Statute
443. Status quo
444. Sub-clause
445. Subjective
446. Subordinate
447. Substantive
448. Subsidiary
449. Suffrage
450. Summons
451. Surety
452. Suit
453. Superfluous
454. Suspicion
455. Synopsis
456. Tacit
457. Tangible
458. Testamentary
459. Testimony
460. Testify
461. Territory
462. Title
463. Time-barred
464. Tort
465. Transfer
466. Transitional
467. Transaction
468. Transgression
469. Treaty
470. Trespass
471. Trial
472. Tribunal
473. Trust
474. Turpitude

475. Ultra vires
476. Unfair
477. Unilateral
478. Unliquidated
479. Unreasonable
480. Union
481. Unconstitutional
482. Universality
483. Usufruct
484. Uterine blood
485. Utility
486. Usage
487. Validity
488. Vagueness
489. Vested
490. Verdict
491. Veto
492. Vexatious
493. Vicarious
494. Vindicate
495. Victim
496. Vis major
497. Void
498. Voidable
499. Waive
500. Wager
501. Warrant
502. Ward
503. Wantonly
504. Welfare
505. Will
506. Wilful
507. Withdrawal
508. Witness
509. Writ
510. Written Statement

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4. PRINCIPLES OF INTERPRETATION

4.1 Introduction

It is pertinent to understand that law is contextual and the contextual clarity in it is the fact of human behaviour and its implication. Law as such revolves around human conduct a concept akin to behavioural science. In consequence it is difficult to find a hard and fast understanding. Thus the only consistent source of law is the tool called as principles of interpretation. The term 'interpretation' inherits its usage from the Latin phrase *interpretatio* which means exposition or explanation. In conjunctive, interpretation of statutes is in simple view the process of explaining the written law in times of ambiguity.

4.2 Definition

According to Gray, "the process by which a judge (or indeed any person, lawyer or a layman, who has occasion to search for the meaning of a Statute) constructs from words of a statute book, a meaning which he either believes to be that of the legislature, or which he proposes to attribute to it, is called 'interpretation'".

Salmond defines it as "the process by which the Courts seek to ascertain the meaning of the Legislature through the medium of authoritative forms in which it is expressed".

4.3 Scope and Development

The traditional maxim that *ignorantia juris non exusat* (ignorance of law is no excuse) comes to reality only when the laws are drafted clearly. More it becomes technical and harder, the more it leads to ignorance. It is also said, *legis est claris non fit interpretatio* (clear law does not require interpretation). There can be no such perfect or surer legislation. Human fallibility prevails. The reasons for interpretations are varied. The scope of interpretation is writ large due to the basic concept of 'to error is human'. It is also well accepted that the drafters cannot foresee all situations which may possibly arise at the time of applying the Statute. Resultantly, human laws require constant revision and updating. The basic philosophy in terms of human anatomy is the freedom of thought is wider and that of expression is lesser, in effect, there is always a conflict and end result is that we require additional explanation. More specifically, words are imperfect means of communication. Furthermore, whoever is bestowed with the right to exercise discretion, equal chances are there to conceive and misconceive. Societal changes and developments may further make the existing statutes out of date. The concept of ageing and the related problems which may occur in the case of human beings is also applicable to the statutes (ageing of the statutes). In the Indian scenario most of the statutes are enacted in the British period which in turn implies that though amended, the fact that the authors were strangers to the society, language employed was alien, the objectives were narrow in effect, the legislative history represented a different geographical plane constitutes another major reason for the increased effect of interpretation. This is the case with almost all nations having colonial history or history of oppression. In other words, the colonial legislations lack historical conscience and in effect reveal high level of subjectivity.

In times of ambiguity/vagueness/dubious/spurious/obscurity/lack of clarity or other similar instances in the statute, interpretation comes in to usage. In plain view ambiguity refers to one or more possible meaning, in the given context. Given the nature of the term ambiguity is itself ambiguous, interpretation *per se* requires interpretation. The philosophy of interpretation is not arithmetical calculation but one of creative process.

On the contra, ambiguity is not the only circumstance with reference to a disputed provision, even to study and understand one requires such assistance. It is an intellectual process on the whole. It is a rational activity that provides life to statutes. Interpretation in certain situations is also addressed as Construction. In principle, both are distinct in nature. Interpretation is concerned with the meaning of the subject matter whereas Construction is concerned with the meaning and also that of the legal effect and consequences of the subject matter. Interpretation strictly may rely upon intrinsic components, Construction deals about extrinsic aids. Construction therefore is the means of interpretation and interpretation is the end.

The discipline of interpretation majorly circles around the spectrum of two schools, namely *textualism* and *purposivism*. Textualism otherwise called as Originalism embodying the Principle of Actuality, gives priority to the letter of law (*litera legis*). The *formulae* of what is expressed equivalent to what is intended and what is unexpressed is equivalent to what is unintended. Purposivism or Intentionalism involving the Principle of Enlightened Literalism focalises on the intent factor by relying upon the object and purpose (*sententia legis*). It is based on the view that Intention is the soul of the instrument.

In common law societies the judiciary constitutes the fountain head of justice. Due to such an understanding the chief interpreters are also the judges. In India by way of Article 124 of the Constitution the Supreme Court acquires the role of custodian and interpreter of the Constitution. Article 141 of the Constitution mandates that the law declared by the Supreme Court is binding on all other Courts. It gives the availability of judge made law or judicial legislation. In hindsight it paves the way of larger role and position of the tool of interpretation. Thus the works and that of the *corpus juris* advanced by the Courts marks the development of the principles of interpretation. Needless to say, that the judiciary shall not assume the role of legislators. Their duty is only to adjudicate or interpret and not to legislate. In democratic societies, Statute law contains the will of the people expressed by the parliament and interpreted by the judiciary. Hence judges are supposed to exercise judicial restraint and not venture in judicial adventurism.

4.4 Objectives

The basic aim of interpretation is to identify the intent of the drafters and assist the interpreter or the presiding officer who is in dire need of clarity. Intention or the mindset of drafters when simplified relates to the intention expressed in the legislation or within the statute book. As it is not the intention of the legislators in the material sense. Unenacted legislation cannot be put to effect. It is the transformation of such an intention in to the four corners of the statutory material. Interpretation chiefly develops the law in a progressive and resourceful manner. Interpretation is a comprehensive and useful method. Human legislations and laws are devoid of certainty. In consequence, they require comprehensive methods to ensure perpetual effect. The Courts of Justice cannot return the litigants on the grounds of *non-liquet* that is on the view that the law is unclear. In such contingencies, principles of interpretation are effective tools which protect the credibility of the justice delivery system, importantly enhancing the faith of the general public reposed on them.

4.5 Schools

In case of national legal systems interpretation is divided into two schools representing foundational canons, the primary and that of secondary or subsidiary rules of interpretation. The primary rules contain the Literal, Purposive or Mischief and Golden or Reasonableor Consequential methods of construction. The secondary rules *inter alia* involve rules of:

i. *noscitura sociis;*

ii. *ejusdem generis;*

iii. *casus omissus;*

iv. *reddendo singular singulis;*

v. *expressio unis est exclusion alterius;*

vi. *contempraneo exposition est optima et fortissima sine lege;*

vii. *pari materia;*

viii. *lex specialis derogate lex generalia.*

In the context of international law and rules of treaty interpretation albeit it contains primary and supplementary means to interpretation, they are governed by the law of the nations. The principles of interpretation under the law of the nations are varied and chiefly operate in terms of the principles of *unity* and *clarity*. The common phenomenon of both spheres of legal system *vis-a-vis* interpretation is the autonomous principle of good faith that is *ut res magis valeat quam pereat* (it is better to make law operative rather null and void). It is pertinent to note that the circumstances of interpretations may change but the canons/principles remain intact and cannot be circumvented.

The essence of canons of interpretation is further identified and used by the legislative drafters themselves by way of *intrinsic* aids. Internal aids of interpretation emerge and revolve around the statute *per se*. The concept of Short and Long titles, Preamble, Definition, Repugnancy clause, Headings, Marginal Notes, Punctuation, Explanation, Exception, Proviso, Non-obstante clause, Removal of Difficulties, Illustration, Saving and Repeals Clauses and Schedules all constitute major examples of intrinsic aids of interpretation. In the absence of the above said aids, the interpreter is free to depart and apply that of the extrinsic or external aids of construction. Some examples of external aids are: Parliamentary History, Reports of Committees, Statements of Objects and Reasons, Judicial Interpretations, International Conventions, Dictionaries, Foreign Law and Decisions and Books.

It is also pertinent to note that principles of interpretation are highly relevant in terms of enforcing international law through international agreements. Unlike national legal systems, it is codified under the law of the nations. The Vienna Convention on Law of Treaties, 1969 as incorporated the principles under Articles 31, 32 and 33 (General Rules of Treaty Interpretation). The principles have attained customary rule of international law. Principles of interpretation albeit similarly related in both systems, international law differs on various grounds. Agreements in national law are validated by way of consent and interest of the parties whereas in international law, a treaty is valid if confirms to the principles of international law. It is a general rule that a treaty is governed by international law. The Principles of Literalism and Intentionalism enjoy ranking in national law however there is no such hierarchy in international law, as they are categorised under the *Principle of Unity*. It is based on their resourcefulness, it is relied. Principle of Good faith in national and international law both promote the concept of effective interpretation however the latter also includes the notion of *pacta sunt servanda* (pacts must be respected). The law of treaties in international legal system due to its multiple contexts is also attributed as 'Treaty for Treaties'. The competent interpreter in national law is chiefly the judges whereas in international law it depends upon the facts and circumstances of each case, mostly it is the international legal personality having the authority. The source of treaty interpretation in international law *inter alia* International Conventions, Custom, General Principles of Law recognised by all Nations, Judicial Decisions and that of Scholarly Works.

Vienna Convention on the Law of Treaties

Article 31

General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

(a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty; (b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

(a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions; (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation; (c) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32

Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

(a) leaves the meaning ambiguous or obscure; or (b) leads to a result which is manifestly absurd or unreasonable.

Article 33

Interpretation of treaties authenticated in two or more languages

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text.

4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

5. FUNDAMENTALS OF LEGISLATIVE DRAFTING

5.1 Introduction

The societies of the world did not begin with legislation however in practice they have done. Legislation derives its origin from the Latin combination of the terms '*legis*' as means to law and '*latum*' as to mean making. Thus it is law making or creation of laws. No doubt. It is not manufacturing of laws. As law making is for a societal cause. In most of the democratic societies the legislators or the parliament is known for law making, however they do not. It is only deliberated and institutionalised. The art of drafting is done by set of experts known as legislative drafters representing the department of legislative drafting howsoever they are addressed by the national legal systems. Due to the multiplicity factors, societal requirements and geographical and political fabric, in the modern times, experts in this field comprise both legal as well as non-legal personalities.

5.2 Legisprudence

The concept of law making and its knowledge is attributed as *legisprudence*. The concept of law making or creation of laws is an art as well as science. It includes systematic study and research adopting multi-disciplinary approaches. Legislating drafting differs from legal writing as the former deals about public documents whilst the latter relates to private affairs. Hence legal writing is not legislative drafting. It can be said legislative drafting is one of the most difficult kinds of legal writing. Legislation determines the happiness of the society at large. It relates to codification of the available body of law in to enacted format.

5.3 Scope and Development

In democratic societies written laws or statutes have attained the status of major or principal source of law. As the statute law derives its life forms from of the will of the people, it becomes binding on the Government and its Agencies. Law making is done by the branch of the government. It also to be understood that the impact of society by way of public participation, work of the civil societies and other selfless actors have a large imprint on the legislative process as such. In the Indian context it is attributed to the Department of Legislative Drafting working under the auspices of the Ministry of Law and Justice, involving both the Central and that of the State Governments. The centre for legislative drafting and research in India caters the need of the Indian drafters in terms of the imparting the requisite training. Technically the drafters are first lawyers to interpret the statutes. Even though they are outnumbered by the legal practitioners, less visible and perform a non-traditional role in the legal profession, in terms of qualitative output they receive great respect and response universally. Drafters are also called as Parliamentary and Regulatory Counsels. Traditionally they were identified as draftsmen. However, it refers only the male masculine. Legal philosophy neither is one person nor one gender world. In every sphere it fosters pluralism. Due to the success of the plain language movement, at present the correct usage is Drafters, which restores gender neutrality. The functions of the drafters are primarily to protect, preserve and communicate the statutes. They are the custodians of the statutes in terms of creation.

The challenge in the science of law making is maintaining the concept of current law. The legislation has to be contemporarily relevant. However, the contentions for the Afro-Asian and other similar societies has been the dream of developing original or indigenous legislations. As most of the prevailing laws or colonial or does not represent the real needs of such societies. Modern schools of drafting aim at native jurisprudence. Stated differently, it is de-colonisation of legislations and respect towards the self-awakening movement.

5.4 Characteristic features ofDrafting

The legislative drafters perform a crucial role in term of constructing public documents. Access to law springs from the department of legislative drafting. Drafting thus is not only an art but also a profession. It requires tremendous skills and high quality. It combines knowledge, planning and strategy.It is only through long and hard training and years of experience a drafter is born and not otherwise. Life of a drafter is not qualification or designation or authority but solely substantiated experience. Therefore neither lawyers nor academicians fit the category it is only that of trained drafters (modern drafters) with research perspectives. The philosophy of legislative drafting represents a *sui generis* phenomenon. The drafter of legislation unlike other drafters (for example, lawyers drafting private agreements) is deprived to use the literature with freedom and rely upon other techniques. The facts and the laws relied are vast in nature. Techniques primarily are multi-disciplinary in nature. Great and Constant diligence ought to be exercised. There is no fine line to start and to end. It is a task with specific parameters however to satisfy several audiences, namely, general public, administrative and legal officials, ministers, members of both houses of parliament, lawyers, litigants and judges. All these personalities participate in the process of operating with the legislative process (Public-statutes govern them, Parliamentarians-process of enactment, Administrative Officials-execute the legislations and Lawyers and Judges-authoritative interpreters). The nature of multifarious participants also mandates the drafters to work with infinite number of tentative propositions of facts, to create new laws. Thus the drafter has to potentially accommodate and balance the competing interest and objectives of the differing audience. Ultimately drafters draft laws for all or everyone. No fixed audience is the technical view point. Legislative drafters do not possess an interest of their own but their priority in principle is the interest of the ultimate users. It is this which makes the work of creation of laws more responsible and remedial in nature. Basically, the features of quality drafting *inter alia* involve the following:

1. To be Indigenous;
2. To clearly state the Title and Purpose;
3. To be accurate and wider in objectives;
4. To provide flexibility to the Legislative Scheme;
5. To be Communicative (predictability) to the legislative audience;
6. To provide Definitions for technical words;
7. To adopt the Right Choice of Words;
8. To favour Active-voice Constructions;
9. To advance Constitutional objectives;
10. To be Concise, Simple and Certain;
11. To avoid Complexity;
12. To provide Clarity (conceptual and contextual), Precision and Unambiguity;
13. To adopt clear Numbering system;
14. To arrange the Clauses in Orderly manner;

15. To ensure that the legislative design remains user friendly;
16. To provide Coherency and Consistency (amongst different legislations);
17. To adopt Plain Language Movement (priority to gender neutrality);
18. To provide fine detail in Schedules or Appendix;
19. To consider the Practical Utility;
20. To ensure Efficacy-Long term stability (qualitative drafting);
21. To avoid Argumentative Pattern;
22. To avoid Errors.

5.5 Qualities of Drafters

Legislative Drafting is an extremely difficult and highly technical task. It attracts multi-faceted qualities. Drafters work under constant pressure from the parliamentarians and other related bodies. Criticisms constitute the basic order in their life. Judges too accuse them, Litigants; Authorities even Civil societies target them with adverse remarks. Poor drafting, drafters have failed, difficult to understand, confusing, contains loopholes, remains complicated and erroneous work have been some of the hostile comments. In times of worthy or useful legislations again they are the forgotten lot, it is the parliament or the judiciary which gains the popular support. In total it is a thankless profession. Drafting does not begin and end with a particular duration. It only commences, it is in continuum. The efficacy and efficiency will be tested any time or by any event. Therefore drafters must combine the qualities of legal professionals as to lawyering skills, approach of a judge in analysing, attributes of legal researcher in finding the truth; hall marks of an academician in understanding the fundamentals.In short they form an integral part in the legal system. They must never forget the basic virtue that happiness of the people rests on the statutory material. Consequentially, they play a vital role in the legislative process leading to the administration of the system of justice. In addition, the office of the drafter is unique as it combines the life of a public servant and that of a legal professional.They form the distinct category of public sector lawyers. The rules or code of conduct, attitudinal approach, independence in functioning, priority or interest, identification and management of client, privilege and that of accountability may all differ. One has to find and strike proper balance. Thus, in order to withstand the pressure and effectively display of the responsibility, the following qualities among other factors are pivotal.

- Impartiality, Integrity and Hard work;
- Reliability (Maintain Confidentiality);
- Knowledge of Legal Philosophy;
- Skills of Aptitude and Temperament;
- Effective control of Language (accuracy and precision);
- Jurilinguist (expert in legalese);
- Interest in Drafting;
- Knowledge of Technical requirements of Legislative form;

- Experience in Legal Profession;
- Awareness to Socio-Economic concerns;
- Display of Common Sense;
- Critical and Analytical Mind;
- Multi-disciplinary Approach;
- Knowledge of Comparative Law;
- Awareness of Constitutional Limitations;
- Awareness of Judicial Decisions;
- Awareness of General Principles of International Law;
- Team Member;
- Student of Human Rights Movement;
- Student of Theories on Interpretation;
- Ability to accommodate Constructive Criticism;
- Skills of Research;
- Sense of Humour.

5.6 Stages of Drafting

Drafters do not influence the legislative policy; however, they construct it in the likes of a honey bee with a social fabric. The process of drafting legislation essentially involves the determination of legislative policy, the creation of legislative scheme and that of the communication with eventual drafting. They are involved thoroughly in the legislative process. In principle, there exist five crucial stages of drafting, which are as follows:

1. Understanding
2. Analysis
3. Design
4. Composition and Development
5. Scrutinisation and Testing

In the understanding phase, the drafters prefer consultation with the sponsored ministry. They try to understand the requirement. At the level of analysis, they collect the requisite data, to frame the blue print. In the level of design, the concern is whether to go for a full-fledged statute or amendment or any other form is highlighted. A hypothetical frame is rehearsed. The composition stage comes with the draft text and the experts revert back to the sponsoring ministry to confirm the script, wherein it further develops. The last stage is the review phase. The drafters circulate among the experienced audience to test its veracity. It includes the proof reading part, the contextual corrections. It is always said that a drafter must be a person who accepts criticism. As every scrutiny helps in the betterment of the draft and it should not be forgotten that drafting is not for the individual and it is for the society. It is out and out public or social

document. A drafter also does not have any particular audience, the work is for the past, present and future generations. According to the one of the pioneers in *legisprudence*, Vincent Crabbe, Drafters consider the conduct of the society in the past, they write in the present to deal with contemporary problems, and speak to the future by laying down rules of conduct for the guidance of society.

5.7 Source of Legislation

The major sources of legislation are varied in nature due to the nature of the requirements of the society. However, in majority, divine laws, principles of nature, the public documents, interpretation laws, statutes, comparative laws, human rights movement, reports of the commissions, legal reforms movement, judicial decisions and common sense serve the task of the drafters.

5.8 Significance of the General Clauses Act, 1897

In every legislative society the relevance of the interpretation or the general clauses act is indispensable. It is also called as the *legislative dictionary* due to its utility. The major objective of such an Act is to avoid repetition by providing definition to standard terms of legal and other related expressions. In addition, it contains explanative reference to the life of the Statute from commencement to that of its expiry. In India it is mandated by the Constitution to refer to the General Clauses Act, 1897 in circumstances involving ambiguity *vis-à-vis* lack of definitional clarity. The general clauses act symbolises the usefulness of comparative jurisprudence. It serves as a handbook for all the drafters in India.

The Indian General Clauses Act is drafted by Lord Brougham. The Constitution of India under Article 367 (Interpretation Clause) authorises the usage of the general clauses act. Thus whenever a word or expression if undefined in any Central or State enactments or in the rules, regulations or bye laws passed by the Local authorities, then in such an instance the general clauses act can be referred.

Section 3 of the General Clauses Act, contain non-exhaustive definitions and operates non-retroactively. The *chapeau* of Section reads:

'In this Act, and in all Central Acts and regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context'.

Some of the important definitions under Section 3 are as follows:

(2) "act", used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done, extend also to illegal omissions;

(3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

(7) "Central Act" shall mean an Act of Parliament, and shall include-

(a) an Act of the Dominion Legislature or of the Indian Legislature passed before the commencement of the Constitution, and

(b) an Act made before such commencement by the Governor-General in Council or the Governor-General, acting in a legislative capacity;

(9) "Chapter" shall mean a Chapter of the Act or regulation in which the word occurs;

(13) "commencement" used with reference to an Act or regulation, shall mean the day on which the Act or regulation comes into force;

(15) "Constitution" shall mean the Constitution of India;

(16) "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent;

(38) "offence" shall mean any act or omission made punishable by any law for the time being in force;

(42) "person" shall include any company or association or body of individuals, whether incorporated or not;

(50) "Regulation" shall mean a Regulation made by the President 7[under article 240 of the Constitution and shall include a Regulation made by the President under article 243 thereof and] a regulation made by the Central Government under the Government of India Act, 1870, or the Government of India Act, 1915, or the Government of India Act, 1935;

(51) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a Regulation made as a rule under any enactment;

(54) "section" shall mean a section of the Act or Regulation in which the word occurs.

Section 6 details the implications of repealing statutes

6. Effect of repeal

Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not-

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or sufferedthereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

Other notable provisions are as follows:

13. Gender and number

In all [Central Acts] or Regulations, unless there is anything repugnant in the subject or context-

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and vice versa.

26. Provision as to offences punishable under two or more enactments

Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

27. Meaning of service by post

Where any [Central Act] or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, where the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

5.9 Forms

Legislation is transformed in to many forms of legal instruments. The popular reference is as to such forms as, Acts, Code, Ordinance, Rules, Regulations, Delegated Legislations so on and so forth.

5.10 Law Commission of India

Law Commission of India is the pioneer institution supervising the law reforms movement in India. The first law commission in Independent India was established in 1955. Since independence 21 law commissions have been appointed and more than 250 reports have been submitted. In the context of *legisprudence* the Commission has contributed immensely. The reports are schemed on two ways viz. Codification and that of Progressive Development of Laws. In the former updating takes place whereas in the latter creation reflects. The terms of reference to the Commission is activated by several modes. Consultation by the Central Government, Judiciary and importantly it also takes *suo moto* cognizance. The salient areas focalized by the Commission *inter alia* are as follows:

(1) Dowry Deaths and Law Reforms;

(2) The Inclusion of Acid Attack as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime;

(3) De criminalization and Humanization of Suicide Laws:

(4) Modes of Execution of Death Sentence;

(5) Obsolete Laws-Repeal;

(6) Emergency Medical Aid to Road Accident Victims;

(7) Amending General Clauses Act and Codification of External Aid to Interpretation of Statutes;

(8) Minor Contracts;

(9) Role of Legal Profession in the Administration of Justice;

(10) Rape and Allied Offences-some questions of Substantive Law, Procedure and Evidence;

(11) Reforms of the Electoral Laws;

(12) Elimination of Discrimination Against Persons Affected by Leprosy;

(13) Reforms in Guardianship and Custody Laws;

(14) Legal Education;

(15) Section 498 A Indian Penal Code;

(16) Public Interest Disclosure and Protection of Informers;

(17) Methods of Appointment of Judges;

(18) Reforms in the Constitution;

(19) Costs in Civil Litigation;

(20) Admiralty Jurisdiction;

(21) Witness Identity Protection and Witness Protection Programmes;

(22) Passive Euthanasia-A Relook;

(23) Medical Treatment to Terminally Ill Patients;

(24) Women in Custody;

(25) Free and Compulsory Education for Children;

(26) Article 20 (3) of the Constitution and Right to Silence;

(27) Prevention of Vexatious Litigation;

(28) Need for Speedy Justice;

(29) Law Relating to Arrest;

(30) Gram Nyayalaya.

To illustrate, the Law Commission of India *suo motu* researched on the aspect of Modes of Execution of Death Sentence and Incidental Matters (Chairmanship of Justice M. Jagannadha Rao, 187th Report, October 2003). The task of the Commission was centred on regulating the execution modes based on the lines of quick, less painful and death in a *humanae* manner.In this regard the Commission referred the state of law evolved by the Supreme Court in the leading decision of *Deena v. Union of India* (AIR 1983 SC 1155). The Court held that the execution of death sentence must satisfy the three fold test:

i. It should be quick and simple as possible;

ii. Act of execution shall immediately induce the convict to the state of unconsciousness;

iii. It should be decent and avoid mutilation.

The process of Hanging fails to satisfy the tests on all grounds. As it is inhuman, involves suffering and inflicts pain. Further, the subject matter involved the exploration of Section 354 (5) of the Code of Criminal Procedure, 1973 and its constitutionality. It was enquired in light of violating Article 21 of the Constitution. Section 354 (5) states: "When any person is sentenced to death, the sentence shall direct that he be hanged by neck till he is dead".

Though deprivation of right to life and liberty is envisaged, such procedure shall be legal, fair, reasonable and just. The Commission discussed the forms of execution available in the retentionist countries. The popular modes of execution involve hanging, fire shots, electrocution and that of intravenous lethal injunction. The innate challenge posed in this enquiry, is that unless death comes one cannot experience the amount of pain, and when it comes, one cannot revert back to share the experience. Thus a pragmatic finding is impossible. Nevertheless, with serious limitations, with the aid of the advancements made in the field of technology, medicine and other related fields, the Commission examined and submitted the recommendations. The findings indicated: Hanging is for sure it is *inhumanae* as it involves fracture in the neck bone, asphyxiation, and disfigurement of face etcetera. In case of fire shots the death convict is at the mercy of the executioner, missed targets pile up the agony and it is painful. Electrocution involves burning of the body, disfigurement and lethal pain, therefore to be rejected. It is only with Intravenous Legal Injection the convict is confined to the beds and almost in the state of coma, death occurs. Thus, the Commission with all prudence recommended that the mode of lethal injection has to be preferred instead of the practice of hanging. Thus in the relevant disputed provision instead of 'hanged by neck till he is dead', the words 'administering lethal injection until the accused is dead' has to be replaced.

6. JUDICIAL METHODS

6.1 Introduction

Justice in its lexical notion originates from the term *justitae* (righteousness, uprightness, straight forwarded and integrity). It is a monumental and exhaustive concept. It is a fundamental view that people look for law not for law but solely for justice. It rests on the edifice of sacred trust. As popularly remarked justice is a universal aspiration. Every Court of Law or Justice is universally integrated. Accordingly, every Court shall be a Court of Justice and not Court of Jurisdiction. This applies irrespective of its nomenclature and territorial identity. Right to Justice constitutes a fundamental principle of human value under value based legal systems. Law must always bend to justice. Justice as a phenomenon is the *genus* and law is the *species*. The role of justice delivery system plays a major role in facilitating peace and order in the society. The notion of access to legislation ensures access to justice. In turn access to justice ensures access to participation in governance. And access to participation in governance ultimately leads to welfare of the society. Judges are available vehicles to justice. Every judge is considered to possess and exhibit qualities of Impartiality, Fairness, Independence and High Morals. Thus in the public as well as in the legal world, justice assumes central and elite position. The study on the understanding of justice delivery system and its organs, in particular the method to identify the art of judgement writing and examining the *ratio decidendi* is addressed as judicial methods. In totality it circles the life of judgements in society.

6.2 Principles governing the Judges

It is well accepted canon of jurisprudence that every judge is bestowed with the notion of discretion. However, there is none to watch or scrutinise the judges that is the custodians of the Statutes. Who is the conscience keeper to the conscience keeper of the Society? In the sphere of human legislations and laws it remains a remote possibility if not none. Presumably, as a rule of prudence the higher courts have evolved numerous principles that govern and regulate the work of the presiding officers. In the leading case of *Rupa Ashok Hurra v. Ashok Hurra & Another*, Judgement of 10th April 2002, Justice Syed Shah Mohamed Quadri, writing the judgement on behalf of the Constitutional Bench with great modesty, courage and trueness opined Human beings are fallible and judges cannot render absolute justice. The learned Judge continued, Almighty is the sole dispenser of absolute justice, a concept accepted but disputed by few. Vitally, it constitutes an original approach. It is again in this case the learned Judge propounded the concept of 'Curative Petition' with notable conditions. The Supreme Court as a Court of last resort can be approached for a third time, after the traditional grounds of Appeal and Review. Some of the Principles evolved by the Indian Judiciary are:

i. Principle of Impartiality, Fairness;

ii. Principle of Judicial Restraint;

iii. Principle of Judicial Discipline;

iv. Principle of Judicial Integrity;

v. Principle of Judicial Consciousness;

vi. Principle of Judicial Conscience;

vii. Principle of Predictability-Right of the Public to Know the state of law;

viii. Principle of Legitimate Expectation-Right to Speaking Order/Reasoned Decision;

ix. Principle restricting Judicial Adventurism.

6.3 Judgement

The findings of the Court with its official seal, authority and designation *per se* cannot be attributed as judgment. On the contra it is the paths of justice which attributes such effect. Thus in principle only when a judicial finding is based on reasons or details it can be qualified to be earmarked as a judgement.Some of the advantages of reasoned decisions are as follows:

(i) Reasons inspire elements of clarity, transparency and trust;

(ii) Reasons transgress the identity of individuality;

(iii) Reasons regulate the mind of judicial behaviour;

(iv) Reasons lead to affirmative decisions;

(v) Reasons constitute the heart of judgements, makes the conscience of justice functional;

(vi) Reasons enhance the values of precedents;

(vii) Reasons result in progressive development of laws;

(viii) Reasons gains public confidence;

(ix) Reasons strengthen judicial review;

(x) Reasons prohibit unnecessary or unfounded litigations;

(xi) Reasons ensure the safe use of judicial discretion and advances judicial discipline;

(xii) Reasons ensure effective operation of judicial system.

It is mandatory that this principle shall be adhered in every stage of decision making, be it, disposal at the admission or after the regular hearing. In other words the judgement shall be based on reasons. It constitutes an essential ingredient in the process of dispensation of the system of justice. The principle of reasoned decision or right to speaking order (order which speaks in itself) though not found in a constitutional or statutory mandate constitutes a wing of the principle of natural justice as to affirm the quality and equality in the nature of judgements. In this regard it is pertinent to note that the Statute of the International Court of Justice contains a direct provision to such an effect. Article 56 (1) states: 'The judgement shall state the reasons on which it is based'. However as reiterated *justice* is a universal aspiration and phenomenon, it is warranted by principles of public good and conscience, not by consent.

6.4 What constitutes a speaking or reasoned decision?

The test of reasoned decision is based on the Doctrine of Legitimate Expectation. Initially the doctrine was applicable to administrative authorities. Due to the increasing use of access to courts by the general public and for the credibility of the justice delivery system, it is now extended to judiciary too. In reality its application must be pressed into service to judicial administration than that of the public administration, due to the intensity of justice as a universal norm. The general public and that of the litigants in all probabilities expect that the Courts of Justice will render justice. It is consistent with the traditional maxim *actus curiae neminem gravabit* (the act of the Court shall not prejudice the interest of the parties). The elements of reasoned decision or speaking order/judgement are as follows:

i. Display of Clarity of Mind

ii. Awareness to the Parties

iii. Awareness to the Litigants

iv. Adherence or Following

v. Scrutinisation or Examination

It is the solemn duty of each and every judge to demonstrate the clarity of mind in writing and reasoning the decision or outcome of the case. Judge has to ensure precision and accuracy in the decision making process. The judgement shall be laid down in such a manner as to explicitly inform the position of the litigating parties. The litigants have an innate and qualified right to know the reasons of the outcome of their prayer, either granted or rejected. It augurs well particularly in view of invoking the right to appeal. Any failure in this regard may result in causing prejudice to the interest of the parties. Grave concern is the prejudice caused to the interest of justice. It leads to denial of justice. The judge shall also keep in mind that the general public also are informed about the developments of law in terms of the state of law. It becomes necessary due to the prevalence of the concept of judicial legislation or informal amendments to law. The principle of hierarchy requires that if the judgement is given by the higher judiciary for the sub-ordinate judiciary to adhere or follow it shall be drafted in a detailed manner. If it is from the sub-ordinate judiciary for the superior courts to examine or scrutinise it shall be written in a clear and enumerative format. However, one must confuse with the quantitative and qualitative aspects of the judgement. Neither extensive nor brevity decides the value; it is only such decision which secures the ends of justice.

6.5 Parts of the Judgement

Judgement in general includes three parts, namely the facts, formulation of legal principles and the combined effect of the facts and that of the determined law. The presiding officer has to ensure that the contents of the judgement are systematically arranged, that is the principle of orderliness has to be strictly adhered.

6.6 Identification of *ratio decidendi* or Operative part

The *ratio decidendi* (reason of the decision) is addressed as the operative or binding part. It is to be understood that it not the whole or entire judgement which is binding and only the part which is affirmative. The deduction of the rationality is an art in itself. It evolves out of close observation and years of experience. It should not be forgotten that the judge is again a human being and the choice of method shall vary accordingly. However the prudential techniques of aid in this regard *inter alia* are as follows:

i. The application of the determined laws in to the facts;

ii. The solution proposed with regard to the rights and obligations of the parties;

iii. Inference and application of the state of law as laid down in the Constitutional mechanism;

iv. Affirmative statement of law.

Thus it is the combination of all these indicative aids result in the ultimate identification of the ratio. It should not be hypothetical or involving doubts. In short the ratio has to be crystallised.

6.7 Indian Scenario

The doctrine of binding precedent or following the previous decision is followed in India by way of the constitutional mandate envisaged under Article 141(Supreme Court) and Article 227 (High Courts). In practice it conventionally refers to the norm of judge made law or judicial legislation (informal amendments to the statute law). A concept derived from the Common law system. The basis of the law of precedent is triggered due to the elements of finality of the decisions, consistency as to the state of law and lastly that of the notion of hierarchy or rank. The Supreme Court of India albeit with limitations in innumerable occasions has contributed to the progressive development of laws. In particular, the Court in a single handed manner (without the adequate supports from the other organs of the government) evolved the human rights jurisprudence.The Court assumed the role of an activist. The notion of access to justice in principle has been prioritised.

6.8 List of Research Oriented Judgements

i. Acharya Jagadishwaranand v. Commissioner of Police, Calcutta (AIR 1984 SC 512)

ii. Bangalore Water Supply and Sewerage Board v. A.Rajappa (AIR 1978 SC 548)

iii. Bachan Singh v. State of Punjab (AIR 1980 SC 898)

iv. Bijoe Emmanuel & Other v. State of Kerala (AIR 1987 SC 748)

v. Bobby Arts International v. Om Pal Singh Hoon (AIR 1996 SC 1846)

vi. Chairman, Railway Board v. Chandrima Das (AIR 2000 SC 988)

vii. Commissioner, HR&CE v. L.T.Swamiyar (AIR 1954 SC 282)

viii. Deena v. Union of India(AIR 1983 SC 1155)

ix. Gaurav Jain v. Union of India(AIR 1990 SC 292)

x. General Manager BEST v. Mrs. Agnes (AIR 1964 SC 193)

xi. Harbhajan Singh v. State of Punjab (AIR 1966 SC 97)

xii. Indian Handicrafts Emporium & Others v. Union of India (AIR 2003 SC 3240)

xiii. Jolly George Verghese & Another v. Bank of Cochin (AIR 1980 SC 470)

xiv. Kehar Singh & Others v. State (Delhi Administration) (AIR 1988 SC 1883)

xv. M/s.Spring Meadows Hospital v. Harjol Ahluwalia (AIR 1998 SC 1801)

xvi. Mrs. Aruna Roy & Others v. Union of India &Others (AIR 2002 SC 3176)

xvii. Maneka Gandhi v. Union of India (AIR 1978 SC 597)

xviii. M.C Mehta v. Kamalnath (AIR 2002 SC 1515)

xix. Nagaraj v. Union of India (AIR 2007 SC 71)

xx. Pt.Paramanand Katara v. Union of India(AIR 1989 SC 2039)

xxi. Patna University & Another v. Dr. Amita Tiwari (AIR1997 SC 3456)

xxii. Peoples Union for Civil Liberties v. Union of India (AIR 1997 SC 568)

xxiii. Pratap Misra v. State of Orissa (AIR 1977 SC 1307)

xxiv. Rohtas Industries Ltd. & Another v. Rohtas Industries Staff Union & Others (AIR 1976 SC 425)

xxv. R. Rajagopal v. State of Tamil Nadu (AIR 1995 SC 264)

xxvi. Rudal Shah v. State of Bihar(AIR 1983 SC 1086)

xxvii. Rural Litigation Entitlement Kendra v. State of UP (AIR 1985 SC 652)

xxviii. Rupa Ashok Hurra v. Ashok Hurra & Another (AIR 2002 SC 1771)

xxix. Sakshi v. Union of India (AIR 2004 SC 3566)

xxx. S.A..Venkataraman v. The Union of India and another (AIR 1954 SC 375)

xxxi. Samatha v. State of Andhra Pradesh and others (AIR 1997 SC 3297)

xxxii. Smt. Selvi v. State of Karnataka (AIR 2010 SC 1974)

xxxiii. Smt. Paniben v. State of Gujarat (AIR 1992 SC 1817)

xxxiv. State of Kerala v. Mathai Verghese (AIR 1987 SC 33)

xxxv. State of Haryana & Others v. Smt. Santra (AIR 2000 SC 1888)

xxxvi. State of Tamil Nadu through SIT v. Nalini & Others (1999 (3) SCR 1)

xxxvii. State of Bombay v. Hospital Mazdoor Sabha (AIR 1960 AIR 610)

xxxviii. State of Karnataka v. Appa Balu Ingale (AIR 1993 SC 1126)

xxxix. Suchita Srivastava v. Chandigarh Administration (AIR 2010 SC 235)

xl. Sunil Batra v. Delhi Administration (AIR 1980 SC 1579)

xli. Swami Shraddanand Vs. State of Karnataka(AIR 2008 SC 3040)

xlii. U.P.Boodhan Yagna Samiti v. Braj Kishore(AIR 1988 SC 2239)

xliii. Vellore Citizens Welfare Forum v. Union of India(AIR 1996 SC 2715)

xliv. Veerabadran Chettiar v. E.V. Ramaswami Naicker& Others (AIR 1958 SC 1032)

xlv. Vishaka v. State of Rajasthan(AIR 1997 SC 3011)

xlvi. Vidyawathi v. State of Rajasthan(AIR 1962 SC 933)

xlvii. X v. Z Hospital(AIR 1999 SC 495)

7. INTRODUCTION TO LEGAL RESEARCH

7.1 Introduction

The principles of legal philosophy similarly apply to that of the philosophy of legal research. Law is based on context likewise research does. Law neither as a subject nor as research is independent. The context of legal research is based on requirements of society, in terms of methods it is multi or inter-disciplinary in nature. The objective factor in research in general as always been the requirement to identify, establish and promote 'truth', faithfully followed in law as well. To say, the subjective test differs in comparison with research in general as it is the relationship between society and that of the organs of law, which attains centrality. Thus, in principle it can be affirmed that legal research is societal based or revolves around socio-legal plane. Besides, in the areas of demarcating research and its approaches in sciences and socio-legal, in the former the author, participant, results are determinate whereas in the latter case it is indeterminate.

7.2 Legal Research Space

Generally research in law is associated with the department of post graduation (ML/LLM, M.Phil., Ph.D). As in the case of under graduation, the fast phase of the designed course work, the objective only to introduce the subject and the examination system makes it less conducive to focus on the attributes of research. However, the traits of research as a strong linkage with that of the basic degree programme. The experience of learning public laws, studying the basics of research from subjects like Legal Methods and Interpretation of Statutes, participating in moot competitions are few instances which enhance the skills of research. Primarily, the students of law get exposed to research by way of specialization, namely Constitutional Law, International Law, Human Rights Law, Environmental Law, Personal Laws, Labour Law, Criminal Law, Property Law, Business Law, Intellectual Property Rights Law etcetera. The post graduation programme design combining the course work and the research part ensures that students are well exposed to learn research at the fundamental level. Further, the publication of research papers provides the necessary training.

7.3 Defining Legal Research

It is well accepted that a uniform definition of neither law nor legal research is possible, due to the compositeness of the subject matter. Quite possibly, a conventional definition on operative lines can be framed. One such operative definition is as follows:

"'Legal Research' relates to systematic study of verifiable data based on the permissible techniques, for the purpose of establishment of truth, in particular the conscience of law, by way of reporting".

The above definition contains *inter alia* the following elements:

i. Legal Research derives its life from the notion of research as developed by the schools of research;

ii. Relates as such denotes a inclusive character;

iii. Systematic involves time management and reflects that it is a process;

iv. Study as such encompasses, observation, analysis, examination and understanding;

v. Verifiable date includes the primary and secondary sources based on the context;

vi. Permissible techniques reflect the adaptability of empirical and non-empirical and its allied forms;

vii. Establishment inherently includes identification of truth, again it signifies conceptuality and contextuality;

viii. Conscience of law corroborates the achievement of the very purpose of developing laws;

ix. Reporting confirms the threshold of public utility.

7.4 Objectives

Research can be taught by way of lecture or any other similar method but can only be learnt by involvement. In *simpliciter* dissemination of the philosophy of research is best captured by *learning by doing method.* Research is also addressed as 'academic surgery'. Every student has to understand the fabric or concept of research, legal research in the lines of its knowledge and methods. The difficulties in applying such knowledge constitutes experience, in consequence experience transforms in to impeccable precision. On the adverse, the crucial misconception in the field of legal education is every aspirant of law identifies himself or herself with a life of a lawyer; contrarily, research is towards expertise and that of scholarship. Lawyers have definite boundaries for a researcher the boundaries are unlimited. Right to seek the truth and justice inspires the life of research.

One of the rich hall marks of research is the ability to foster and adapt analytical skills. Analysis forms an integral element of law as the sole source of applying it is through reasoning or legally called as interpretation. The ultimate reason to learn research is to acquire expertise. Expertise leads to realisation of law, in consequence one can work in terms of representing the truth and justice.

7.5 Threshold

Traditionally any research is piloted or initiated with the basic task of ascertainment of truth and that *per se* is the only natural as well as legal threshold. On the other hand, due to the limitations of human beings, as the researcher and the researched belong to such category or similar that of essentially the threshold varies. The minimum thread is that of the notion of *awareness* or the conceptual clarity of the central theme or thesis.

7.6 Checks and Balances

In circumstances of doubtfulness either in research or events aligned, the school of experience as developed certain safe guard mechanisms. When explained, there are twin wings of checks and balances. The first wing contains the *master* concept and the second involves the *servant* factor. In light of the edifice of legal research, Truth, Scholarship, Knowledge, Societal Benefit, Researcher constitutes the master or the sovereign. Methods and Logic relate to the servant or the subject. Thus the researcher in times of lack of clarity as to first ensure under which of the category the issue falls. If it is in the list of the first wing then truth determines, if it is in the docket of methods it can be altered. Subsequently the rule of priority coupled with prudence will ensure solution.

7.7 Forms of Research

Research primarily is divided into two folds namely Doctrinal (non-empirical) and Non-doctrinal (empirical). This applies to the fields of science, social science, humanities and other associated modes of research. Legal research is not alien to such concepts. The dichotomy is also identified through the legal debate of research in and about law. Traditionally, legal research is centred upon theoretical or fundamental or pure research and not in to applied or experimental or field or operative research. The reasons are varied, when listed they are as follows:

(i) Applied or field research is mastered by Department of Social Sciences as such;

(ii) Absence of universal understanding in law and its systems;

(iii) Lack of effective collaboration between law and non-law discipline;

(iv) Lack of training as to apply multi-disciplinary approaches;

(v) Non-availability of data;

(vi) Uniqueness of legal organs;

(vii) Non-availability of time;

(viii) Lack of funding;

(ix) Institutionalisation of doctrinal research;

(x) Difficulties in analysing and interpreting the data.

However, due to the challenging requirements of the society it is pertinent to focus on both forms of research. Better training under the expertise of department of empirical research can import great utilities to the schools of doctrinal mode of legal research. It is also to be emphasised that proper learning and implementation of doctrinal research ensures competency in other forms.

Further, the modes to acquire, analyse and interpret the data are streamlined by number of forms. Basically, they are classified as Analytical, Historical, Comparative, Statistical, Observational, Explorative etcetera. The techniques of collecting data primarily are Interview, Questionnaire, Sampling and Survey ensures effective investigation and exploration of the research theme.

The schools of empirical research are based on data collection in terms of primary and secondary sources. Interview and that of the questionnaire method represent the primary means. In most of the field researches related to human behaviour and concepts of enquiry as to the scientific approach of law, the interview and that of the questionnaire methods are found highly relevant. However, both the methods constitute tools of understanding and depend upon the effective utilization by the masters, either the researcher or to be accommodated by the subject matter of research. It has to be remained that the researchers representing the school of social sciences are the experts. Proper collaboration with them may yield better findings for the researchers in law.

Interview method of data collection has its own merits and de-merits. Mostly this method is relied in times of expert views, for the purpose of measuring the attitudinal or behavioural approach. In the field of

law, experts may involve legal personalities or actors who have participated in the socio-legal life. Interview method requires effective preparation and planning. The purpose of the interview must be explicitly identified. The success of the method lies in the co-operation of the interviewed. The interviewer must remember that the data acquired will be subjective therefore credibility has to be ensured through proper questions. Preliminary interviews may help the researcher to enhance the requisite skills. In order to obtain a proper finding of data, the interviewer must use the schedule. Open ended questions may be helpful in terms of identifying new issues and approaches. Even the experienced interviewers may find it difficult to collect analytical data. Therefore, researchers must use this method and the data collected to co-relate with other forms of independent data collection. This will sharpen the available data. On the contra as it involves consent based response from the respondent and the researcher's choice to rely on such select information, it may attract a bias. As it is conducted by way of face to face basis, interview method requires skill as well as professional (dispassionate) approach.

Questionnaire method is used to collect data from a group. It is useful in circumstances involving larger and scattered audience. Questionnaire is structured by way of asking questions in a form wherein the respondents are required to fill. It requires preliminary training. The researcher has to prepare preliminary questions, identify the subject area, edit and revise them thoroughly and prepare its procedure. Open ended questions may attract varied data. This method unlike interview mode is more impersonal in nature. It is also less expensive. Importantly it maintains anonymity; therefore the respondents may feel free to express their views. However it has its own de-merits. The questions have to be simple and precise, if complicated and found lengthy it may end in non-response or ineffective information. The respondent must be provided with reasonable time, failing which, it may end in a futile process. Questionnaire addressed to general public may attract differing response; in consequence it may affect analysis of data. In short, the success of this method depends upon a variety of factors, namely the preparatory work of the researcher, the subject selected, the quality of the questions, and nature of the respondents and their response and techniques employed in interpreting the data.

7.8 Law Library

Libraries around the world are known for preserving rich treasure of knowledge. They form the basis of developing skills of studying. Libraries also have contributed to the legal profession by nurturing and fostering legal luminaries to the public life. Legends have on record attested the crucial role played by the libraries in their distinguished public career. The classical example is Dr. B.R. Ambedkar. Law libraries are a kind of their own. Importantly, three kinds of materials are kept, Statutory, Decisional and Academic. Due to the close relation between law and society, law libraries have been repositories of varied disciplines. To illustrate, Commerce, Computer science, Economics, History, International Relations, Literature, Political Science, Public Administration, Management and Sociology. Law Library contains a good collection of Dictionaries preference is given to lexical dictionaries. Collection of Bare Acts, Rules or Orders or the Statutory materials are arranged in line with the alphabetical sequence. The texts about the law that is the Commentaries and that of the Text Books of different branches are arranged accordingly, for example Constitutional Law, International Law and Human Rights. The legislative history of public law is kept with great reverence. In the Indian context the Constitution Assembly Debates are preserved. As they reflect the intention of the framers of the Constitution. In reference to International Law, the *travaux preparatoires* (preparatory work) of the Conventions are maintained in accordance with their priority.

When explained, the documents pertaining to the history of the Law of United Nations shall be prioritised. Journals or Periodicals containing the collection of leading decisions are housed in accordance with the existing hierarchy in the legal system. In the Indian scenario, the judgements of the Supreme Court and that of the High Courts are preferred. The materials containing the gist of the judgements in terms of case history and subject information called as Digest is provided. Due to the British colonial history, the legislations and its permissibility as comparative law (as per Article 372 of the Constitution of India), Texts Book and Periodicals relating to British legal system are made available. Materials relating to law of contracts, principles of evidence are some of the examples.

In the modern world, the concept of inter-dependence has been enlarged by way of the revolutions induced in the field of Information and Communication Technology (ICT). Thus it is obligatory for every researcher to get accustomed the schools and modes of technology. The law library considered to be the store-house of legal information reduces the gap between manual and computer assisted research. The availability of academic websites has bolstered the skills of modern researcher. To illustrate, websites such as www.jstor.org, www.heinonline.org, www.lexisnexis.org, www.manupatra.org, www.westlaw.org etcetera, are standing examples. The said websites provide access to judgements, journals, case-law reviews, e-books, book-reviews and other related research materials. Further, the judgements of the Supreme Court and other courts can also be accessed through the www.allindiareporter.org, www.scc.org.

The availability of www.jstor.org caters the need of the Department of Post Graduation and Research Studies. In particular the accessibility of international legal materials has been enhanced, as leading international journals are available. Some of the journals are:

(1) Asian Journal of International Law;

(2) African Law Quarterly;

(3) Arab Law Quarterly;

(4) American Journal of International Law;

(5) British Year Book of International Law;

(6) Brooklyn Journal of International Law;

(7) Columbia Law Review;

(8) Cornell Journal of International Law;

(9) Chinese Journal of International Law;

(10) Duke Law Review;

(11) Emory Law Review;

(12) European Journal of International Law;

(13) Fordham Journal of International Law;

(14) Harvard Journal of International Law;

15

(15) Human Rights Law Quarterly;

(16) Hague Justice Journal;

(17) International Comparative Law Quarterly;

(18) Indian Journal of International Law;

(19) International Legal Materials;

(20) Journal of Jurisprudence;

(21) Journal of Refugee Law;

(22) Journal of Third World Affairs;

(23) Journal of International Affairs;

(24) Journal of Legislation;

(25) Journal of Armed Conflict Law;

(26) Journal of World Trade;

(27) Journal of International Criminal Justice;

(28) Leiden Journal of International Law;

(29) Nordic Journal of International Law;

(30) Oxford Journal of Legal Studies;

(31) Palestinian Year Book of International Law;

(32) Sri Lankan Journal of International Law;

(33) Stanford Law Review;

(34) Virginia Journal of International Law;

(35) Yale Law Review;

(36) Yale Journal of Human Rights and Development;

(37) Yale Journal of International Law.

In the context of journals published by Indian institutions, the leading journals are:

1) All India Reporter;

2) Arbitration Quarterly;

3) Comparative Law Review;

4) Criminal Law Journal;

5) Company Law Journal;
6) Cochin University Law Review;
7) Foreign Trade Review;
8) India Quarterly;
9) Indian Journal of International Relations;
10) Indian Journal of Public Administration;
11) Indian Journal of Intellectual Property Law;
12) Indian Journal of Industrial Relations;
13) India International Centre Law Quarterly;
14) Indian Economic and Social History Review;
15) Indian Advocate;
16) Income Tax Journal;
17) Indian Socio-Legal Journal;
18) Islamic and Comparative Law Quarterly;
19) Journal of Bar Council of India;
20) Journal of the Constitutional and Parliamentary Studies;
21) Journal of the Indian Law Institute;
22) Journal of Legal Studies;
23) Journal of Juridical Sciences;
24) Labour and Industrial Cases;
25) Madras Law Journal;
26) Social Action;
27) Supreme Court Cases;
28) Supreme Court Journal;
29) Taxation Law Reports.

8. QUALITIES OF RESEARCHER

8.1 Introduction

It has to be noted that the qualities of researchers are more in to their personality traits and the personality in law is not indifferent. It drives home the concept that qualities of researcher is not acquired artificially but mostly in built and derived from the social set up. However, the requirement of law demands more good and affirmative qualities, as due to the implication of behavioural science in the subject matter. Basically every researcher in law must be the reflection of the requirements of the society. Representative of the society, in the modern times it is the victims.

8.2 Good Qualities

The phrase 'good'quality is a misnomer. In view of the philosophy of research, the term qualities *per se* take charge of the subjective elements. However, due to the modern challenges and increasing ignorance as to the preparatory work of the research, it is indispensable that the beginners in research are not only aware but also imbibe and cultivates such abilities. When explained, the ultimate test for any research is representation of truth and not its suppression. The researcher has to demonstrate great potential to implement the said objective. Thus the good qualities ensure that the researcher is well prepared.

The good qualities of a researcher*inter alia* are as follows:

- Honesty;
- Integrity;
- Courage;
- Modesty;
- Selflessness;
- Sacrifice;
- Unbiased;
- Assertive;
- Perseverance;
- Tolerance;
- Patience;
- Adaptability;
- Academic Zeal;
- Manager of Time and Cost;
- Leader;
- Knowledge in Law;
- Language Skills;
- Juri linguist;
- Knowledge of Technological Know How;
- Introduced to Multi-disciplinary Approaches;
- Critical thinking ability;
- Sense of Humour;
- Awareness of Human limitations;
- Social Activist.

9. CRITERIONS TO SELECT RESEARCH TOPIC

9.1 Introduction

As the philosophy of research and legal research is based on context and limitations, the parameters to select a topic again remain inclusive, non-exhaustive and indicative. The utility of preparing a criterion is to avoid unforeseen risks and importantly to maintain consistency in the life of the researcher and to make the selected research live.

9.2 Guiding Factors

The Research Manual is considered to be the Hand book for the researchers. In terms of the principles of brevity, there may be circumstances wherein the manual falls short of details or due to the lack of experience, it may be less useful. In such contingency, experience counts. The advice or counselling of the senior may serve the purpose. In addition, if the researcher has done a full-fledged research it constitutes a life time experience. Thus it is better to create a research environment.

The guiding factors are as follows:

- (i) Natural Instinct
- (ii) Availability of Literature
- (iii) Availability of Experts:
- (iii) Societal Relevance
- (iv) Effective Management of Time and Cost
- (v) Adaptability towards Research Methodology
- (vi) Utilisation of Computer Assisted Legal Research
- (vii) Trans-boundary in Knowledge
- (viii) Centred on Fundamentals
- (ix) Contemporary Relevance
- (x) Possibility of Future Expansion
- (xi) Career Opportunities

(i) Natural Instinct

Every researcher must select a research topic of his own ground. It is well accepted the selection of the topic is a matter of freedom of the researcher. It should be carefully exercised. As research involves, a time period oriented study, the attention of the researcher must be perennial. In addition, the like and dislike of the human behaviour regulates their day to day activities. Research is no indifferent. The topic selected must be one of choice and not of compulsion. The affinity and involvement shown by the researcher vis-à-vis the topic ensures a successful research.

(ii) Availability of Literature

The phenomenon of Research is always a concept in continuum. It only begins without ends. A strong review of literature correlates with the identification and formalisation of research problem. It is advisable that researchers have to foresee the availability of the existing literature in the topic selected. It is compulsory for the beginners. Selection of remote or acute topics will end in dearth of research propositions. It will also expand the time and space, ultimately denying them the fruits of awareness, if not expertise. In addition, the researchers will not be in a position to learn the various methods involved in a research. Starting with limitations deprives the learning curve. Good review also ensures familiarisation and control over the subject.

(iii) Availability of Experts

Research requires guidance for two reasons. Research leads to realisation of law and Research develops analytical skills. Both these segments are based on experience. Therefore it is better to work under an experienced guide rather a subject expert. Sometimes the latter view may end in a narrow understanding. Expert corroborates with Experience. Researchers must always take the assistance of experts. The life of research demands multifaceted approach. Researchers have to understand the fact that every research is built upon one's difficulty. Difficulties transform as experience. Either way it is better to cushion yourself with sound guidance.

(iv) Societal Relevance

Law as a subject or as a research is dependent and relevant as to the requirements of the society. Researchers must internalise this very objective. Topics must reflect social values. Research must not be directed for stomach but for heart. In the sense, material gains must not affect the spirit of legal research. Research topics must seriously match the propositions of human society. Societal views may be contextual, for example, Criminal law researchers may work for rights of victims of crime; Department of Constitution may attract reforms on the Constitution based on rule of life and not only on rule of law; International law researchers may lean towards orphaned conflicts, case study of liberating Palestine from the Israeli oppression so on and so forth.

(v) Effective Management of Time and Cost

Researchers must be cautious in terms of effective time and cost management. The topic selected must be in such a nature as to suit the plan of the researcher. In reality, the time period of research at the initial post-graduation level begins from six months to one year (after the completion of the course work). Quantitative and Qualitative aspects have to be balanced. The researcher has to exhibit managerial skills. Any failure in this aspect may end in compromise of the research design, sometimes it may also prolong the writing part, and inconsequence delay the submission.

(vi) Adaptability towards Research Methodology

Researchers must ensure feasibility in terms of methods. The schools of empirical and that of non-empirical research demand training and effective internalisation. To illustrate, the philosophy of multi-disciplinary approach albeit indicates one branch, in reality it may involve numerous divisions. Thus, unless and until one acquires control over the disciplines and their methods, it becomes acute. The research design must confirm with the possible and practical approach. Some of the wrong precedents are as follows:

(i) Researchers working on electoral reforms may require assistance of the survey and that of the sampling methods. However, legal researchers solely rely upon computer assisted software techniques. The correct approach should be reliance on statistics;

(ii) Research involving field work must commence with the aspects of observatory techniques. Observation as a technique involves perceptual learning. However, majority of field researchers in law combine propositions and collection of data;

(iii) Research topics akin to data collection, interpretation and analysis require sound foundation. When explained, the researcher must ensure the form of collecting data shall be clear, simple, transparent, communicative, representative and credible. Lack of training in this regard may place the research outcome at peril.

(vii) Utilisation of Computer Assisted Legal Research

The presence and use of information communication technology in the world of legal research has indeed revolutionised the world of research. The researchers of the past compiled manual research reports. Research techniques were applied with serious limitations. However quality researchers and research emerged. Modern researchers are blessed with a world of information in a press of a button. Researcher need not be techno savvy however must be one of frequent user. Information technology promises a lot, windows of the world are open. On the adverse, it also destructs. Researchers have to balance and progress. Effective research depends upon Effective review of literature. Most of the quqlity academic materials are available in theJournals stored in academic websites, for example JSTOR. Accessing the scholarship therefore claims priority. In the material sense of compiling research, the computer resource stands as a best companion, for example, proof reading is made easy, economical and review of texts of the law and texts about the law are available at safe distance.

(viii)Trans-boundary in Knowledge

Neither legal philosophy nor legal research knows or favours academic patriotism. It is also well accepted that life of law and its research is for the betterment of humans. In contemporary times individuals have become victims. Victims are not boundary based. Every topic in law either directly or indirectly warrants salutary treatment for the victims.Therefore researchers must focus on topics of both national and international legal concern.The attitude of stereotypically identifying four research problems with national and one in international perspective does not augurs well with useful understanding and research. Researchers in this regard can learn from the schools of comparative research.

(ix) Centred on Fundamentals

Research always yields specialisation. It is a matter of general knowledge that researchers must prioritise such topics aligned on the foundational views of the basic discipline. The merits are innumerable. It is also to be noted that the institution of manmade law suffers with conceptual clarity, for example, definition of law, what constitutes legal dispute, how to guard the conscience of the judges, how to implement public policy, who is the real sovereign, what are the rights of victims, how to resolve the friction between the politicians and that of the judiciary are some of the fundamental questions, which remain unanswered. One way to identify fundamental topics is to select areas which act as a spinal cord to the subject matter. Post research it also develops dissemination of knowledge.

(x) Contemporary Relevance

The topic selected must be current. It is pertinent to note that in certain circumstances the subsequent developments in the society may surpass the original or earlier views. Research mandates that the researcher must attend to recent issues. The contemporary relevance of the topic also reiterates freshness or newness. This approach also invites a critical understanding as to the application of new methods. Identifying new methods *per se* relates to intellectual views. In *simpliciter* the chosen topic must not be exhausted either in terms of contribution or in the lines of techniques.

(xi) Possibility of Future Expansion

Consistency is a watch word in research. The researcher's persistent stay in the department and approaches towards research will always fetch rich dividends. The research topic selected at the initial level of research must start from the macro and lend towards that of the micro levels. In addition, the expansionist view will also corroborate with the futurological perspectives. The researcher during a course of period acquires good control in consequence it results in the birth of new scholarship.

(xii) Career Opportunities

Research and researcher remain as the basic as well as master phenomenon. The topic selected must also cater to the employment aspect. The concept of employment does not mean commercialisation of research topic, but only a survival of the researcher in competitive world. It also a straight forward view that most researchers select an academic career. In such instances, it is better that the topics synchronise with the academic syllabus. However, in terms of conflict between the requirements of society and that of individual development, the former prevails. Experience shows that good researchers are not devoid of professional competence.

10. SYNOPSIS

10.1 Introduction

The term synopsis originates from the Greek word *synopsis* which means general view. Framing of synopsis constitutes a central scheme in the research design for any kind of research. Synopsis is considered to provide the general background for the core issues or the selected chapters. It is the second level of work after a topic is selected and after a reasonable review of literature. The initial synopsis report is identified as the draft synopsis, when approved it becomes synopsis subsequently the introductory chapter in the main research report.

10.2 Utility

The utility or the usefulness of the synopsis is multi dimensional. The most significant value is that it provides the first level training to write a full-fledged research report or the dissertation. The utilities *inter alia* are as follows:

Helps to fix the research design;

- Provides firm control over the research area;
- Introduces compartmentalisation;
- Improves the qualities of the researcher;
- Facilitates to work with limitations;
- Provides insights and methods on research manual;
- Fixes the chord of relationship between the guide and that of the researcher;
- Facilitates the proper understanding of computer assisted legal research;
- Strengthens the confidence level of researcher;
- Signals the start of the main research;
- Ensures effective research.

10.3 Components

Synopsis in general consists of *nine* significant components. The components possess unique characteristic features. As they are mutually exclusive as well as have solid inter-linkages. The quantity of the synopsis ranges from 13-16 pages. The components are as follows:

I. Introduction

II. Background of the Study

III. Review of Literature

IV. Scope and Objectives of the Study

V. Research Problem

VI. Research Question

VII. Hypothesis/Hypotheses

VIII. Research Methodology/Techniques

IX. Tentative Chapterisation

(i)Introduction

The introduction part delivers brief introductory content to the research theme as a whole. It also gives a basic relationship between the research topic and that of the society. This part also accommodates the introduction of lexical or stipulative definitions. In short it is a general outline of the selected subject matter. It ends with the importance of historical inputs.

(ii) Background of the Study

The legal evolution of the research topic is discussed under this part. The core objective under this segment is to indicate the chronological sequence of the developments taken place in the subject. It also gleans on the areas of enquiry 'how and why' the subject become the matter of legal concern. It is called as the triggering effect. It follows an orderly or arranged pattern.

(iii) Review of Literature

The review section is considered to involve the second and that of the third pattern in terms of 'selection of research area'. The first phase is that of the identification, the second is that of verification in the light of the earlier works and the last phase is testing them in the backdrop of the core chapters. Thus review part combines the concept of researching the existing materials at different levels. In general it is a survey of the earlier literature existing or available on the subject. The quantum and quality of the literature is contextual that is it depends upon the facts and circumstances of each subject. In essence, this part holds the fort for developing important segments such as research problems and that of hypothesis. Good review of literature ensures Good research.

(iv) Scope and Objectives of the Study

It is considered to be the heart of the synopsis and in fact it deals about the outline of research report. The researcher with great precision highlights the core issues of the research along with the contemporary relevance of the subject. It also acts as a safeguard mechanism wherein the researcher can express the limitations. It is relevant as in cases of vastness or unforeseen developments or impracticable concerns; the researcher can always legitimately adduce justification.

(v) Research Problem

Research problem is always an understanding of the unknown. It is the outcome of the researcher insight on the chosen topic indicating an intellectual ignorance. It is a popular adage that framing a research problem is more difficult than resolving it. It acquires extension in the research report in the form of academic discussion and decision. Traditionally, the source of research problem is based on effective

review of literature and the assistance rendered by the supervisor or the guide. However, a closer look at the academic materials will indicate independence in framing the problem and it will provide a fresh lease of life to the chosen research issues.In any research in law the question of identifying the problems rests upon the threshold set by jurisprudential concerns. When explained, the relative concerns that law is unclear, ineffective enforcement mechanisms, judicial contribution in light of review or activism, changing needs of the society, impact of globalisation that is interdependence, abuse of the legal mechanism etcetera have crucial impact in framing the problem in the researched. However one should never forget the basic view that law and research in law is based on the edifice called as context. Legal research is based on multiple context, majorly involving multi-disciplinary approaches.

(vi) Research Question

This part is the delimitation of its previous. The researcher for the purpose of precision scrutinises the research problems in to question format. To illustrate, why, how, when, who, what, whether, is, etcetera.

(vii) Hypotheses

The term hypothesis has been derived from the Greek phrase *hypoti thenai*. When examined, it is *hypo* (less) and thesis (view). In combination it is less than held view. It is a guess or prediction based on reasoning and education (information about the theme).It is a provisional proposition which merits examination. It is considered to be a vital segment as it provides the method for testing the identified problems. Hypothesis comprises the research problem as a tentative statement espoused by the variable to be tested. The test of testability emerges. It can also be said that hypothesis when properly designed it distinguishes the related issue's truth and falsehood. Hypothesis is the midpoint of research. The point of distinction between research problem and that of hypothesis is the former cannot be tested whilst it is possible with that of the latter. Hypothesis regulates the relationship of variables. Hypothesis *vis-a-vis* one or more propositions attains the nomenclature Hypotheses. If the hypothesis is capable of being tested by means of scientific enquiry it acquires the status of empirical in nature. In terms of social phenomenon it qualifies to be theoretical. Its importance can also be seen from the point of the ever increasing amount of academic interest it has generated. The basic question is whether to have this component or not. Element of confusion prevails. The answer is straightforward, one of the basic principles of research is the methods or tools are always the servant. Hypothesis is a tool or method. It firmly depends upon the master, the values of truth, scholarship, societal requirements or the researcher. Therefore it is for the master concepts to decide, to keep it or not. Life of hypothesis is based on the theory of functional necessity. Thus the seriousness of the controversies can be seriously negated. Hypothesis squarely finds its basis upon certain solid theoretical import or foundation. It is an unproven theory. This element confirms the virtue of deductibility.

In essence the characteristics of good hypothesis are as follows:

- (i) It is based on sound review of literature;
- (ii) It should contain innate and refined research problem;
- (iii) It should reflect the theory in all its conceptual clarity;
- (iv) The variable fixed shall have a testable trackrecord;

(v) It should synchronise the research design and that of the theme;

(vi) Consistency shall be maintained in the point of convergence between the hypothesis and that of the research concepts.

(viii) Research Methodology/Techniques

This part lays down the mode of research adopted in the research undertaken. Basically it can be identified as the procedural outline of the sources relied by the researcher in the report. It also lists out the finer details of the primary and that of secondary sources to be utilised in the subject. It is also to be remained that though research generates methods and techniques, in case of applying it there is no such hard and fast rule. The only reliable method is that the selected pattern shall be used in a uniform manner, for proper use of research design and towards better analysis.

(ix)Tentative Chapterisation

The last part of the synopsis provides a basic view of all the chapters with reference to their area of contribution. It acquires significance as it marks the nature of the conclusion segment. It indicates whether the researcher will conclude with suggestions or findings or recommendations etcetera.

The synopsis always ends with a select bibliography. The select bibliography unlike the reference part which comprises the full list of cited materials only reflects the compilation of such literature used for preparing the synopsis.

The compilation of synopsis itself constitutes a research format or design. As outlined it requires profound exercise of intellectual aptitude in terms of understanding the fabric or values and reasoning involved in the chosen research. It involves a fine combination of objective and subjective aspects of knowledge and methods. A good synopsis assures the birth of quality research and researcher.

10.4 Structural Requirements

The synopsis ranges from 14-15 pages. The prescribed font is 'Times New Roman' with the size of 12 and line spacing of 1.5. In case of foot notes it is 10 and the line spacing should be 'exactly'. It has to be remembered research does not standby a straight line formula and it remains contextual. However the common attribute is that the tools shall be used in accordance with the principle of *uniformity*.

MODEL QUESTIONS

PART - A (12 Marks)

1. Define Law and distinguish with Legal. Explain the utility of learning legal methods.
2. "Legal Methods in its spirit indicates the foundational understanding of law and acquiring skills of legal research"-Examine.
3. Define Legislation. Enumerate the classifications of Law.
4. "Legal Methods reflects epistemological understanding"-Examine.
5. Explain in detail the nature and scope of legal methods.
6. Define Methods. How far Legal Methods differs from other disciplines.
7. What is meant by reasoning? Explain the role of legal methods in fostering legal reasoning.
8. "Knowledge adopts methods and Methods adapts to Knowledge"-Explain.
9. Discuss the significance of learning judicial methods.
10. "Legal methods imparts the values of knowledge and methods"-Examine.
11. Explain the role of the Law Commission of India in the progressive development of Laws in India. Illustrate with select reports.
12. Examine the concept of 'law reforms' in the context of the work of the Law Commission of India.
13. Explain the salient features of the General Clauses Act, 1897.
14. Define Precedent. Examine the role of Indian judiciary in evolving human rights jurisprudence.
15. Examine the significance of principles of interpretation.
16. Discuss the schools of Textualism and Purposivism.
17. Define legal research. Explain the components of the synopsis. Illustrate with model.
18. "Legal research involves the process of establishing the conscience of law"- Comment.
19. Examine the merits and de-merits of doctrinal and that of non-doctrinal mode of legal research.
20. "Doctrinal research concentrates on jurisprudential concerns whereas Non-doctrinal research is more operational"-Discuss.

PART-B (7 Marks)

1. Explain Multi-Disciplinary approaches to Legal Research.
2. Examine the values of Socio-Legal Research.
3. Write an essay on the classification of Laws.
4. Analyse the significance of Computer Assisted Legal Research.
5. Define Library. Explain the utility of Law Library.
6. Define Behavioural Science. Explain Judicial Behaviour.
7. Analyse the concept of legal reforms.
8. Explain the merits and de-merits of Interview Method.
9. Explain the merits and de-merits of Questionnaire Method.

10. "Law declared by the Supreme Court is binding on all other Courts"-Explain.
11. Discuss the significance of Sec. 3 of the General Clauses Act, 1897.
12. "General Clauses Act is also called as Legislative Dictionary"-Comment.
13. Define Data. Explain the principles involved in Collection of Data.
14. Explain the stages of legislative drafting.
15. "*Legislative drafting is a unique art*"-Discuss.
16. Explain the qualities of legislative drafter.
17. "Synopsis itself constitutes a research design"-Discuss.
18. Examine the characteristics of a good hypothesis.
19. Explain research 'in' and 'about' law.
20. Examine the significance of comparative jurisprudence.
21. Examine the qualities of researcher in law.
22. "Legal researcher must exhibit virtues of honesty, courage and impartiality"-Examine.
23. Enumerate the criterions to select research topic.
24. Define Legal fiction. Explain the relevance of fiction in law subjects.
25. Define Constitution. Examine the nature of Fundamental Rights.

PART-C (4 Marks)

1. Utility of Legal Maxims
2. Definition of Human Rights
3. Logical Reasoning
4. Legal Fiction
5. Presumptions
6. Principles of Natural Justice
7. Religion as Source of Legislation
8. Freedom Movement and Law
9. Comparative Law
10. Morals and Law
11. Research Manual
12. Legisprudence
13. Interpretation and Construction
14. Sampling
15. Survey
16. Historical Research
17. Public and Private Laws
18. Substantive and Procedural Laws
19. Obiter dictum

20. Doctrine of Purity
21. Doctrine of Legitimate Expectation
22. Doctrine of Good faith in Interpretation
23. Rights of Differently Abled Persons
24. General Principles of Treaty Interpretation
25. Subsidiary rules of Interpretation
26. Source of Law
27. Monism
28. National Legal System
29. Administrative Law
30. Freedom and Right
31. Law Reforms
32. United Nations
33. Regulatory Counsel
34. Hypothesis
35. Statute Law
36. Rule of ejusdem generis
37. Choice of Method
38. Critical Legal Studies
39. Doctrine of Judicial Conscience
40. Inherent Powers of the Court
41. Judicial Legislation
42. Amendments
43. International Law Commission
44. Codification
45. Contribution of Dr. B.R. Ambedkar
46. Public Interest Litigation
47. Judicial Activism
48. Search and Research
49. International Relations
50. Criminal and Civil Laws
51. Texts of the Law and Texts about the Law
52. Theory of Emergence
53. Content and Context
54. Enlightened Literalism
55. Doctrine of Capture.

PART-D (2 Marks)

1. Plagiarism
2. Journals
3. Research Design
4. Bibliography
5. Footnotes
6. Endnotes
7. Epistemology
8. Repeal
9. Treaty
10. Plain language movement
11. Reference
12. Logic
13. Analogy
14. Juristic works
15. Fred.N. Kerlinger
16. *Per incuriam*
17. Rule of Power
18. *la legalite*
19. Legal syntax
20. Jurilinguist
21. Parliamentary Supremacy
22. Secularism
23. Death penalty
24. Principles of law
25. *jus scriptum*
26. inductive and deductive reasoning
27. Diplomacy
28. Human Environment
29. Socio-legal research
30. Evidence
31. Burden of Proof
32. Victimology
33. Information and Communication Technology
34. Gutteridge on Comparative Law
35. Research Pattern
36. Constitutionalism
37. Justice and Law
38. Historical Interpretation
39. Principle of Lenity
40. *ratio decidendi*
41. Principles of Legislation
42. International Public Order
43. Human Values
44. Systematic Interpretation
45. Appendix
46. Marginal Heading
47. Short Title
48. Behavioural Science
49. Statistical Research
50. Preamble
51. Current Law
52. Variable
53. Usage
54. Consent makes law
55. Native Jurisprudence

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