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LEGAL RESEARCH FOR LAW REFORMS

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ABSTRACT

Legal research is considered crucial for shaping and improving law reforms, especially in a diverse country like India. Through such research, societal challenges are addressed, justice is promoted, and better governance is supported. This project focuses on how legal research is used to create and implement effective law reforms. The importance of using evidence-based methods, combining knowledge from different fields, and involving the public in research is emphasized to make reforms more inclusive and widely accepted. Examples from the Indian context are provided, such as the implementation of the Goods and Services Tax (GST), the Criminal Law (Amendment) Act of 2013, and recent initiatives like the Bharatiya Nyaya Sanhita, 2023. The role of institutions like the Law Commission of India and think tanks such as the Vidhi Centre for Legal Policy is highlighted for their contributions to reform efforts. Challenges faced by the Indian legal system, such as outdated laws, procedural delays, and resistance to change, are also discussed. The need for continuous research to overcome these obstacles is stressed. Technology, including artificial intelligence and data analysis, is shown to be transforming legal research by making it more accurate and efficient. This project calls for reforms that respond to societal needs while being fair, efficient, and sustainable. Policymakers, researchers, and legal professionals are encouraged to work together to build a legal system that is better suited to current and future challenges.

KEYWORDS: LEGAL, RESEARCH, REFORMS, SYSTEM

INTRODUCTION:

Law reform is an ongoing process and a constant necessity. While laws need to be stable, they should not remain outdated. As society evolves, laws must be updated to ensure justice is served effectively. Law reformers remove outdated rules, eliminate unnecessary parts, resolve conflicts between different laws, and make laws clearer and simpler. They also adjust laws to meet the needs of modern society.¹ Old, unfair, or ineffective legal systems can slow down social progress and hurt economic growth. Legal reform is important because it helps create a fair and efficient legal system that protects people's rights, ensures justice, and supports

economic development. By learning about how legal reforms happen and how they affect society, we can understand how changes in the law work and what they mean for different groups of people.² According to Davies, law reform “essentially concerns improvements to the positive law to make it more coherent, to deal with new social, economic and technological conditions, or to address social problems.”³ Legal research is essential for creating law reform reports and similar documents. Good law reform always relies on high-quality research. The type of research and

¹ Henry M. Greenberg, Law Reform: Time to Go Back to The Future, July 11, 2024 | New York Law Journal, www.gtlaw.com

² Alina Pomaza-Ponomarenko, legal reform and change: research on legal reform processes and their impact on society. analysis of factors that facilitate or hinder legal change, including political, social, and economic factors, <https://www.researchgate.net/publication/375131460>

³ Bedford, N., Bonython, W., & Taylor, A. (2024). Law as it is, and how it could be: law reform participation as authentic assessment and a pedagogical tool. *The Law Teacher*, 58(1), 58–73. <https://doi.org/10.1080/03069400.2023.2288415>



the resources available can differ between law reform organisations. Planning the research in advance is important, including setting timelines and matching the research to the size and purpose of the law reform project. The way the research is done will depend on the organisation conducting it, the time available, and the topic's complexity and scope.⁴ It is little understood that a critical approach to the resources and methodologies associated with the contemporary legal research process can serve as a crucial vehicle for progressive sociolegal change—otherwise known as normative reconstruction.⁵

Factors Influencing Legal Reform

Alina Pomaza-Ponomarenko, in her research on *Legal Reform Processes and Their Impact on Society* (2024), investigates the political, social, and economic factors that either promote or hinder legal change. She identifies the role of government policies, public opinion, and economic conditions in shaping the direction and success of legal reforms. Pomaza-Ponomarenko highlights that understanding these factors is key to ensuring the success of law reform processes, especially in societies facing significant challenges. Nicholas F. Stump, in *Following New Lights: Critical Legal Research Strategies as a Spark for Law Reform in Appalachia* (2024), emphasizes the importance of critical legal research in driving legal reforms. Stump argues that legal research methodologies, particularly those focused on sociolegal change, are essential for identifying the weaknesses and injustices in current legal frameworks. He advocates for a more nuanced approach to legal research that considers the specific needs of marginalized communities and proposes reforms that promote social justice.

⁴ Commonwealth Secretariat, *Changing the Law A Practical Guide to Law Reform*, <https://thecommonwealth.org/publications>

⁵ Nicholas F. Stump, *Following New Lights: Critical Legal Research Strategies as a Spark for Law Reform in Appalachia*, <https://digitalcommons.wcl.american.edu/>

Educational Value of Law Reform Participation

Bedford, Bonython, and Taylor, in their article *Law as It Is, and How It Could Be: Law Reform Participation as Authentic Assessment and a Pedagogical Tool* (2024), explore how law reform can serve as a pedagogical tool in legal education. They argue that engaging students in the law reform process not only helps them understand the practical application of legal principles but also encourages them to critically analyze the laws and consider how they can be improved. The authors highlight the importance of integrating law reform into legal education to cultivate future legal professionals who are equipped to drive positive change. Khushal Vibhute and Filipos Aynalem, in their article *Legal Research Methods* (2011), provide a detailed analysis of various research methodologies applicable to the field of law. They categorize legal research into doctrinal, non-doctrinal, and empirical research, each serving distinct purposes in the study of legal systems. The authors focus on how empirical legal research, which involves collecting and analyzing data from real-world legal cases, can offer valuable insights into the functioning of legal systems and their impact on society. Vibhute and Aynalem stress that for law reform to be successful, it must be grounded in empirical data and an understanding of how existing laws are applied in practice. This emphasis on data-driven research methods ensures that legal reforms are based on real-life issues and are more likely to have a meaningful impact.

MEANING OF LEGAL RESEARCH:

Legal research involves studying the branch of knowledge related to legal principles and institutions. Law is primarily derived from three sources: legislation, precedent, and custom. Additionally, juristic writings serve as secondary sources of law, with their importance depending



on whether courts, legislatures, or legal scholars acknowledge them in resolving issues. The primary purpose of the law is to regulate human behaviour in modern society. Through legal research, the relationship between the legal system and the society it governs is examined.⁶ legal research is very much essential and it must be directed to the study of the relationship between the law and the society that the law purports to govern.⁷ Legal research is the process of finding the information needed to make legal decisions. It involves steps like understanding the facts of a problem, gathering relevant information, and using that information to solve the problem and explain the findings.⁸

LEGAL RESEARCH AND METHODOLOGY:

Legal professionals need various types of information for different purposes. A search strategy should be planned based on the specific information needed. Common types of information sought include:⁹

- Case laws on specific topics or particular cases.
- Legislative intent or purpose behind any law.
- Material for speeches or presentations.
- Legislative history of a specific law.
- Comparison of foreign laws with Indian statutory provisions.
- Interpretation of specific words or phrases used in legal texts.

Finding Case Laws;

Traditionally, case laws on specific topics were found in digests and commentaries on particular legal subjects. Subject indexes at the end of commentaries were helpful tools for

locating relevant case laws. In the digital age, online legal databases like Westlaw and LexisNexis have become essential for quickly accessing case laws. Modern legal platforms now integrate artificial intelligence to enhance efficiency and accuracy in research.¹⁰

Legislative Intent;

Understanding the legislative intent behind a law is crucial, especially when interpreting ambiguous provisions. This can be determined using:

- The "Objects and Reasons" section of the Act is published in the bill.
- Parliamentary debates.
- Reports from the Law Commission or committees that proposed the law.
- Reports from parliamentary or joint/select committees reviewing the bill.

For example, the introduction of the Bharatiya Nyaya Sanhita, 2023, replacing the Indian Penal Code, highlights the significance of understanding legislative intent to evaluate the implications of such major legal reforms.

Legislative Intent of Tax Laws;

Tax laws are frequently amended through Finance Acts during budget sessions. When interpreting a tax provision, its intent can be understood through:

- Notes on Clauses in Finance Bills or Acts.
- Budget speeches of Finance Ministers.
- Relevant parliamentary debates.

In July 2024, India introduced a reduction in income tax rates to boost consumption amid uneven economic recovery. This change, expanding the exemption limit to ₹700,000, reflects legislative intent to stimulate spending in the economy.¹¹

⁶ Chunuram Soren, legal research methodology: an overview, <https://www.jetir.org/papers/JETIR2110354>

⁷ Kayala Krishnamurthy, Critical Study on Legal Research: A Conceptual View, <https://www.researchgate.net/publication/375757629>

⁸ Khushal Vibhute & Filipos Aynalem, Legal Research Methods, <https://chilot.wordpress.com/wp-content/uploads/2011/06/legal-research-methods>

⁹ Rakesh Kumar Srivastava, A Guide to India's Legal Research and Legal System, <https://www.nyulawglobal.org/globalex>

¹⁰ The past, present, and future of legal research with generative AI, <https://legal.thomsonreuters.com>

¹¹ Nivedita Bhattacharjee, India gives income tax relief to some to stimulate spending, <https://www.reuters.com>



Researching Material for Speeches;

Articles in law journals are valuable resources for preparing speeches on legal topics. These articles can be found through journals, legal databases, or article indexes. Legislative histories, Law Commission reports, statistics, and internet resources also provide useful information.¹²

The legislative history of a law can be traced using the Bare Act. Amendments can be found in government gazettes or legal journals. Databases developed by libraries, such as the Supreme Court Judges' Library, are valuable for tracking legislative history. A recent example includes changes to the Indian patent rules published in 2024, which are essential for staying updated with legislative developments. International legal databases like Westlaw or LexisNexis can help trace foreign laws corresponding to Indian statutes. Commentaries on foreign case laws can also provide insights into corresponding statutory provisions. The growing integration of global laws and local statutes underscores the relevance of comparative legal research in an interconnected world.¹³

When disputes arise over the meaning of specific words or phrases in a statute, legal dictionaries or law lexicons are used. Courts refer to previous interpretations of these words in legal decisions to ensure accurate judgments. These resources help clarify legal language and maintain consistency in interpretation. The integration of AI into legal research tools has further enhanced the ability to interpret legal language accurately, providing legal professionals with advanced resources to navigate complex legal texts.¹⁴

Kinds of Legal Research:

Legal research can be classified into several types based on the approach and objectives.¹⁵

Descriptive vs. Analytical Research-

Descriptive Focuses on describing current events or phenomena without analyzing the causes. Uses tools like surveys and fact-finding but does not establish relationships between variables. **Analytical** Evaluates existing facts critically to provide deeper insights and establish relationships.

Applied vs. Pure Research- **Applied:** Aims to solve practical problems and has immediate real-world applications. **Pure** Focuses on theoretical understanding, developing, or generalizing ideas without immediate practical use.

Quantitative vs. Qualitative Research-

Quantitative Deals with numerical data to analyze trends or patterns. **Qualitative** Gathers opinions, reasons, and perspectives to explore behaviours and motivations.

Conceptual vs. Empirical Research-

Conceptual Based on ideas or abstract concepts, often used by philosophers to develop or reinterpret theories. **Empirical** Relies on observations or experiments to provide data-based, verifiable results.

Other Major Methods of Legal Research:

Doctrinal Research- Examines "what the law is" on a specific issue by analyzing legal texts (statutes, cases). Ensures continuity and consistency in law but is limited to the researcher's perspective and lacks real-world practice insights. **Non-Doctrinal Research (Socio-Legal)-** Explores the relationship between law and society using methods from other disciplines. Focuses on how laws impact social institutions like families, businesses, and consumers. Provides reform-based insights and bridges gaps between legal ideals and social realities. **Comparative Research-** Compares domestic laws with foreign laws to understand

¹² 2023 Supreme Court Review: 10 key judgements, <https://www.scobserver.in/journal/2023>

¹³ Alaukik Shrivastava and Kashish Siddiqui Khan, online gaming laws in India: an analysis of the legislative intent vis-à-vis the future roadmap, <https://scholars.law.unlv.edu>

¹⁴ Sneha Solanki, Sources of legal research: Primary, secondary and the role of AI, <https://legal.thomsonreuters.com>

¹⁵ Manish Singh, Research Methodology, <https://epgp.inflibnet.ac.in/>



cultural and social differences in legal systems. It is useful for legal reforms but requires caution to ensure laws fit local contexts.

LEGAL RESEARCH AND LAW REFORM:

Legal research is essential for law reform, as it helps identify issues and propose concrete solutions. Unlike general research, which focuses on exploring a topic and drawing theoretical conclusions, research for law reform is goal-oriented and aims to suggest precise legal improvements. It primarily involves analytical research (studying current laws), historical research (examining the evolution of laws), and comparative research (analyzing laws in other countries). The scope and direction of research are shaped by the project's objectives, available resources, and time constraints. To be efficient, the research topic should be divided into smaller parts, ensuring balanced attention to all aspects without overemphasis on any single area.¹⁶ Law reform seems like an area where legal theories would naturally apply, but surprisingly, the jurisprudence taught in law courses offers little practical help for solving these problems beyond a very general level.¹⁷ The modern law reform movement started with ideas from 19th-century Utilitarianism. This philosophy believes that the government's main goal should be to ensure the greatest happiness for the largest number of people. Laws and legal systems were evaluated based on whether they met this standard.¹⁸ We are slowly realizing that both law and law reform have their own natural boundaries. Since law reform is based on law, it inherits the same limitations. Additionally, it faces unique challenges due to some unclear aspects of its basic concept. Law reform involves making changes to laws to address important social issues. It plays a role in how society allocates resources and resolves

disputes. Laws are tools that give power to political decisions by enforcing them through the government.

Traditionally, law reform has focused on major societal changes, such as ending the slave trade, repealing unfair laws, and protecting vulnerable groups like children. It also includes expanding rights, like those of women, and addressing controversial issues like decriminalizing homosexuality, legalizing abortion, and abolishing the death penalty.¹⁹

INSTITUTIONAL-DRIVEN RESEARCH:

Several institutions conduct periodic research on legal issues and challenges, playing a key role in the law reform process. These include law commissions and legislative standing committees. These bodies perform studies, organize workshops, and analyze legal issues, providing valuable insights and recommendations for reform.²⁰

Law Commissions;

Law commissions are prominent institutions for legal research and law reform. Countries like Australia, England, Canada, and India have law commissions. They collaborate with their counterparts globally, sharing methodologies and best practices. In India, the first Law Commission was established in 1834 under Lord Macaulay. Post-independence, the Law Commission was reconstituted in 1955 under M.C. Setalvad and has since submitted 277 reports on various legal issues. It studies laws, identifies gaps, and proposes reforms, often submitting draft bills for amendments. However, the recommendations are advisory, and many remain unimplemented. For instance, the 172nd Report suggested gender-neutral rape laws in 2000, but reforms were delayed until the Criminal Law (Amendment) Act, 2013, after the Nirbhaya case.

¹⁶ Bakshi, P. M. "LEGAL RESEARCH AND LAW REFORM." *Journal of the Indian Law Institute*, vol. 24, no. 2/3, 1982, pp. 391–415. JSTOR, <http://www.jstor.org/stable/43952215>

¹⁷ Sawyer, G. (1970). The Legal Theory of Law Reform. The University of Toronto Law Journal, 20(2), 183–195. <https://doi.org/10.2307/824865>

¹⁸ Farrar, J. H. (1976). Law Reform Now: A Comparative View. The International and Comparative Law Quarterly, 25(1), 214–228. <http://www.jstor.org/stable/758500>

¹⁹ Cretney, S. (1985). The Politics of Law Reform. A View from the inside. *The Modern Law Review*, 48(5), 493–517. <http://www.jstor.org/stable/1096110>

²⁰ Ghulam Yazdan, positioning contemporary legal research in the law reform process: a review of agents and methodology, 2019, <https://www.academia.edu/43362324>

**Parliamentary Standing Committees;**

In parliamentary democracies like India, standing committees scrutinize government bills, analyze their legal and constitutional validity, and gather public and expert opinions. Their reports guide the government in refining legislation. For example, standing committees provided critical inputs for the GST Bill and Lokpal Bill. Despite their importance, these committees face challenges such as political bias, non-binding recommendations, and being bypassed for speedy legislation. For instance, the Citizenship Amendment Bill, 2019, was passed without committee review, leading to nationwide protests.

CHALLENGES IN LEGAL RESEARCH FOR LEGAL REFORM:

The colonial-era laws, inherited from the British Parliament, had become outdated and did not effectively address modern complexities, including sophisticated crimes facilitated by digital tools. The legislative changes aimed to incorporate stringent and updated procedural and substantive measures to combat and deter such criminal activities. India is undergoing a significant legal transformation with new legislation aimed at replacing colonial-era laws. These changes aim to modernize and address current challenges, particularly in response to digital crimes and evolving societal needs.²¹

Lack of Access to Reliable Data;

Legal research in India faces significant challenges, including limited funding, inadequate resources, and lack of recognition from the legal profession, government, and the public. Hierarchical systems and favouritism in universities further hinder scholars' progress, while small workspaces, minimal secretarial assistance, and low salaries reduce motivation. Although the Indian Council of Social Science Research (ICSSR) funds some projects, its policies remain unclear. The University Grants

Commission (UGC) mandate for PhDs in permanent positions lacks adequate support, resulting in poorly structured programs and inconsistent research quality. These issues collectively limit the impact of legal research in the country.²² Open Access (OA) means providing free online access and reuse of scholarly works, including journal articles, research data, theses, and digital books, promoting the idea of making knowledge freely available.²³ Authors retain copyrights but can transfer or keep the rights to distribute their work online. Unlike "Free Access," which removes cost barriers, OA also allows users to share and reuse content. The Social Science Research Network (SSRN), the most popular platform among law faculty for self-dissemination of their written works, was founded in 1994. On May 7, 2008, the Harvard Law School faculty voted unanimously to make their scholarship freely available in an online repository. With this action, Harvard became the first law school to make an institutional commitment to open access for its faculty's scholarly publications.

POLITICAL AND SOCIAL PRESSURES ON INDIAN LAW REFORMS:

On November 19, 2021, the BJP government made its most significant reversal since taking office in 2014 by deciding to repeal the contentious farm laws. While it had previously yielded to opposition pressure, such as with the 2015 land acquisition amendment, this time the government faced sustained protests. Unlike the Citizenship Amendment Act of 2019, which saw widespread opposition but remains unaddressed, Prime Minister Modi formally apologized for failing to persuade farmers on the benefits of the reforms. The repeal of the farm laws was scheduled for discussion in the winter parliamentary session starting November 29, 2021. The repeal reflects both the strength and weakness of Indian democracy. On one hand, persistent protests can influence even a

²¹ Chitranshi Negi, Legal Evolution in India: Transitioning from Colonial Legacies to New Frontiers- An In-depth Analysis of Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Bill in 2023, <https://ssrn.com/abstract=4677357>

²² Dhavan, R. (1987). Means, Motives and Opportunities: Reflecting on Legal Research in India. *The Modern Law Review*, 50(6), 725-749. <http://www.jstor.org/stable/1096030>

²³ Subhradipta Sarkar and Deepak Sharma, open access revolution in legal research: dira necessitas, <https://nludelhi.ac.in>



dominant government. On the other, parliamentary shortcomings—such as bypassing proper procedures and scrutiny—contributed to the deadlock. If the laws had undergone detailed parliamentary review, a more balanced outcome might have emerged. The government's decision was influenced by several political factors. Upcoming state elections in early 2022, especially in Punjab and Uttar Pradesh, played a significant role. The protests were concentrated in these states, and they risked harming the BJP's electoral prospects. To soften the blow, Modi timed the announcement on Guru Nanak's birthday, an important day for Sikhs, and aimed to improve ties in Punjab through an alliance with former Chief Minister Amarinder Singh. Additionally, with the 2024 general elections approaching, the BJP sought to counter perceptions of being anti-farmer. While BJP's core issues like Ayodhya and Article 370 strengthen its base, agricultural and economic controversies pose a greater electoral risk.²⁴

JUDICIAL PRONOUNCEMENT

Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461

This case introduced the Basic Structure Doctrine, limiting Parliament's power to amend the Constitution. It serves as a critical safeguard for protecting democracy, judicial independence, and constitutional principles, influencing reforms across governance and legal domains.

Maneka Gandhi v. Union of India, AIR 1978 SC 597

By expanding the interpretation of Article 21 (Right to Life and Personal Liberty), the case ensured laws affecting life and liberty must be just, fair, and reasonable. It has guided reforms in administrative law and criminal justice to uphold citizens' fundamental rights.

Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789

This judgment reinforced the Basic Structure Doctrine, maintaining a balance between Fundamental Rights and Directive Principles of State Policy. It is pivotal in preventing legislative overreach and ensuring constitutional harmony.

State of Madras v. Champakam Dorairajan, AIR 1951 SC 226

This case led to the First Amendment of the Constitution, enabling caste-based reservations in education. It remains a cornerstone in understanding affirmative action policies and fostering social justice reforms.

Vishaka v. State of Rajasthan, AIR 1997 SC 3011

The Court's guidelines for preventing sexual harassment at workplaces laid the foundation for the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, ensuring workplace safety and gender justice.

Association for Democratic Reforms v. Union of India, (2024) 5 SCC 294

This judgment declared the Electoral Bond Scheme unconstitutional, emphasizing transparency in political funding. It has major implications for electoral reforms, promoting accountability and combating corruption in the electoral process.

Mineral Area Development Authority v. Steel Authority of India, (2024) 9 SCC 1

By distinguishing royalties from taxes under the Mines and Minerals Act, the Supreme Court clarified fiscal federalism and resource taxation policies, influencing reforms in state and central revenue laws.

Shahjahan Begum v. State of Madhya Pradesh, November 2024

The Court's guidelines against arbitrary property demolitions reinforce the rule of law and due process, encouraging reforms in urban planning and housing rights to protect marginalized communities.

²⁴ Ronojoy Sen, Diego Maiorano, Why the Farm Laws were Scrapped: Political Compulsions and More, <https://www.isas.nus.edu.sg>



**Indian Medical Association v. Union of India,
September 2024**

By balancing the right to protest with the necessity of essential public services, this case guides reforms in labour law and strike regulations, ensuring public welfare during industrial disputes.

CONCLUSION:

Legal reform is crucial for keeping the law up-to-date with the changing needs of society. It helps address outdated rules, promotes fairness, and ensures the legal system is efficient and just. Legal research plays an important role in law reform by identifying gaps, analyzing the impact of laws, and providing solutions. However, there are challenges such as limited access to data, political pressures, and resource constraints that need to be addressed to improve legal research and reform efforts. Institutions like law commissions and parliamentary committees have been key players in driving law reforms, but there is a need for more timely and practical implementation of their recommendations. For law reforms to succeed, they must be driven by a deep understanding of societal needs and a commitment to justice, fairness, and accountability. The process of legal reform should continue to evolve and adapt to the modern world, ensuring that laws remain relevant and serve the best interests of society.

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