ON HISTORICAL AND HISTORICAL-LEGAL RESEARCH: FORMS, CHALLENGES AND METHODOLOGIES

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ABSTRACT
The present study intended to understand the meaning, forms and challenges in legal-historical research to suggest a general framework for the researchers doing legal-historical research. After deploying the doctrinal research method, the current study found that there is scarcity of guidelines for legal researcher to carry out historical research in law. The existing literature on methodology for legal-historical research studies do not offer a detailed methodology to carry out historical-legal research. The present study, after analyzing the meaning, forms, challenges and various methodologies, suggests seven-step methodology to carry out historical research in law. It is hoped that the present study will enable legal researchers to devise a comprehensive methodology for doing historical-legal studies.
Key Words: Research, Historical Research, Historical-Legal research, Types of Research, Internal and External Research, Methodology of Historical-Legal Research.

1. INTRODUCTION

There are several types of research and various researchers have categories these types into different categories. For instance, Pandey & Pandey (2021) classified research into the following four major categories. First, the research on the basis of nature of information in a research projects and it includes qualitative (data is in the form of words) research and quantitative research (data is in the form of numbers). Second, they classified research on the basis of the nature of subject matter of research and it includes basic research (also called fundamental or pure or theoretical research) and experimental research (also called applied research). Third, the research projects classified on the basis of approach of the research projects and it has two sub-categories namely longitudinal research (it may be historical, case study and genetic research) and cross sectional research (it may be experimental and surveys). Finally, they classified research on the basis of the methods of research and it includes philosophical research, historical research, survey research (it may be discretional, correlational and exploratory), experimental research and case study.

The above paragraph exhibits that the "historical research" is viewed as a distinct and independent research approach. It is necessary to understand the difference between "research approach" and "research methods". The fundamental differences between the research approach and research methods may be described in two points. First, "research approach" is devoid of the details regarding how to carry out research; on the other hand, research methods give comprehensive guidelines and details concerning how to conduct research. Second, the "research approach" remains the same; on the other hand, there is possibility that more than one method may become the part of "research approach". Hence, the historical research may be viewed from two perspectives; from the perspective of an approach and from the

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perspective of methodology. The present study is about the methodology of historical research though it also briefly discusses it from the perspective of research approach. The historical research is significant since it may be helpful in constructing a professional consciousness and cohesion, identifying various ignored past practices and lessons, challenging old and fallacious beliefs, and offering some experience which may be of great assistance for future decision making and policies (Parker, 1997, p. 112). The historical research may be conducted by historians and legal fraternity; the common feature of their research is their attempt to dig up the past to understand a particular event. However, the historians tried to search and evaluate every possible evidence related to the past events while doing historical research; on the other hand, the legal researchers are concerned with finding an authoritative law or precedent which may ultimately settle any legal issue or dispute (Reid, 1993, p. 195-196). Kiely (1976) suggested the legal researchers long ago to consider not only the decided cases and legal doctrines but also the surrounding circumstances in which the event under study was occurred . Like any other research project, historical and legal-historical studies too have to develop a rigorous methodology so that their findings may be reliable. The question of methodology in a research study is important since different methodologies may lead to different results (Vasilious et al. 2009, p.85). Quoting Richard Posner, Hutchinson, & Duncan (2012) believe that law does not have an independent methodology; instead, it is a mixture of various traditions, philosophies and subjects. In addition, it has also been suggested that the development of methodology in law requires a theoretical framework to elucidate the meaning and scope of methodology (Solum, 2017, p. 270). However, there is scarcity of literature guiding the legal researchers how to do historical research in law.

The present study has the following three research questions; what is historical and historical-legal research? What methodologies have been suggested by prominent researchers to carry out historical and historical-legal research? What may be a general methodology to carry out historical research in law? The present study, by addressing the above mentioned three research questions, will address some key issues in the historical legal research by discussing the selective work which may have informed the historical and historical legal research generally. The present study will also make the legal researcher familiar with basic idea and methodology of historical and legal-historical research suggested by prominent researchers, the problematic areas in historical legal research and the general framework as methodology to do historical research in law. It is expected that the present study will add in academic understanding of the historical research in law and thus will broaden the discipline of law. Apart from the introductory section, the present study has five sections. The second section discusses the historical and historical-legal research, their major strains and the problematic areas. The third section examines the various methodologies suggested by prominent researchers for doing historical and historical-legal research. The fourth section proposes the methodology for doing historical research in law and the last section concludes the study.

2. Historical and Legal- Historical Research and their Major Strains

This section addresses the first research question, and it discusses and analyses the meaning of historical research and legal-historical research, the nature of data in both types of research and the various approaches in historical research. This section has three sub-sections; the first sub-section discusses the historical research, second sub-section discusses historical-legal research, and the last sub-section highlights the problematic areas in legal historical research.

a) Historical Research

Heller (1985) defines historical research a1s a research which gathers and organizes the evidence related to the past events. Similarly, an eminent author believes that historical research or historiography is concerned with the analysis and interpretation of past events to reach to probable truth of these events (Danto, 2008, p.11). Elena et all (2011) believe that the primary objective of historical research is to comprehend the past events which may be recorded in various documents and objects like books, historical sites, buildings, maps, single page, photos, painting, and videos etc. They add that the historical research requires a researcher to be involved in multiple tasks including looking for the evidence related to the past events and bearing importance for the event under consideration, examination of the evidence, searching the corroboratory evidence after the examination of preliminary evidence, and finally to interpret the past events. In addition, the aim of the historical researcher is to encode the evidence about past event to discover

the causes and effects of the event under study (Investigative Techniques Glossary). The meaning and the above discussed aspects of historical research may lead to the conclusion that historical research and chronology are the same things. However, various researchers have advised to draw a line of distinction between historical research and chronology. For instance, historical research and chronology are different things; the former involves the interpretation and analysis of historical data, while the latter merely describes previous events in the order in which they occurred (Danto, 2008, p.11). Similarly, Berg (2001) advised to differentiate nostalgia from historical research. To him, nostalgia is the repeating of comfortable past niceties, events, or situations without investigation energy, while historical research recaptures the complex nuances, individuals, meanings, events, and even ideas of the past that have affected and formed the present.

The historical research is about digging the past as discussed in the above paragraphs and it is carried out by examining various objects obtained from various sources. On the basis of the originality of these objects, the sources of data for historical researcher are divided into primary and secondary sources (Monaghan et al., 1997). The primary sources refer to such sources which were created contemporarily with the event under study; on the other hand, secondary sources are those sources which were produced after the event (Elena et al, 2011, p.1). Primary sources are first-person accounts that involve the oral or written testimony of eyewitnesses and these may include documents, letter, observational notes, photographs, recordings, diaries, journals, life histories, drawings, mementos and other relics (Berg, 2001; Lundy; 2008). Similarly, the secondary sources of data may be found or recorded in books, manuscripts, videos, paintings and photos. It is pertinent to mention that the researchers doing historical research rely on the primary and secondary data; however, they also use their scientific knowledge, experience, and intuition to generate questions before accessing primary or secondary data (Elena et all, 2010, p. 25). After discussing the meaning and the sources of data in historical research, it is also necessary to have a general overview of the various approaches in historical research. The researchers have identified a number of major approaches coupled with related sub-approaches which are briefly discussed in the following paragraph.

As far as the various approaches of historical research and their related limitations are concerned, various researchers have identified a number of major and sub-approaches. For instance, Danto (2008) discussed six major approaches in historical research which include empirical, social, cultural, feminist, post-colonial and post-modern. Likewise, Monaghan and Hartman (2000) identified four sub-approaches in qualitative historical research. These sub-approaches include history by quotation, qualitative study of history being capable of transformed in quantifiable, content analysis, and historical research based on living memory. To them, "history by quotation" involves constructing a story with printed or written past material of that era which is under construction and it is arranged in chronological order. Likewise, quantitative approach is concerned with quantifying the evidence related to the past events to have better validity and generalizability. Similarly, in qualitative content analysis, the object of the analysis is text and the living memory or oral history is concerned with personal recollection of past events by a living human being. However, two points must be kept in mind; first, a historical study is not limited to the main and sub approaches instead a researcher may opt any approach that the topic, object or research questions of his study requires. Second, all the approaches of historical research are carried out by using primary or secondary data. Moreover, the validity and reliability of historical research based on any type of approach is determined with internal and external criticism. The external criticism is used to establish the validity of a research project; likewise, internal criticism is used to establishes the reliability of historical research (Lundy, 2008, p.; Berg, 2001, p.).

The discussion in this section establishes that the research which offers an account or a narrative or interpretation or reasons of the happening of the past events is called historical research. Moreover, the discussion in the above paragraph leads to the conclusion that mere gathering dates and facts is not historical research; instead a systematic evaluation of evidence obtained from various sources and leading towards certain conclusions about past events is called true historical research. Furthermore, the discussion demonstrates that the historical research may be carried out by following various research approaches.

    b) Historical-Legal Research

On the other hand, historical-legal research is mainly concerned with the analysis of the circumstances, reasons and various factors behind specific laws. The historical-legal research may highlight the circumstances that why a law which is not acceptable now was acceptable in the past (Vibhute, & Aynalem, 2009, p. 72-73). Two striking features may be associated with historical-legal research. First, historical-legal research requires the researchers to pay more attention and give more preference to the social context of law instead of jurisprudential debate and context (Fisk & Gordon, 2011, p. 521). Second, the choice of historical-legal research is ideal when the objective of the research project is to study the historical changes in particular piece of legislation (Farmer, 2008, p. 377).

As far as the various forms of historical-legal research are concerned, a deeper study of the literature on historical-legal research reveals three major strained namely internal research, external research and institutional studies. Watkins & Burton (2013) discussed internal and external legal history The internal historical-legal research investigates the genealogical growth of laws by analyzing the legislative text and judicial decisions. This type of research is generally conducted by practitioners who use laws, judicial decisions and literature produced by lawyers. In addition, the primary assumption of internal historical-legal research is the conception that laws provide a comprehensive framework that can be described with the help of its sources.Gordon (1975) argues that this approach is confined to typical legal issues like pleadings, jurisdictional matters, and various doctrines etc. In addition, the researchers have identified two sub-approaches namely positivist and doctrinal legal history in internal historical-legal research (Ibbetson, 2013, p. 874). On the other hand, the external historical-legal research is mainly concerned with three issues; the legal problems due to which specific laws were enacted, the social and political reasons behind such laws, and legal issues which were intended to be solved by such legislation or judicial decisions. This type of research intends to examine the interaction between legal issues and social context particularly, the effects of law/s on society (Gordon, 1975, p.) In addition, external historical-legal research examines the social, economic and political factors behind the enactment of certain laws and legal institutions in a given society. The basic assumption behind external historical-legal research is that law is a constant process and various never-ending social, political and economic factors influence it. Consequently, external-historical-legal research surveys how laws were developed and under what social conditions laws were made over time (Phillips, 2010, p. 295). Various researchers have put forward specific suggestions for the researchers doing this type of research. For instance, it has been suggested that the researchers doing external historical-legal research must possess a vigilant and correct understanding of the data within law and outside the law to grasp the context of certain laws under study (Ibbetson, 2012, p. 874).

The third major strain of historical-legal research is the institutional study. Various researchers argue that the study of the development of the various legal institutions like courts, police and the prosecutors etc. may be helpful in understanding the growth and evolution of the laws. For instance, Ibbetson (2013) claimed that lawyers' activities in legal institutional setting have contributed a lot in the creation and development of legal institutions. He added that the historical study of these institutions will be helpful in understanding the history of laws since the study will explain the growth and evolution of laws. He added that the history of the courts, their administration, and staffing would tell how a particular law took its present shape. Similarly, the history of superior courts will tell important things about the ideology of the administration of justice in a particular period. These three approaches to legal-historical research offer a comprehensive and localized socio-legal perspective of laws.

Similarly, the sources of data in historical-legal research may be divided into legal sources and conventional sources. The legal sources include judicial decisions, court record related to trials and witnesses' testimony, statutes, treatises, pleadings and other legal literature. Likewise, the conventional sources include general intellectual and social history, manuscripts, books, articles, and news by theorists' and historians' books (Welke, 2011, p. 693). It must be kept in mind that the nature of the conventional sources of data may be primary or secondary as discussed in the sub-section a.

c)   Problematic area

Both historical and historical-legal research has certain limitations. As far as the major limitations of the historical research are concerned, these may be described in the following four points. First, historical research can be frustrating since even with the best resources, it can be difficult to find accurate information

about past events. Second, the nature of the data in historical research is also problematic for a researcher since he may find too difficult to access or interpret the primary sources whereas the secondary sources may prove inaccurate and incomplete. Third, historical research can be time-consuming and expensive and lastly, it is often difficult to draw definitive conclusions from historical research.

On the same line of reasoning, the major limitations associated with the historical-legal research may also be described in the following four points. First, the foremost issue in historical legal research is the problem of language interpretation. It has been pointed out in the above sections that historical legal research is conducted by using primary and secondary data which may be in the form of documents and images. In addition, these documents may be written in ancient language which is obsolete now or in old language which is not obsolete but has undergone many changes. These aspects trigger serious problems for the researchers since linguistic systems and words in centuries old legal documents and laws went through constant, and rapid semantic changes resulting in changing or modifying the meaning of words over the time. These issues pose very serious problems for the researchers as it becomes difficult for them to translate and understand the ancient or old documents (Salaymeh, 2018, p.769). The inclination of all type of historical research in general and internal historical research in particular towards ideas instead of events or facts is the second major issue in historical-legal research. The old legal concepts might have been or could be examined by deploying various frameworks which might have resulted in changing the perspective of these concepts. The varying perspectives held by numerous researchers or professionals or by the same researcher or professional are problematic for a researcher doing historical-legal researcher since these varying perspectives of various legal concepts will make it difficult for researchers to understand these legal concepts (Ibbetson, 2013, p. 874). Similarly, restriction on consulting archival records is another problem faced by researchers while doing historical-legal research. The archives may be maintained or own by government and private individuals. As far as archives owned or maintained by government are concerned, these are public documents and everybody has the right to inspect it. However, private archives are not public documents and their inspection or reading may be denied for certain reasons. For instance, private archives may be denied access due to social movements or political consideration on the ground that their inspection may result in hatred against particular group (Bosi & Reiter, 2014, p. 123). Similarly, the conditions on researchers to consult historical archives are the fourth major problem which the researchers doing historical-legal research face. The researchers have pointed out that the typical sources of data in historical legal research are historical archives which are managed or maintained by various official and un-official departments and institutions. In addition to old historical text, even the data from modern era is difficult to consult which make the researchers' work difficult (Ibbetson, 2013, p. 1).

3. Methodologies in Historical and Historical-Legal Research

This section is related to the second research question of the study and it discusses the methodologies suggested by prominent researchers of historical and legal-historical research. The purpose of the present section is to have an insight into the agreed or generally accepted methodologies in historical and historical-legal and subsequently use them to propose a general framework of doing historical-legal research.

a) Methodologies in Historical Research

It is important to point out at that historical research may be carried out by following various methodologies and approaches; however, there are some methodologies which contain agreed guiding posts for the researchers. The two methodologies (these methodologies represent the whole literature on historical research) to carry out historical research proposed by Witkowski and Jones (2006) and Lundi (2008) are analyzed in the following lines.

First, Witkowski and Jones (2006) proposed four-steps methodology for historical research in marketing and their four steps include: selection of a topic for research, searching and finding the primary and secondary sources of data, analysis and writing and lastly, preparing the manuscript for publication. To them, selection of the topic for research project is the first step in historical research. Relying on Barzun and Graff (2004), they claim that this is the most crucial step as the selection of topic will affect the decision of hypothesis formation, research questions and collection of data. They added that topic selection is important since the formation of working hypothesis and research questions depend upon topic and these working hypotheses or research question may change or refined during or after the data collection or

discovery. Their proposed second step of methodology is concerned with data collection. They advised to gather source material including primary and secondary sources after formation of working hypothesis or research questions. They also advised the researcher to get familiar with the primary sources of data (words, images, relics and memories elicited through oral history methods) which will enable them to carefully evaluate the secondary sources of data. They pointed out that the primary and secondary sources in the form of written material may be unreliable since these may be incomplete, difficult to read, fake and biased; a researcher should not take them as true without establishing their authenticity. He advised the researchers to avoid overgeneralization and be conscious of the possible bias in such documents.

The third step of their proposed methodology is concerned with analysis of collected data and writing the report. They are of the view that that analysis of data refers to interpretation and synthesis of the collected data. They suggested the researchers to convert the assembled data into ideas to identify the pattern and to reach probable truth. They also suggested reporting the findings in the form of narrative (by relying on Megill, 1989) highlighting four fundamental ingredients namely character, setting, action and happening Quoting Shafer (1974), they pointed out that a researcher may construct the narrative of findings chronologically, geologically, topic wise or by combining these three forms .The last step of their proposed methodology is about getting ready the report in the form of a manuscript for publication in a journal. They advised the researchers to pay attention to editors' pages, paper-submission guidelines, acceptance criteria and statements of review philosophy. They further advised the researchers to be vigilant about three important section of the manuscript namely review of the literature, methodology and implications (Witkowski & Jones, 2006, p. 78-80).

Similarly, Lundi (2008) proposed five-step methodologies to carry out a historical research project. These five steps include identification of research problem, formation of hypothesis or research questions, data collection, testing reliability and validity of collected data and report writing. He suggested that a researcher while selecting the area of research must consider the existing literature, views, and a specific era or person. At the second step, he suggested to construct a theoretical framework which will help him in the formation of hypothesis or research questions, and interpreting or collecting data. The third stage of his proposed methodology involves data collection and this stage depends upon the availability or access to data sources. Similarly, the fourth step of his methodology is concerned with addressing the hypothesis or research questions and putting forward the conclusions about them. All this requires certain tasks to be performed which include checking the historical facts, evaluation of the validity and reliability of collected data and analysis of the evidence collected from various sources. The last step of his methodology is about the report writing which involves description and interpretation of findings, and provision of supporting arguments based on evidence to defend the conclusions of the study.

b) Methodology for Historical-Legal Research

Similarly, Parrish (1994) has proposed a methodology for legal researchers doing historical-legal research. He proposed two-step methodology to carry out legal-historical research project namely selecting a topic, and searching a topic. He pointed out that a researcher usually selects the topic for research after listening to intellectual discussions among scholars regarding an unresolved question related to legal history. The second step of his methodology is concerned with searching the topic. He suggested the researchers to consult four printed sources including printed sources for general history, printed sources for lawyers' legal history for historians and legal history for people. He believed that a researcher should be acquainted with the general history of the given society on the selected topic which will enable him to move towards searching the specific research material At this stage, he classified the printed sources for law researcher and history researchers. He is of the view that printed sources for legal researchers include statutes, court reports, secondary sources and legislative history of statutes. He also advised the legal researchers to use the sources which are meant for historians. He advised to consult historical archives, libraries, historical societies and courthouses. Likewise, he advised the researchers to contact the people telephonically to collect the historical information from them.

Correspondingly, David Ibbetson (2012) proposed a methodology in the context of comparative legal-historical studies. He proposed three suggestions to carry out comparative historical-legal research. First, he suggested considering legal doctrines and their level of outcome while doing historical-legal

studies. To him, the researchers must consider the prevailing social conditions when a particular law was enacted and must notice the difference between the circumstances before and after the enactment of specific legislation. He advised to chart a general shift while keeping in view the difference between circumstances and examine the relationship between their differences. To his mind, the comparison cannot be carried out in isolation and without considering wider aspects of the target legal system. Second, he advised the researcher to analyze the reasons of the happening of an event having legal importance in one jurisdiction and its non-happening in another jurisdiction. He added that the researchers must also consider the legal culture, the nature of the available legal sources, role of legal science, the judges 'style of giving reasons of decisions, the dominant legal ideas and the conceptual structure of the countries he is comparing (p.130). Third, he warned the researchers to be conscious of the tension between divergence and convergence of various solutions to the legal problems. He added that researchers must develop a framework to evaluate and understand the evidence for the purposes of doing historical-legal research (p.131).

The two methodologies discussed above for doing historical-legal research offer only general guidelines for the researchers without telling them how to carry out historical research in law. These methodologies inform the researchers about the nature of data, the sources of data and what the researchers should keep in mind to evaluate and understand the data. However, the methodologies discussed above fail to guide the researchers about how to select a topic, how to coin research questions, how to locate and analyze the data, how to evaluate the reliability of data and how to report the findings.

4. Proposed Methodology

Having described and analyzed the meaning, forms and limitations of historical research and historical-legal research, this section addresses the third research question of the present study. This section proposes a general framework to conduct historical-legal research while keeping in view the limitations associated with the methodologies proposed by various researchers. However, it is necessary to highlight two issues before suggesting a general methodological framework. First, the legal researchers must adopt the approach of a historian while doing historical research in law and selecting the sources for data collection. Second, the legal researchers have to pay more attention towards research process instead of research sources (Hutchinson, 2008, p. 1083). While keeping in view the discussion offered in first, second and third section of the present study, the researchers offer seven-step methodology for historical-legal research. These seven steps include selection of topic, formulation of hypotheses or research questions, data collection, data analysis, findings and reporting the findings. These steps are explained in the following paragrpahs.

i. *Topic selection*

First of all, a researcher must select the topic for historical-legal research. The most dominant factor in topic selection is the researchers' interest. However, it is suggested that a researcher should select an unresolved legal issue having contemporary relevance. It is further suggested that a researcher should also consult the existing literature to select the topic or areas which require research. Likewise, researchers should also specify a particular era, judicial practices or legislation which they intend to investigate. This step is very crucial since the formation of hypotheses and research questions will be formulated in the light of the selected topic.

ii. *Setting the objectives*

At the second step, researchers should set the objectives of the research project. It is suggested that the objective must be clear and achievable. This step is very important in the formation of hypotheses and research questions. The study objectives define the specific aims of the study and should be clearly stated in the introduction of the research protocol (Hanson, 2006).

iii. *Constructing Theoretical or Conceptual Framework*

After selecting the topic and setting the objectives of the research project, researchers are advised to construct theoretical or conceptual framework for their research projects. It is important to note that all the methodologies discussed in the above section are silent on the selection of a theoretical or conceptual framework. On the other hand, prominent researchers argue that the theoretical or conceptual framework is the part and parcel of any type of research as it will justify findings of a research project (Lederman, & Lederman, 2015, p. 595). The theoretical framework is helpful in various tasks in a research project like it will assist in selecting an appropriate research approach, tools and procedure for analysis, making finding

meaningful (Akintoye, 2015) and acquisition of suitable data for the study (Lester, 2005). In addition, a theoretical or conceptual framework will help him in the formation of hypothesis or research questions. The theoretical framework may be a theory (Peshkin, 1993), theoretical principles, constructs, and concepts (Osanloo & Grant 2014). The researchers may select, develop or construct theoretical or conceptual framework after a thorough review of the literature pertaining to the topic under study. The importance of theory-driven thinking and acting should be emphasized in relation to the selection of a topic, development of research questions, focus of the literature review, the design approach, and analysis plan for the dissertation study (Osanloo & Grant, 2016, p. 14).

iv. *Formulation of Hypotheses or Research Questions*

After selecting the topic and developing a theoretical or conceptual framework, a researcher must formulate hypotheses or research questions for the historical-legal research project. A hypothesis is a preliminary and unverified statement of propositions that are to be verified in subsequent examination (Leary, 2004, P. 37). Similarly, hypothesis may be a starting point of a research project which is based on limited evidence and may suggest an explanation of a phenomenon which requires further examination of the phenomenon (Manzar, 2006). Similarly, a research question refers to a question posed to collect data to address a particular query (https://researchmethod.net/research-questions/#What_is_a_Research_Question). The research questions may be coined after a thorough study of the existing literature and these questions may be primary or secondary. However, it is suggested that a researcher must adhere to the primary research questions since the research project will be evaluated on the basis of the primary research questions. Similarly, it is also necessary that the research questions must be feasible, relevant, ethical, novel and interesting (Hulley, 2007). The hypotheses or research questions may be formed or selected by considering number of thing. First, researchers should keep in mind the objectives of the study. Second, researcher must consider the theoretical framework to formulate hypotheses or research questions. Third, researchers should be acquainted with the general and legal history of the legal system under study.

v. *Data Collection*

After formulating hypotheses or coining research questions, it is suggested that a researcher should collect data to verify hypotheses or address the research questions. The data collection phase largely depends upon the availability or access to data sources which may be primary or secondary. It is suggested that a researcher should consult printed material for both historian and legal-historian and it may include statutes, court reports, secondary sources and legislative history of statutes, historical archives, libraries, historical societies and courthouses.

vi. *Testing Reliability and Validity of Collected Data*

After collecting the data, it is further suggested that a researcher should check the reliability or validity of collected data regarding historical facts under study. It is suggested that a researcher must be well acquainted with the primary sources of data which will enable him to evaluate the secondary sources of data. At this stage, a researcher must look into the completeness, reliability, geniuneses, bias and authenticity of data collected from primary and secondary sources.

vii. *Data Analysis*

After testing the validity and reliability of collected data, it is suggested that a researcher should analyze the data. The analysis of data includes interpretation and synthesis of the collected data. At this stage, a researcher should keep in mind two suggestions. First, a researcher should pay attention to the theoretical or conceptual framework while interpreting or analyzing the data. Second, a researcher should convert the assembled data into ideas to identify the pattern and to reach probable truth regarding the historical facts or events under study.

viii. *Reporting*

The last step is about writing the findings and conclusions of the study. It is suggested that a researcher should write the report in the form of narrative by highlighting character, setting, action and happening. It is further suggested that a researcher may construct the narrative of findings chronologically, geologically, topic wise or by combining these three forms. In addition, a researcher should provide supporting arguments based on evidence to defend the conclusions of the study.

5. CONCLUSIONS

The discussion in the present study leads to the following seven conclusions. First, both the historical and historical-legal research is concerned with systematically knowing the past. Second, the researchers know the past by collecting and evaluating the evidence obtained through primary and secondary sources. In the legal context, these sources may include judicial record, legislative record and general intellectual and social history. Third, the historical-legal research may be internal research, external research or it may involve the study of institutions. Fourth, the historical-legal research is difficult to carry out because of difficulty in accessing historical data, time consumption, vexing, translation issues, and its being expensive. Five, the researchers, while doing historical research, should discharge several tasks including searching the evidence, evaluation of the evidence, interpretation of the evidence, looking for the corroboratory evidence and subsequently reaching to the conclusion about the past event. Six, the legal literature is silent on a detailed and comprehensive framework to carry out historical-legal research. Seven, the historical-legal research can be effectively carried out by following seven steps methodology which includes selection of topic, formulation of hypotheses or research questions, data collection, data analysis, findings and reporting the findings.

REFERENCES

Akintoye, A. (2015). Developing theoretical and conceptual frameworks. In *EDMIC research workshop*. Ile-Ife: Faculty of Environmental Design and Management, Obafemi Awolowo University, Ile-Ife, Nigeria.

Bosi, L., & Reiter, H. (2014). Archival Research and Oral History in Social Movement Research. *Methodological Practices in Social Movement Research*.

Berg, B. L. (2001). Historiography and oral traditions. *Qualitative Research Methods for the Social Sciences*, 210-224.

Barzun, Jacques and Henry F. Graff (2004), The Modern Research, 6th edn, Belmont, CA: Thomson-Wadsworth.

David Ibbetson, (2005), Historical Research in Law, in The Oxford handbook of legal studies edited by, Cane, P., & Tushnet, M. V.

Danto, E. A. (2008). *Historical research*. Oxford University Press.

Elena, T., Katifori, A., Vassilakis, C., Lepouras, G., & Halatsis, C. (2010). Historical research in archives: user methodology and supporting tools. *International Journal on Digital Libraries*, *11*(1), 25-36.

Farmer, A. (2008). *By their fruits: Eugenics, population control, and the abortion campaign*. CUA Press.

Fisk, C., & Gordon, R. W. (2011). Foreward:'Law As...': Theory and Method in Legal History. *Theory and Method in Legal History*, 2012-51.

Gordon, R. W. (1975). Introduction: J. Willard Hurst and the common law tradition in American legal historiography. *Law & Soc'y Rev.*, *10*, 9.

Grant, C. & Osanloo, A. (2014). Understanding, Selecting, and Integrating a Theoretical Framework in Dissertation Research: Creating the Blueprint for 'House'. Administrative Issues Journal: Connecting Education, Practice and Research, Pp. 12-22 DOI: 10.5929/2014.4.2.9

Hutchinson, T. (2008). Developing legal research skills: expanding the paradigm. *Melb. UL Rev.*, *32*, 1065.

Hutchinson, T., & Duncan, N. (2012). Defining and describing what we do: Doctrinal legal research. *Deakin L. Rev.*, *17*, 83.

Heller, G. N. (1985). On the meaning and value of historical research in music education. *Journal of Research in Music Education*, *33*(1), 4-6.

Hutchinson, T., Watkins, D., & Burton, M. (2013). Research Methods in Law.

Hulley, S. B. (Ed.). (2007). *Designing clinical research*. Lippincott Williams & Wilkins.

Hanson, B. P. (2006). Designing, conducting and reporting clinical research.: A step by step approach. *Injury*, *37*(7), 583-594.

Ibbetson, D. (2012). Comparative legal history: A methodology. *Making legal history: Approaches and methodologies*, 131-145.

Ibbetson, D. (2013). The Challenges of Comparative Legal History. *Comparative legal history*, *1*(1), 1-11.

Kiely, T. F. (1975). The Hollow Words: An Experiment in Legal Historical Method as Applied to the Institution of Slavery. *DePaul L. Rev.*, *25*, 842.

Lundy, K. S. (2008). Historical Research. In L. M. Given (Ed.), The SAGE Encyclopedia of Qualitative Research Methods: Volumes 1 & 2 (pp. 395-399). Thousand Oaks: SAGE Publications.

Lederman, N. G., & Lederman, J. S. (2015). What is a theoretical framework? A practical answer. *Journal of Science Teacher Education*, *26*(7), 593-597.

Leary, Z. (2004). The essential Guide to Doing Research. London: SAGE Publication Ltd. P. 37

Lester, F. (2005). On the Theoretical, Conceptual, and Philosophical Foundations for Research in Mathematics Education. ZDM, 37(6), 457-467

Manzar, K. (2006). Compact Oxford Dictionary: Thesaurus & Wordpower Guide. New Delhi: Oxford University Press.

Moore, D. W., Monaghan, E. J., & Hartman, D. K. (1997). Conversations: Values of Literacy History. *Reading Research Quarterly, 32* (1), 90-102.

Megill, Allan (1989), 'Recounting the past: description, explanation, and narration in historiography', American Historical Review, 94 (June), 627–53.

Grant, C. & Osanloo, A. (2014). Understanding, Selecting, and Integrating a Theoretical Framework in Dissertation Research: Creating the Blueprint for 'House'. Administrative Issues Journal: Connecting Education, Practice and Research, Pp. 12-22 DOI: 10.5929/2014.4.2.9

Osanloo, A., & Grant, C. (2016). Understanding, selecting, and integrating a theoretical framework in dissertation research: Creating the blueprint for your "house". *Administrative issues journal: connecting education, practice, and research*, *4*(2), 7.

Parrish, J. (1994). A guide to American legal history methodology with an example of research in progress. *Law Libr. J.*, *86*, 105.

Phillips, J. (2010). Why legal history matters. *Victoria University of Wellington Law Review*, *41*(3), 293-316.

Peshkin, A. (1993). Peshkin, Alan," The Goodness of Qualitative Research," Educational Researcher, 22 (March, 1993), 23-29.

Pandey, P., & Pandey, M. M. (2021). *Research methodology tools and techniques*. Bridge Center.

Parker, L. D. (1997). Informing historical research in accounting and management: Traditions, philosophies, and opportunities. *Accounting Historians Journal*, *24*(2), 111-149.

Solum, L. B. (2017). Originalist Methodology. *U. Chi. L. Rev.*, *84*, 269.

Salaymeh, L. (2018). Historical Research On Islamic Law. In *The Oxford Handbook of Legal History* (pp. 757-776). Oxford: Oxford University Press

Shafer, Robert Jones (ed.) (1974), A Guide to Historical Method, Homewood, IL: The Dorsey Press.

Reid, J. P. (1993). Law and history. *Loy. LAL Rev.*, *27*, 193.

Vasiliou, D., Eriotis, N., & Daskalakis, N. (2009). Testing the pecking order theory: the importance of methodology. *Qualitative Research in Financial Markets*, *1*(2), 85-96.

Vibhute, K., & Aynalem, F. (2009). Legal research methods. Teaching material.

Hutchinson, T., Watkins, D., & Burton, M. (2013). Research methods in law.

Witkowski, T. H., & Jones, D. B. (2006). Qualitative historical research in marketing. *Handbook of qualitative research methods in marketing*, *70*, 82.

Welke, B. Y. (2011). Owning Hazard, A Tragedy. *UC Irvine L. Rev.*, *1*, 693.