

Combined Doctrinal and Qualitative Approach in Legal Researches: An over view

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Abstract:- Mixed Methods of research is mostly common in Social science Studies. This approach is usually taken to be an assorted method of qualitative and quantitative exploration. Some scholars and or researchers have been and consider Legal research applicable methods to be hired from the social sciences. Others take position that Legal researches have no methods of their own. Legal Researches are therefore attacked by some scholars and blamed of having no methods and living on principles deserting the society. Taking a legal research to stand as a parasite on bases of legal methods, a doctrinal method in particular has as well succumbed into special attack. With doctrinal research means black letters and or Library researches as others refer it to. In whatever case as may stand, this study goes through the mixed methods as observed by a number of social science writers to observe how mixed is the method and its compatibility in other disciplines and legal studies in particular. In so doing, this study establishes non social sciences approaches by fusing a doctrinal legal research with qualitative elements to come up with a Mixed Legal Research method for legal discipline. This brings about establishment and expansion of a component of doctrinal and qualitative research elements for a new generation of a mixed method for legal research. This study advocates that the mixed method of research depends on the discipline and intended destination. In conclusion thereof, this study advocates that combined methods of doctrinal and Qualitative may apply in legal research to support each other.

Keywords:- Mixed Method of Research, Social Science Researches, Legal Research, Doctrinal Legal Research, Fusing, Black Letters, Library Research, Qualitative Research

I. INTRODUCTION

Of the legal research matters said to raise attention of the society among other things is said to be the decline and critics of the methodologies applied by legal researchers. The challenge is said to deteriorate standards of legal researches. Ako and Olawuyi (2017) throw eyes on the said deteriorating standard of legal research alleged to be accelerated by an increase of its deficiency of dedication to procedure and approaches. With this position, Lawyers are required to elucidate their style of study in verbiage parallel to that applied by other disciplines (Hutchinson and Duncan,2012).

This paper gives much attention not to legal research generally but Black letters legal research. McConville(2017) looking on doctrinal legal research, empirical or social legal research is of the position that the pure doctrinal research is criticized for what he refers to as its being rigid intellectually and uncompromising. In other words, it is worthy for doctrinal legal research to have an alternative practicability. With Doctrinal legal research methodology, also called black letter by researchers as seen before, emphasizes on the letters of law rather than the law in action and therefore to incline on the doctrines. Analyzing of statutory provisions and case laws reasonably forecasts doctrinal legal research as reiterated by Singh et al(2015). The emphasis of this study is put on possible cerebration of mixed method of doctrinal and qualitative methods so as to come up with the sibling of the mixed method for legal research in other existing methods while revisiting the notion of mixed method to refer to a fusion of qualitative and quantitative method. In so doing, this study shall go through different parts but worth to visit with intention of stabilizing the staggering critics the doctrinal legal research has been receiving. While doing so, the reality that qualitative research is a phenomenological qualitative research in nature involving quality or kind(Kothari,2004) while a doctrinal legal research is based on legal principles.

II. IN NUTSHELLS LEGAL RESEARCH

Legal research explanations and or definitions have more or less similar throughout the legal research fraternity. According to Abugu (2021) a legal research is considered piloting study to determine the doctrines and dealings of law relevant to a certain aberrant and to determine a certain legal answer. Legal exploration is therefore the procedure of finding and salvaging material vital to lawful verdict creating. In its widest nous, legal study contains every step of a sequence of deed that prompts with an analysis of the proofs of a offending plus completeness with the exhibition and note of the outcomes of the study. Abugu(2021) contends that legal research is mostly the practice of studying the law by searching for and determining legal answers to legal available interrogations. Legal research may as well be defined as a systematic finding law on a certain point and making advancement in the discipline of law (Vibhute and Aynalem, 2009). Vibhute(2009) referring to the Webster's International Dictionary, takes a research and not a legal research to mean a careful, critical inquiry or explanation in seeking facts or principles and diligent

investigation in order to ascertain something. Much as legal research is a research, it does not vitiate the meaning of legal research to be justified. According to Sidney, et. al(1952) research and in the light of the Advanced Learner's Dictionary of Current English a research mean a careful investigation or inquiry specifically through search for new facts in any branch of knowledge. Last but not Least, Webster Dictionary explains the term research to mean a systematic investigation towards increasing the sum of knowledge (Vhebute, 2009). Pradeep (2019) alerts that it is worthy to note that Legal research does not end on principles only but extends arms to social, political and economic facts providing ways to distinct rules and its impact upon the society hence a point of research in law.

III. WHAT MAKES DOCTRINAL LEGAL RESEARCH DISTINCTIVE FROM NON DOCTRINAL LEGAL RESEARCHES

As this study noticed earlier in definitions of the concepts, doctrinal researches are basically researches in to legal doctrines while non-doctrinal studies relationship between the law and other behavioral sciences (Neel,2023). The doctrinal legal research concentrates on the issue of coherence of laws or black letters while the non-doctrinal establish ties to the society relationship (McCrudden, 2006). The doctrinal focuses on expanding doctrines while non-doctrinal directs itself on how law interacts with the society and its impact thereof (Priyadrshi and Singali,2024). Singh (2015) does not differ on the difference from others. This concludes that the differences given by many researchers on the above variances are more or less similar. The other noted difference would rise in the tools of research by the two and perhaps in the means of data analysis as this paper reveal soon.

IV. LEGAL RESEARCH AND COMBINED DOCTRINAL AND QUALITATIVE APPROACH

Doctrinal legal research is also referred to as the Normative research (Negara,2023). According to Marzuki (2005), a normative legal research is a process of finding on legal rules, legal principles and doctrines of the law for addressing the legal issues at hand. Results of the study of law are the argument, theory, or the new concept as a prescription in solving the problems faced (Market,2005). Hellynn et al(2023) groups the doctrinal legal research into two. That is, analytical legal research that base on critical evaluation of existing law and Comparative legal research which is a qualitative in nature involving intensive thinking, ability to inquiry and appraisal of facts and info relative to the research being conducted. In the Light of Pradeep(2019) doctrinal legal research simply means a legal way of thinking or derive conclusion on rational remarks by investigating suggestions noticeable by the legal societies on the basis of case laws it has decided(Pradeed,2019). Doctrinal research involves researching confusions realities via review of legal instruments for conclusion on the matters associated to legal system,

policies, laws and verdicts of courts of law without depending on primary study from the field (Pradeep, 2019).

Doctrinal legal research allows lawyers and scholars to undertake comparative study with broader abstraction over the legal problem (Reitz,1998). A Doctrinal researcher is expected to deals with Legal doctrines, concepts, rules, principles, Doctrines in laws (Pradeep,2019). His bases are therefore likely to be Dependent on the Law, Policies, Conventions, Treaties. Also precedents and Court Decisions while area of concentration remaining library (Pradeep,2019).

As it may be compared to non-doctrinal legal research, non-doctrinal researches carry expectation of Social Problems connected to people, society, institutions. Non doctrinal research is said to be rich in extensive usage of principal data while involving awareness on how to go about it. Predominant legal research as it is renown, doctrinal legal research involves strong analysis and synthesis of legal doctrines that is said to be criticized basing on the notion that the method/research is conservatively based on concept rather than social inputs, for what is believed that it ignores empirical techniques as reiterated by many(Ishwara,2020). Still it is reserved as an only great method of legal research capable of synthesizing legal principles and rules.

Ellynn et al (2023) have fused the qualitative legal research to doctrinal legal research when classifying the doctrinal legal researches while classifying them internally by coming up with comparative and analytical legal researches. With analytical legal research, Ellynn et al consider it to be a form of qualitative enquiry. Indeed Some elements of data collection, analysis and presentation in both Doctrinal and Qualitative researches seem to stand similar. This would confuse users and refer to these two as one method if not taken carefully. The environments would thus raise a question as to whether or not a doctrinal method is a qualitative method in Legal Researches. To wit, Hutchson(2006), refers the qualitative study as an exploration of the social relations and reality as experience rather than dealing with the specific case.

V. NUTSHELLS THE CONCEPT OF MIXED METHOD GENERALLY

The emergency of mixed method involves the model tag between qualitative and quantitative as a conservatively used approach (Terrel,2012). Depending on choices made across four dimensions, mixed-methods can provide an investigator with many design choices which involve a range of sequential and concurrent strategies. Defining features of these designs is reported to be along with quality control methods, and ethical concerns. Useful resources and exemplary study references are shared. According to Kauri and Chandigarh (2015), a mixed method research is basically defined as the class of research where the researcher mixes or associates quantitative and qualitative research techniques, methods, approaches, concepts or language into a single study. They rationally concur with the

fact that the method is the third wave or third research movement. It is a movement that moves past the paradigm wars by offering a logical and practical alternative. Schoonenboom and John(2017) observe that mixed methods approach is the genealogical of multi method research in which either solely multiple qualitative approaches or solely multiple quantitative approaches are combined. According to Creswell(2012) considers a mixed methods research as well defined as procedure for collecting, analyzing by mixing both quantitative and qualitative research and methods in a single study to understand a research problem as contended by Fischler,(2023) who observes that the mixed method in the meaning of qualitative and quantitative research whereby qualitative and quantitative data provide for a better understanding of the research phenomenon. Equally, Schoonenboom and Johnson (2017) term a mixed methodology as mixed methods research taking a shape of research in which a researcher combines elements of qualitative and quantitative research approaches. Morse (1991) is of the position that the common mixed method is a qualitative Quantitative referred to as qual quant Method. Tashakkori(2010) supports the proposition that mixed method systematically mix quantitative and qualitative approaches to research in order to answer research questions at hand. Whenever one method is adequate as observed by Olson and Innocent (2020) no doubt that mixed approach would apply.

VI. COMBINED DOCTRINAL AND QUALITATIVE AS ONE MIXED METHOD:

Fischeller (2023) denoting to an invite from the Journal of Mixed Methods summoning for papers on mixed devices defined a mixed method study as research in which investigator collects, analyses, mixes and draws inferences from both qualitative and quantitative data in a single study. Further that it is a program of inquiry via a Mixed methods research which is actually a research design with philosophical assumptions as well as methods of inquiry (Creswell and Plano Clark,2017). Ishwara(2020) has been of the position that legal propositions has root in inter disciplines such as social economic and political. Further those researchers in law have usually been applying doctrinal legal researches other than non-doctrinal legal researches entertain some critics due to its dealings. Law being a social character, Ishwara(2020) suggests for doctrinal legal researches to combine both doctrinal and non-doctrinal methods for positive outcome. An implication with the Ishwara's position is that whenever the matters of legal research is to be put to motion, researchers need to involve methods not dealing with library research only but also the society in active nature whereby the non-doctrinal methods may be designed so as to suit the study and for the best experience.

A Doctrinal research is thought of being a purely legal Research (UWE-Bristol). Its Methodology also focuses on legal sources. It remains worth to determine on how those to who such legal principles touch in one way or another feel so as to come out with the proposition of epistemology philosophy. A

certain study would design a mixed method. For example, a mixed method of doctrinal and qualitative approach that would bring about some social participation, emic positions and so on if the researcher is emic to the matter he is studying. According to McConville(2007) a discipline can dictate a method to apply in the cause of its study. Disparities occur in how a phenomenological study is showed (Van Manen, 2014). With this proposition, without prejudice to the observation by Harrits(2011) who challenges the proposition that mixed research methods consists a coherent research paradigms and explores how the two exist in mixed methods, this study agree with her that the research design and understanding the qualitative mechanisms diverge strikingly and therefore this understanding turns as a cornerstone on how a researcher would move forward at the very level of methodology, epistemology and ontology' likewise, the similar idea is sited affirmatively. It takes nothing therefore to know in short about the research design, ontology and methodology of research so as to clear doubt on how they are used above and their relationship with the above facts as it is witnessed below.

VII. BRIEFLY ONTOLOGY, RESEARCH DESIGN AND METHODOLOGY:

Ontology philosophically refers to the study of what there is, what is true or real and the nature of reality hence what is in existence and the nature of its existence (Stafford Encyclopedia of Philosophy, logic ad Ontology (2023). Ontology would as well mean what might exist (Smith,2003). According to Michael (2003) Ontology is the study of being; the kind of world is being investigated with the nature of existence and structure of reality. The concept of what can be available, known, what is the nature of reality, reality of anticipated questions to be responded to, is possible via ontological approach (Guba and Lincoln, 1989).

On the other hand, research design means a theoretical construction within which a study is steered. It is the process of planning and carrying out a research study (Vibhute and Aynalem,2009). A research design outlines theories and model to underlay a study (Blair, et al.2023). Realizable replies depending on the nature of ontology, awareness, epistemology, and discipline are as well expected and anticipated in research design (Tobi et al, 2018). No doubt that the design defines the study type as observed by Creswell and John(2014).

Finally on this particular part, with methodology is said to be the ways on how to decipher a study difficult (Kothari,2004). It is a philosophical appraisal on how awareness and analysis are edged within a school of thought (Chandler and Muday,2011). Methodology deals with a 'how' question in the field of research. Researchers' procedure he uses to perform his research operations implies research method. Methodology and methods are dissimilar. In short, Methods are techniques or methods applicable in conducting research (Kothari,2004).

VIII. TOOLS OF MIXED METHOD OF DOCTRINAL AND QUALITATIVE LEGAL RESEARCH:

Tools of mixed methods of Doctrinal and qualitative legal research would seem to be social research save for doctrinal. However, this should be treated carefully by readers. Methods determine tools. Webley(2010) observes among other methods of qualitative research to include direct observations, documents analysis and interviews. To Singh et al(2015), tools of qualitative research are basically interviews, questionnaires and, schedule, observation, etc. Davison and Pater(1994) classify tools into primary and secondary methods as data fall under similar trends. They take survey, experiments, observation and interviews to support primary data methods for qualitative approach. Primary data collection tally with participants' direct response.

According to Denzin and Lincoln(1998) qualitative researchers have much based on interview method classifying it into guided, random or unstructured and semi structured interviews. Others are observation whereby Powel and Steel (1996) classify this into covert and overt implying that participants would know that the researcher has put them under observation while the observer is hidden and participants are ignorant of the observation in covert. This approach is said to make participants to behave unsurprisingly and typically (Powel and Steele,1996). The observation would as well be done straight or circuitously.

Writers have as well looked at Group discussion commonly referred to as focus group discussion. The group remains the group in its literal meaning. A group of a number of participants is created for discussion and get lead to discuss the matter as the group leader would manage to control as reiterated by Krueger (1988).

On the other side, in nutshells, tools for black letters research are merely primary sources. To mention, they include legislations, and case laws while those referred to as secondary materials include textbooks, legal articles, parliamentary answered and so on(Singh,et al.2015). The doctrinal does not involve any experiment issues. Therefore one would remain true if he says a doctrinal research is the library research. It is worthy to advocate that therefore, a mixed legal research method established by fusing or combining doctrinal and qualitative share tools in one way or another so as to rich the goal of dealing with legal principles in one hand and linking the study with the society in another hand.

IX. REASON BEHIND MIXED METHOD LEGAL RESEARCH METHOD

Reasons for mixed method would differ in one discipline to another depending on the intended study goal and questions to be responded to in the research. To mention, the response to the question as to why mixed method is essential in some study or would be given chance, waters down or enlarge an idea that

the mixed method of research mixes qualitative and quantitative methods. In the light of Hurst(2023) all methodological choices depends on one's underlying research questions and goals as some research questions are better answered by the strengths of the mixed methods approach. Small (2011) discusses the use of mixed methods as a validation *or* counterpart of one set of findings from one method by another. To Crewell(2006), a mixed method stands as a source for the better appreciative outcomes because mixed approaches propose for strengths which counterpoise the faintness of unconnectedly pragmatic quantitative and qualitative exploration means.

On the other hand, it functions to tackle mixed devices study as an important approach today because of the convolution of difficulties that want to be talked; the rise of interest in qualitative research and the practical need to gather multiple forms of data for diverse audiences (Kaur and Chandgarh,2015). The mixed method saves as means to enlarge in depth of understanding and substantiation in the light of Johnson et al (2007). Mixed research method stands as the too fully, data collection, analysis, and inference techniques just as elaborated by others above. According to Blummer et al.(2014), the intention for application of a mixed method includes but not limited to better outcome, covering possible areas were a single method would have not, taking each method separately, in the common mixed method. To Blummer et al.(2014) qualitative methodology intends on illumination, understanding, and extrapolation to similar situations. It is worth to say that the mixed method is welcomed. In conclusion thereof, the intentions for mixed method as studies by different researchers are more or less similar.

X. CONCLUSION

This study advocates that a doctrinal method involves severe scrutiny and imaginative synthesis of numerous doctrinal strands noted as also observed by Ishwara (2020). It also advocates that qualitative legal study aims at learning issues in their ordinary sceneries, recognize and construe their communal authenticities and deliver involvements on several facets of communal life (Ishwara, 2020). Furthermore Creswell (2014) advocates that qualitative research method involves grounded theory, ethnography, treatise examination and revelatory phenomenological scrutiny. The proposition that fundamental researches with social scientific approaches to be integral part of the law professionals for acquiring the desired skills is as reiterated by Burns and Hutschson (2009) is also noted.

Doctrinal and non-doctrinal approaches are dissimilar methods of legal studies. While doctrinal is focused on analyzing and synthesizing the law principles, rules court decision for clarity of the law, non-doctrinal or social legal researches are built on cultural, social and economic studies. The two do not harm each other. This study does not part from some researchers who have suggested for broadening legal research methods and methodologies so as to broaden

understanding rather than focusing on legal principles only in one hand but touching the social economic and political environments on the other hand. This study advocates that the critics of the Doctrinal method may be combined with the qualitative approach so as to find a gate way to social touches whereby when looking on principles of the laws or dealing with passive data, feelings to who such principles and ideas there to would be obtained.

The only available avenue would among other methods that doctrinal legal researchers would come up with, include a mixed method of Doctrinal and Qualitative or black letters and qualitative approaches so as to make the legal research active whenever necessary. In the event that the research questions dictates or needs more to justify facts, no doubt that some methods and methodologies may apply for an effective research destination.

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