

THE SIGNIFICANCE OF RESEARCH METHODOLOGY IN HUMAN RIGHTS: A BIRD'S EYE VIEW*

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ABSTRACT

Compare to general legal research, the methodology and study of human rights need in depth, inclusive investigative approach in view of the fact that the aim and objective of human rights is not only to bring in peace and prosperity across the various actors of it, but also to guarantee equality, life and liberty of individuals through different dimensions. Any research undertaken in the area of human rights needs to examine theoretical foundations of Human Rights and their applicability to each issue under examination both from non-legal and legal parameters, the actors involved, the impact of such research on social actors and on various disciplines. Further, to establish accountability for the violations, impact assessment, the required data, tools and techniques need to be adopted according to the problem under investigation, and basing on the value added investments of stakeholders in human rights.

Key Words: Human Rights Research, Mapping Exercises, Methods of Study, Research Design

Introduction

Human rights compare to yester years are more complex in the contemporary era. From their evolutionary phase as claim rights, they underwent phenomenal change in their growth, outlook, thinking process, significance, applicative percepts, norms, forms and procedures in the modern epoch. Accordingly, any study or research in human rights needs to be examined from different dimensions. Firstly, the theoretical foundations of Human Rights in their development need to examine legal and non-legal perspectives. Secondly, the legal base, evolution of it from municipal to international, and vice-versa needs a detailed examination. Thirdly, the generational impact and development of various rights requires an examination in the context of the fourth

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phase of economic oriented era of globalization. Fourthly, the role and perspective of the international organisations and their contribution in the promotion and advancement of rights and their propagation through education necessarily play a lead role in their augmentation, requires in-depth study. Sixthly, the functioning of various international and national institutional mechanism, methods and percepts for which, they are created need a critical analysis. Seventhly, the role of social actors and advocacy groups, researchers and scholars requires an extensive deliberative research. Seventhly, to help students and researchers what methods need to employ, expose, examine and analyse violations of human rights and their consequences in their promotion and dissemination. Eighthly, what would be impact of science, technology and other disciplines in the law making process of human rights? Ninthly, the role of international and national judicial organs and their jurisprudential vistas in the promotion and remedial mechanism provide for the arrest of violations, calls for investigation. Tenthly, what are ethical and moral implications of human rights research and advocacy? Finally, it requires comprehensive examination through employing various methods that require motivating students, researchers to rise above disciplinary and professional divides and explore new techniques to strengthen their research design and implementation.

The proliferation led to the systematic evolution and development of legal standards, protective mechanism to address stupendous changes in the relations amongst comity of nations, scientific and technological temperaments, the process of change in globalisation, and other economic, social, cultural aspects. However, one thing remains common and permanent in the saga of theirs is persistent and continuous violations. The challenges posed to them in evaluation to ancient periods magnify from day to day, due to the perceptual transform of ethical, moral, social, behavioural outlook of individuals, in their approach and practice mostly rely on the realisation of their rights, than to discharging the duties casted on them. To encounter the violations, and to address increasingly mature regime of specific rights characterized to suit specific needs of every society due to the proliferation of indivisible, interrelated nature of

international law of human rights, it has developed an array of systematic legal standards, supervisory mechanism at the international and national levels¹.

The extraordinary growth needs a systematic study from every angle to understand the acrobatic dimensions of human rights, and its educative impulse to erect an ethical world to enjoy the fruits in an equitable distribute approach, to augment the basic tenets of equality before law, life and liberty without any discriminatory practices. To address the gamut of international law of human rights, and its adaption to diverse subjects, situations and issues to deduce the positive and negative impact on its actors, a number of research methods and tools have had been developed in the contemporary era. The subjective and objective factors of development of these techniques is to motivate the researchers and students to undertake in depth studies to address the causative factors for their hindrance on the growth and promotion of international law of human rights and its educational objectives.

The paper examines to focus on some of the important significant factors of techniques of research to measure and understand the dimensions of human rights with reference to Meaning and conceptual perspectives of research Methods, Implications of Methodological perspectives, the necessity of snap shot issues, Significance of Ethical and Moral percepts, Significance of Survey, Statistical and case study methods, and the various tools and methodological percepts to carry research through the above methods in Human rights to measure the results and their implications.

Meaning and conceptual perspectives of Research and Research Methods

Research can be defined in simple terms as any systematic study to inquire any aspect with an in-depth investigation to gain new knowledge. It further denotes to answer a question or to find out a solution to a problem with new techniques or procedures to be adopted with original thinking process. Further it seeks to find explanation to unexplained concepts, to clarify the doubtful facts and to correct the misconceived facts. In the words of Karlinger, research is a

¹ ILIAS BANTEKAS AND LUTZ OETTE, INTERNATIONAL HUMAN RIGHTS: LAW AND PRACTICE, 8-30 (Cambridge,2013).

“systematic, controlled and critical investigation of hypothetical proposition about the presumed relation among natural phenomena.”²

This means a researcher need to adopt a good hypothesis to guide the researcher in a good perspective without looming large on various aspects or to fall in dark. However, since research fundamentally guides one to proceed in a systematic fashion to acquire new knowledge and to find out solutions in a fruit-full manner, it can also be preceded without hypothesis. In fact in areas like human rights which, is highly interdisciplinary in nature many a times it may not be possible to fix a hypothesis with a single agenda. In issues relating to socio, economic and cultural perspectives, the researcher may examine the issue under study from different dimensions by drawing a set of specific objectives of the study. In such a case, since the aim and objective of research is a careful study of a subject, especially in order to discover new facts or information about it³, the issue of hypothesis is not a necessary ingredient to proceed further and may lead to find out a hypothesis.⁴

Research Methods

The present century has opened up with a number of challenges to be addressed basing on the economic, social, cultural, political and legal perspectives. To address the various issues that are plaguing the comity of nations to evolve long lasting solutions, a number of tools are required to investigate each issue to temper with scientific solutions that need to have a legal basis.

In comparison with sciences, in social sciences, and especially, law being a normative science, each issue needs a systematic and through investigation from different angles. In a subject like human rights, which has an over bearing of every field of study in it, it needs every issue a proper examination by adopting various research methods, patterns depending on the type of issue under consideration for investigation.

² KARLINGER FRED.W, FOUNDATIONS OF BEHAVIORAL RESEARCH, , 11 (N.V. Holt ,Rinchart and Winston, 1975)

³ Oxford Learner’s Dictionary , on line edition available at http://www.oxfordlearnersdictionaries.com/definition/english/research_1 (Last updated 14.5.2014)

⁴ REENA GAUTAM, SOURCES OF RESEARCH IN INDIAN CLASSICAL MUSIC, 3 (Kanishka Publishers, New Delhi, 2002)

Before employing the methodological aspects to examine the problems and percepts of human rights, the main tool that is required to have a research design. Prior to framing a research design, in social sciences a researcher needs to have two fundamental tools that is descriptive and explanatory types to investigate the problem.

Descriptive Method of Research

Descriptive and explanatory research mainly leads a researcher to collect data by probing through what and why issues. This could be considered as the base for developing a research design. It will in turn lead to examine and deals with the type of research questions, data analysis that need to be applied to the problem under investigation. Descriptive method is concerned with ‘what is ‘might be applied to questions to investigate.’⁵ This method is mostly employed with respect to state sponsored research with respective to a number of issues by employing a number of indicators. The intention of this research is to produce a statistical data. In issues of human rights to give, an indication to state or international organisations to find out the type of schemes and methods require to adopt and to access the impact of the schemes that are introduced by it. The data needs to be collected either singly or in various combinations based on the type of research issues are at hand.

Explanatory Method of Research

Explanatory research deals with ‘why’ type questions and goes beyond description and tries the reason for the phenomenon that the descriptive study already provided. In this, one may employ causal questions for probing the issue and then proceed to expand the area with number of players. In issues of human rights, it can be started probing into a single issue, which may be expanded to study to the same issue with reference to different contexts and countries. For example, issues like exploitation of disable and vulnerable and causes for their vulnerability in different contexts and other number of aspects may be examined through explanatory method.

Both the methods lead to answer the theoretical percepts,⁶ which are highly intricate and significant in the context of social sciences in general, and human rights in particular. The

⁵ What is descriptive research, http://learngen.org/~aust/EdTecheBooks/AECT_HANDBOOK96/41/41-01.html, (last updated, January 1 2013)

⁶ Theory means, *A set of interrelated constructs (concepts), definitions, and propositions that present a systematic view of phenomena by specifying relations among variables, with the purpose of explaining and predicting*

observational aspects by employing descriptive and explanatory methods would lead to inductive and deductive reasoning to arrive at a set of propositions based on the theoretical percepts. In a way, it would help to find out the authenticity of the theoretical base of a number of issues of human rights since many of them evolve out of an account of economic, socio, cultural and legal process.

Significance of Research Design

Research design means the integration of various issues to study in a coherent and logical fashion there by one could examine the issue under study effectively with the help of analysis of data already collected by employing various methodologies. A research design helps to address the proper concerns of research and guides a researcher to fill if any inadequacies found while, procuring further data. In view of a number of designs⁷ are available to examine the research data, especially in human rights research, choosing a design is the most important aspect since each issue and problem are complex and intricate in nature. For an easy and quick understanding of a design, the significance and their applicability in a specific context, the paper subtly, examines few of them.

1. Action Research Design

An action-based research mostly helps in community-based research activities. It focuses on pragmatic and solution driven research than to adopt simple theoretical perspectives. All serious studies have a direct and obvious relevance to practice. This methodology is commonly employed in community-based research to examine the policy perspectives, benefits derived and to suggest the necessary implementation mechanism to redress the grievances. It also helps to suggest to access the national and international policy framework on major issues such as Environment, Right to Development, and to address the various issues of group rights.

2. Case Study Design

phenomena. (KERLINGER F.N. AND LEE H.B. , FOUNDATIONS OF BEHAVIOURAL RESEARCH, 15(2000),; for a clear description theory and theory building see Jason A. Colquitt and cindy P. Zapata-Phelan, *Trends in Theory Building and Theory testing : A Five Decade Study of the Academy of Management Journal*, 50, AMERICAN MJ., 1281-1303(2007)

⁷ For a detailed study and methods and designs see www.ibguides.usc.edu/content.php?pid=83009&sid=818072 and the literature cited there in (last updated 15.2.2014). also see, Ooona A.Hathaway, *Do Human rights Treaties makes a different,*? 111 YALE L J, 1935-2042 (2002) where the author discussed some of the models that need to be applied in the context of binding nature and application of human rights treaties.

Case study design is normally applied in two ways in legal research. One is to understand the perspectives oriented in a practical problem. This will help to understand and examine an issue in particular context and facilitate to analyse with the theoretical parameters. Another one is to examine the cases decided by courts, and to examine them in the social context with an analysis of practical and theoretical purposes of the value of judgment and its impact on the enjoyment of a number of human rights. A number of cases decided by various courts, especially, the Supreme Court of India expanding the provisions of the constitution through Public Interest Litigation are highly helpful to study by employing this method. It further helps to study, how and in what perspective individuals can demand the state for the implementation the non-justiciable rights or Economic, Social and Cultural rights through the prism of Fundamental rights or Civil and Political rights, when the directives are neglected and which have a substantive bearing on the enjoyment of the first generational rights.

3. Causal Design

This type of research in human rights will help to understand the impact of a specific change on the existing social conditions, norms and the futuristic assumptions that one can lead to study a number of aspects in a causal fashion by interaction with various individuals on various aspects of human rights, or with a particular group of people whose rights are at peril. This type of research will help the researcher to understand at what point of time, the other methods can be initiated either individually, or collectively as a mixture to broaden the research to study whether claims mechanism need to be included for the various violations of the rights, if so, what type of mechanism need to be employed to address or to suggest the redress mechanism to the victims of rights.⁸ This type of observational skills led a number of people to evolve the Social Action Litigation in India which could provide a number of durable solutions to a number of rights of various sections of people to augment their rights as guaranteed by the constitution in its true spirit.

⁸ For a discussion on Claim research, DAVID J. HARDING AND KRISTIN S. SEEFELDTTEE, MIXED METHODS AND CAUSAL ANALYSIS, in STEPHEN .L., AND MORGAN (eds), HANDBOOK FOR CAUSAL ANALYSIS OF SOCIAL RESEARCH 91-113(Springer, New York, 2013)

4. Cohort Design

This is normally a design employed in medical sciences. However, human rights being an applied social science, this type of design help to study the behaviour and attitude of particular populations and the way they exercise the rights and inherent difficulties that they face in a new or particular locality. This method is mostly useful to study the problems and perspectives of Migrant and causal labour, refugees and internally displaced persons etc.

5. Cross Sectional Design

Cross section studies provide a snapshot outcome and basing on the studies of a researcher to draw inferences from the existing difference between people, subjects and the various measures that have been taken in the enjoyment of human rights. In this survey method is mostly employed to collect data⁹.

6. Descriptive Design

Descriptive research is employed to obtain information about the current status of the phenomena and to describe what exists with respect to variables or different conditions in a situation. As discussed above, basing on the variables adopted by a researcher, the problems will be addressed with a set of questions to investigate further what type of methods and mechanism need to be employed to undertake further research.

7. Experimental Design

Experimental research is employed in limited time span to understand the issue under study with a particular perspective to collect the evidentiary value of the issue. Before proceeding further, the researcher need to develop a blue print with a set of aims and objectives or a hypothesis to reach the conclusion about the independent or group issues of the conceptual perspective of human rights of the particular group, or independent issues which have relevance to the study with the help of corroborative substances such as policy framework, statutory framework, judicial decisions etc. Before undertaking an experimental research to verify the

⁹ For a discussion on and the conceptual perspective on cross sectional design, Chris Olsen and Diane Marie M. St. George: Cross-Sectional Study Design and Data Analysis, 2004, available at http://www.collegeboard.com/prod_downloads/yes/4297_MODULE_05.pdf , (last updated Dec.12,2013)

result oriented framework, it is always advisable to undertake a pilot study which may help in the longer run to experiment with a single larger group or different groups.

8. Exploratory Design

This is conducted in an area where there is no much research is undertaken. The main objective of the research is to gain to obtain the insights and familiarity for later investigation and to encourage further research. If a researcher would like bring a new conceptual perspective, basing on the general aspects of human rights, or to articulate a new right basing on the substantive rights which has not been advocated either directly or indirectly in any of the texts and documents adopted either at the international or national level. For example, Right to participate which is an important right constitutes as one of the basic rights of the concept of life and liberty. Though this might not have been advocated in any of the documents, basing on the necessity, the researcher may develop the thesis to address the rights of an individual or a group whose rights might have been effected basing on this concept.

9. Historical Design

The purpose of a historical research design is to collect, verify, and synthesize evidence from the past to establish facts that defend or refute your hypothesis. It uses secondary sources and a variety of primary documentary evidence, such as, logs, diaries, official records, reports, archives, and non-textual information [maps, pictures, audio and visual recordings]. The limitation is that the sources must be both authentic and valid.

After adopting the design, one need to undertake the various issues under study mostly by employing the ethical and moral percepts of each problem, since human rights are the synonym in the contemporary era to consider the value based ethical percepts by observing, adopting, restraining and respecting the rights of others. By employing the ethical and moral standards and their measurement through observation, practice, survey or statistical methods through cross-cultural percepts, case studies, one could understand the future regulatory norms to be evolved to make everyone to derive the benefits of human rights the way they are guaranteed. This method

and design mostly centres round the duty concept as advocated in the rights paradigm, especially through Article 29 of the Universal Declaration of Human Rights.¹⁰

Implications of Methodological perspectives and the necessity of snap shot issues

The significance of human rights could be tested only in a practical perspective. Any right or any issue of human rights could be measured only on its implementation, the extent of enjoyment and the benefits derived there from or the negative aspects that hamper could be assessed by employing a number of research methods for investigation of an issue under study. For example to study the implications and significance of Human Rights Education, a researcher need to gauge various methods to resort. In employing a method, a researcher in Human Rights need to have the requisite tools such as information gathering, types of information required for the study, interview, survey, statistical inputs, interview etc.¹¹ After acquiring all the data one need to select a specific method of study to suit the design that is already planned.

To understand quick results to examine an issue under study, snap shot research is one important tool, which is handy to employ in analyzing issue of human rights. However, one need to be cautious while adopting this pattern. This pattern is of two types with respect to human rights perspective is concerned. One is to study a specific problem in a time frame and analyse the context in which the issue is raised. For example the impact assessment of a judgment of a court or a problem and other aspects that can lead to obtain quick results.

Secondly, snap shot issues in human rights may be studied by observational methods of a photo type study and analyse the issues that need to be mapped basing on the understanding of the researcher. In this also a researcher need to choose the focus group or focus area of research, which is vital.¹² This methodological perspective could be adopted in most sensible issues of human rights to understand, study the magnitude of the problem. To assess the impact of the the judgment of the Supreme Court of India on various issues such as Section 377, Prostitution, Trafficking, Child abduction, and other vulnerable and disadvantaged sections problems,

¹⁰ For a detailed discussion see OHCHR: HUMAN RIGHTS INDICATORS A GUIDE TO MEASUREMENT AND IMPLEMENTATION, 2012, especially chapter II

¹¹ Navaneetham Pillai's *Lecture on Human Rights Investigation and their Methodology* available at [www. OHCHR](http://www.OHCHR.org) official website.

¹² Kristin Reed and Ausra Padskocimaite: *The Right Tool Kit*, April 2012 p.38 available at http://www.law.berkeley.edu/files/HRC/Publications_The-Right-Toolkit_04-2012.pdf (last updated june 12 2012)

Environmental concerns of human rights etc., this method is highly useful. It is a handy tool, especially, for media and student researchers to study in depth with respect to a small issue and to understand its significance in the context of study. In litigation and trial monitoring aspects also these method can be employed easily to obtain quick results through observational percepts.

Significance of Survey, Statistical and case study methods

Survey and statistics and case studies are other vital resource for conducting human rights research. Survey is a method of data collection to describe, compare or explain individual or societal knowledge feelings, values, preferences and behaviour. Human Rights being a mixture of number of aspects, it needs to be studied form different dimensions and angles. Hence survey plays an important tool to collect data.

Statistics is the most important tool in human rights research. This will help to test the information in a comparative perspective. It is an extended tool to conduct qualitative research by employing a number of questions like, what, which, how, what parameters, how many samples are needed etc. This will further lead a researcher to find out the multiplicity of problems surrounded in the free enjoyment of rights and would lead to find out solutions for such problem to ensure the enjoyment of such rights without any violation in future.

Case study is another important method for human rights research. In this, the researcher need to focus on a small area and observe the perceptual aspects involved in it. Case study method requires a long term perceptual ideas and to study extensively the problem under study from a number of angles. It requires to analyse the behaviour patterns of people of a particular society or group, obstacles encountered by them in the enjoyment of their guaranteed rights, the various dimensions of socio, economic, political, cultural issues involved in the enjoyment of such rights, the actions and reactions of the people, reverse discriminations, the affirmative action's of the state and society etc.

Methodological Tools

In the methodological tools a researcher generally require information, analysis of the information, applicability and relevance of the data are necessary to carry forward research. The researcher needs to have a thorough understanding of the issue under study. The theoretical base

would help the researcher where, how and what type of data is required for the study. This classification would help to analyse the progressive nature of the human rights issues to study. For example, human rights education is not simply meant to study the various documents and literature. It advocates studying a number of issues such as the affected groups, their rights; the legal scenario and other aspects need to be combined to obtain accurate research data to apply to the problem under study¹³. At times, simple issue may bring in a number of complications involved in the area of research. For instance a particular group or community may become vulnerable due to the changes in the legal policy, or other aspects of behavioural and other patterns. In such situations a researcher need to have patience and to investigate all the aspects from every angle and then analyse the reasons which are most suitable in the given case that a particular group became vulnerable and suggest remedies to reverse the situation.

After obtaining the data basing on the theoretical perspectives or literature, one need to give a sharp focus on the skills of interviewing. Interviewing is not an easy task and should not be taken in a simplistic perspective. It needs a comprehensive preparation with a few sample questions, lack of focus on the art of interviews, framing of questions, the adequacy of language, who should be the targeted group, how and when to conduct the interview, the socio, economic, cultural differences, behavioural patterns etc play a vital role in developing the various perceptions of research.

Conclusion

Research in human rights is still in its infancy. The various methodological percepts, theoretical dimensions need to be augmented with practical application at every point of time. In the ultimate analysis human rights in every contextual problem of study need to be interpreted with legal rules and regulations. Accordingly, one needs to undertake mapping exercise as rightly pointed out by UN High Commissioner for Human Rights Navaneetham Pillai. Mapping exercises is a three pronged approach, such as 1) documenting gross human rights violations committed during a particular period, (2) assessing the existing capacities within the national justice system to deal with such human rights violations; and (3) formulating proposals for the

¹³ For discussion on Methodological Tools Pirko Poutiainen et.al., Methodology and Tools for Human Rights based Assessment and Analysis, 2004, OHCHR and UNDP Project report available at http://www.ichrp.org/files/papers/186/impact_assessment_human_rights_approach_paper.pdf (last updated 20.5.2012)

creation of appropriate transitional justice mechanisms to address the legacy of these violations in terms of truth, justice, reparation and reform.¹⁴

This would lead a researcher first to search for the documents. In the contemporary era, due to technological advantage of internet, mammoth data is available for information and search. Various Academic and publishing houses, Universities, Governments, UN and other non-governmental organisations developed a multipronged and multi disciplinary based research information on various facets of human rights and their educative process and procedures. Among the various resources, the electronic resource guide developed by the American Society of International Law is regarded as one of the exhaustive list of resources on human rights. The advantage in this e-resource guide is various links and their resources are provided in a most easy and convenient fashion.¹⁵

Whatever may be the type of research or the problem that need to study on human rights, they need a small and humble beginning to develop and address the issues from their closer circle as rightly said by Eleanor Roosevelt, the Chair person¹⁶ of the Universal Declaration of Human Rights that:

“..where, after all, do universal human rights begin? In small places, close to home so-close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world .”

¹⁴ Navneetham Pillai : *Lecture delivered on Human Rights Investigations and their Methodology*;24th February 201, available at <http://unispal.un.org/UNISPAL.NSF/0/C9222F058467E6F6852576D500574710#sthash.SrD1w2QM.dpuf> (last updated January 10 2014.)

¹⁵ Marci Hoffman: *International Human Rights Law, electronic Resource Guide* http://www.asil.org/sites/default/files/ERG_HUMRTS.pdf (last updated August 28,2013)

¹⁶ Draft of the UDHR Presentation In Your Hands: A guide for Community action for the Tenth Anniversary of the UDHR, UN, March 27, 1958.

The above statement clearly advocate research in Human Rights and the promotion of Human Rights Education need to augment in every Institution irrespective of their discipline of study. It is the duty of the academic institutions, especially the scholars of law to beat the cudgels of wrong beliefs, and other cultural perceptions to promote human rights for all equally. To this end, it is necessary to focus more on the strategies and tools of research and its methodological percepts in human rights. The research perception if highlighted, nurtured, imparted to students of law in particular and various scholars and every segment of society in general, it becomes easy to prevent the distortions and violations that surround the most famously infamous area i.e., “Human Rights.” The above brief discussion is mainly intended to create awareness amongst the various researchers in India to further study to develop research patterns in human rights applicable to both international and national scenarios and especially by legal scholars.

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