
ROLE OF CONCEPTS IN LEGAL INVESTIGATION

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ABSTRACT

Legal investigation is often perceived as a technical exercise of collecting facts and interpreting statutes. However, this article argues that its true foundation lies in the clarity and precision of legal concepts. Without a coherent conceptual framework, legal research becomes fragmented, inconsistent and ultimately ineffective in advancing the law. The study critically examines the role of concepts as the intellectual architecture underlying legal investigation emphasizing their influence on interpretation, reasoning and decision-making processes. Through doctrinal analysis, historical insights and practical examples drawn from constitutional, criminal and civil law, the paper demonstrates how ambiguity or misapplication of concepts can distort the administration of justice. It further argues that the evolution of law is not driven solely by legislative changes or judicial innovation but also by the continuous refinement of legal concepts through systematic research. By engaging with key legal transformations, including shifts in criminal justice approaches and the reinterpretation of foundational principles, the article underscores the dynamic interplay between concepts and legal evolution. Significantly, the paper challenges the tendency within legal field to overlook rigorous conceptual analysis and advocates for a more-structured, concept driven research methodology. It asserts that precise understanding of concepts is essential in identifying gaps, addressing ambiguities and recommending effective reforms. Ultimately, the article presents legal concepts not merely as abstract ideas but as essential tools for ensuring consistency, coherence, and justice within the complex legal system.

I. INTRODUCTION

We live in a society where peace and harmony are always desired but the same can't be possible without the resort to law. Law plays a very important role in a civilized society not only in the modern times but are doing so from a long period of time. It helps to maintain property dispute, marital relationship, adoption, succession, and to reduce crime rate. If we see the history or evolution of law, we can easily observe that law changes according to the needs of the society. A crucial example in this context is Cyber Security Laws. Previously we had not gone through technological innovations and the crime related to it was not possible to be administered but with the growing technological advancements in the modern era, many new types of crimes emerged like cyber terrorism, cyber fraud e.t.c. which was not possible to be dealt with old laws and it led to the creation of The Information Technology Act, 2000.¹ The above two examples prove that law changes according the growing or changing needs of the society.

Here comes the concept of legal research, the need of which can easily be observed after analyzing the above. Continuous research and analysis in the area of law is *sine qua non* to maintain the development and to meet the social needs. Now, it is important to understand the meaning of research. In common parlance, the term research refers to a search for knowledge or it is the art or skill of scientific investigation. It is a systematic and scientific search for comprehensive information on a particular topic that the researcher is going to search for. It can also be considered as a trend or movement from the known to the unknown. The *Advanced Learner's Dictionary of Current English* defines research "a careful investigation or inquiry specially through search for new facts in any branch of knowledge."² According to the *Webster's International Dictionary*, research is a careful, critical inquiry or explanation in seeking facts or principles, diligent information in order to ascertain something.³ According to John Best, research is a more systematic activity directed towards discovery and the development of an organized body of knowledge. In research there is a need to travel from the world of transportation of facts to the world of interpretation of facts.⁴ One very important thing in the area of research is inquisitiveness which is the bedrock of the research process. It is the desire to know the truth with the help of study, observation, comparison, examination, analysis and experiment. The purpose of the research is to contribute in the existing stock of

¹ The Information Technology Act, No. 21 of 2000 (India).

² Research, THE ADVANCED LEARNER'S DICTIONARY OF CURRENT ENGLISH, Oxford, 1952.

³ Research, WEBSTER'S INTERNATIONAL DICTIONARY, 1961.

⁴ RATTAN SINGH, LEGAL RESEARCH METHODOLOGY 9 (1st ed. 2013).

knowledge so that the stagnancy could be avoided in the area of law and to prove the propositions with the actual evidences making it convincing to others.

The term research is associated with many professions like health, defense, commerce e.t.c. and even in the area of law. When a researcher is on the path of research, one has to ask the question whether the particular information is correct, accurate, effective or beneficial to the society or to oneself or not. In the process, it is important to apply mind and develop a sense of curiosity for new knowledge. So, in general terms, legal research may be explained as systematic search towards enhancing or adding the existing stock or knowledge of law. In other words, it is confined to those works which contribute to the advancement of science of law excluding text-books, or case materials. In the process of legal research even the fact-finding is not very easy, the research first has to analyze the statutory provisions or rules and then may have to examine case law extensively. And we all know that finding legal principles from the large amount of case materials is a very difficult task. “Thus, the term legal research takes into its ambit ‘a systematic finding’ or ‘ascertaining law’ on the identified topic or in the given area as well as an inquiry into law with a view to making an advancement in the science of law.”⁵ So, in a clear terms, it can be said that legal investigation is the process of critical investigation of the existing knowledge of law with a purpose to bring certainty and uniformity and advancing knowledge by application of mind which would certainly be beneficial in the efficacy of law in a society. Although the term investigation has not been defined anywhere but a reference can be taken from S. 2(1)⁶ which says that “investigation includes all the proceedings for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf.” So this investigation is mainly concerned with police investigation which is also a very comprehensive task in the justice delivery system.

Legal investigation includes gathering or collecting documents, interviewing person, making surveillance, assessing or analyzing and documenting evidence related to a particular legal issue. It can be conducted by various professionals like private persons, law enforcement agencies, lawyers, corporate legal departments, or government agencies. The purpose of legal investigation is to establish facts, support or criticize legal principles, ensure compliance with

⁵ KHUSHAL VIBHUTE AND FILIPOS AYNALAM, LEGAL RESEARCH METHODS (1st ed. 2009).

⁶ The Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023 (India).

laws and regulations and in litigation fields to make arguments for their parties.

Concepts are the building blocks of the legal doctrine.⁷ It provides the mental structure by which we try to understand the world and involves the process of formulating or making a mental construct to reach a certain level of abstraction. These are essentially nominal in character because they try to define the phenomena but not the phenomena themselves. So, it is just a mental representation of phenomena. The concept is itself a complex concept. It can be distinguished from law which is composition of words or rules. Concepts are themselves the building blocks of law. One word or label can have multiple concepts, for example the concept of a right is different in different contexts i.e. a right is different when taken in relation to fundamental rights or will have different meaning while seen as relating to civil rights. Like this, concepts are also distinct from rules, for instance, a legal rule comprises many concepts put together in a specific kind of relationship. If someone commits murder, he will be guilty of imprisonment or murder itself requires an intent. So, we find here combination of concepts and sub-concepts leading to a specific rule.

If the history of law is traced in different jurisdictions like England, United States or India, it is easy to find out the need and requirement of conceptualization of law. It is the concept which brings certainty, uniformity and clarity in the understanding of law. Legal concepts provide the basic building blocks and structures for legal systems. It helps interpret law, statutes and precedents. These are the tools for analyzing complex situations and determining how the law applies. As the concept regarding a particular subject is certain, it is easy to understand not only for the court to interpret but for the litigants and lawyers in terms of preparing their arguments as well. Some key legal concepts include rights and duties, liability, jurisdiction, definition of crimes, due process, reasonableness or property e.t.c.

In United Kingdom, after briefly tracing the history, it can easily be observed that it took a very long period to conceptualize and rationalize the law there. There was a shift in the eighteenth century in earliest forms of modern legal materials. Scholars during this age or during the time of renaissance or enlightenment began to use critical reason to free people from superstitions, irrational prejudice and influences. In the process this rational system of expression in the area of social and economic development was extended in study of law also. "Law was a science a

⁷ Tom Ginsburg and Nicholas Stephanopoulos, *The Concepts of Law*, THE UNIVERSITY OF CHICAGO LAW REVIEW (2007).

body of knowledge that had its own structure and was reducible to rational propositions.”⁸ Blackstone first developed a rational system where he was trying to organize and systematize the common law into an established system. Previously reading cases in proper sequence was making the underlying principles behind the law evident. And as we all know that precedent has a very substantial value not only in modern times but from a large period of time. Here, while the judicial decisions were being collected, the individuals even put their opinions and analysis under because of absence of any established form of legal communication. So, these bodies of reported case laws had its own implications which makes the path for conceptualization of law. So, the evolution of legal concepts in UK is characterized by pragmatic approach balancing tradition with necessary reforms.

In United States, there had a different and unique history of conceptualization of law. Here, the nominative case reporter method under common law was adopted. “Nominative case reporters were individually compiled by a member of the bar who would gather notes of the courts’ decisions either as recorded by himself, from other lawyers or perhaps from the notes of the judges.”⁹ But it began to take shape after 1776 revolution. The federal nature of the United States legal system and the need for a separate jurisprudence aided to this shift. The shift was further advanced when public spirited volunteer was replaced by state-appointed functionary. These developments eventually contributed largely to the conceptualization of law in the country. Although the legal system here was heavily influenced by common law system but later it developed its own structure of law due to its distinctive circumstances. From common law system to its own concept of judicial review, individual rights and liberties, constitutional principles or economic analysis of legal issues e.t.c.

Now coming to the Indian scenario, it can be found that legal concepts are not only of modern creation but was existing in ancient times also. In ancient period, the legal issues and questions were dealt by our dharma shastras. At this time, it was the religion which was regulating legal relationship and maintaining social order. But after the advent of Muslim rulers in India, there existed a parallel system of Hindu laws and Muslim laws and customs had a dominance there. But under the colonial era, there came a significant change in the nature of law as the attempt was made to codify the law for example codification of Indian Penal Code, 1860.¹⁰ While

⁸ Robert C. Berring, *Legal Research and Legal Concepts: Where Form Molds Substance* 75 CALIFORNIA LAW REVIEW 15-27 (1987).

⁹ *Ibid.*

¹⁰ The Indian Penal Code, No. 45 of 1860 (India).

making the code the main objective of Macaulay who drafted this code was to keep it precise and certain leaving less chance of discretion to interpret by judiciary. He did not use the term *mens rea* or *actus reus* in the entire code but rather prescribed different fault element and conduct element for different categories of offences so as to bring certainty. So, he made a successful attempt to conceptualize the law. After the independence of our country in 1947, we made our own constitution having different legal principles and concepts for the proper regulation of the society. At this time, there was focus upon the fundamental rights and the concept of judicial activism in the form of judicial review was also recognized. With the growing needs of time different legal concepts like cybercrime, terrorism, organized crime, right to privacy as a fundamental right, child pornography, cyberterrorism, data privacy, copyright infringement, environmental law and many other legal principles as well.

II. MEANING OF CONCEPT AND ITS IMPORTANCE

As we all know that concept plays a very important role in our society and most importantly in this modern era slight misinterpretation or wrong understanding of concepts may lead to destruction of the society. For example, in this modern era, most of the things are controlled or regulated by computers like air space, railway system, defense mechanism, corporate areas where slight misunderstanding may lead to air accidents, railway accidents, threat to national security or economic loss of the companies as well. So, understanding the concept has become a significant part of our life. The area of law is not uninfluenced by it. Here also concept has its own significance. At every stages of the legal development, it is important to ensure clarity in legal concepts so as to ensure certainty and uniformity in law.

Here the researcher has to deal mainly with only that concepts which play a role in legal investigation. Generally, a concept is an integration of ideas or a representation of the same. With the help of some examples the researcher would try to elaborate some concepts. For example, judicial review in the absence of which rule of law can't be ensured. In India, everyone has to act as per the law but the court has not only to deal with what the law is but has to ensure whether the law is according to constitution or not. The U.S. Supreme Court in a case established the principle of judicial review which gives power to supreme court to invalidate laws that it deems unconstitutional.¹¹ Each legislative, executive, and judicial action has to be in consonance with the constitutional principles and the Supreme Court and the High

¹¹ Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803).

Court has to ensure this. It is the concept of judicial review which created basic structure of the constitution of India ensuring supremacy of the constitution. “Another example can be of a case where S. 66A of the Information Technology Act, 2000¹² was declared unconstitutional on ground of violation of art. 19(1)(a)¹³ of the Constitution of India.”¹⁴ So, the concept of judicial review played a very important role in legal development.

Another concept can be of rule of law. In a democratic society, no any particular individual or institution rule but the law has the final say. So, it is the basis of any legal development. Although Joseph Raz, Coke, and Dicey tried to define the concept but the crux of all these scholars was that there should be supremacy of law, equality before laws, independence of judiciary, principles of natural justice e.t.c. The concept of rule of law led to restrict power of state which ultimately ensured the rights of the people. It is this idea which led to the creation of many other concepts like judicial review delegated legislation e.t.c.

While going through criminal law jurisprudence of our country, the researcher went through many concepts like culpable homicide, murder, rashness, negligence, insanity, private defense and many other. Here, the researcher would like to highlight the concept of culpable homicide and murder. Although both come under the category of heinous crimes but slight change in the understanding of concept may reduce the punishment from life imprisonment to just less period of imprisonment and fine if there was only knowledge but not the intention or may even enhance the punishment if the degree is higher and may even be no punishment there if private defense was used. Moreover, if the death was caused under the exceptions given under s. 100¹⁵ of the Bharatiya Nyaya Sanhita, 2023 it would make the offence from murder to culpable homicide not amounting to murder having impact on nature of punishment. So, the concept is playing a very important role there.

As it is well known the difference between *cognizable*¹⁶ and *non-cognizable*¹⁷ offences. Both these categories of offences have a different procedure and punishment depending on the nature of offences falling under different categories. For example, it has been prescribed that abetment

¹² *Supra* note 1.

¹³ The Constitution of India, 1950.

¹⁴ Shreya Singhal v. Union of India, AIR (2015) SC 1523.

¹⁵ The Bharatiya Nyaya Sanhita, No. 45 of 2023 (India).

¹⁶ *Supra* note 6, s. 2(g).

¹⁷ *Supra* note 15, s. 2(o).

of suicide under BNSS,¹⁸ 2023 is a cognizable offence but suppose it is misinterpreted by court as non-cognizable offence, then it would be great violation of rule of law. Besides this, if the police treat the person wrongfully committing the same offence, then it would lead to a gross violation of human rights.

The importance of concept can be understood through examples of cases. The concept under art. 21¹⁹ of the Constitution of India has been expanded a lot. *Justice K.S. Puttaswamy case*, the court made the right to privacy as a fundamental right.²⁰ The term ‘procedure established by law’ was extended to due process i.e. procedure can’t be arbitrary but must be just, fair and reasonable.²¹ The concept of state under art. 12²² of the Constitution of India has been extended to so many other authorities so that the liability could be imposed upon them when the matter is related to public interest. Moreover, the concept of delegated legislation is well known to everyone. These legislations should be in conformity with parent Act, Constitution and subject to judicial review so as to avoid arbitrariness and complexities in the society. In a case, the Supreme Court declared that any expression which has even a tendency to create violence or disorder, it would be punishable.²³ So, if there is any misunderstanding with regard to this concept, it would be detrimental to the society and ultimately to democracy.

III. LEGAL INVESTIGATION

Investigation is a part of our daily lives which reveals many new facts and information that a particular person, according to his needs and requirements, wants to achieve. It generally means search for truth. Every person whether it is student, teacher, doctors or medical experts, governments, or other professionals has to perform investigation at every stage of their lives. The researcher is specially interested in legal investigation. In terms of police officials, “investigation is an act of the investigator to find and gather evidence or to make a description of the criminal act that occurred and to find the suspect.”²⁴ In simpler language, any investigation is simply a collection or gathering of facts. “Legal investigation is the gathering

¹⁸ *Supra* note 6.

¹⁹ *Supra* note 13.

²⁰ *Justice K.S. Puttaswamy and anr. v. Union of India*, (2017) 10 SCC 1.

²¹ *Maneka Gandhi v. Union of India* AIR (1978) SC 597.

²² *Supra* note 13.

²³ *Kedar Nath Singh v. State of Bihar*, AIR (1962) 955.

²⁴ Rizkan Zulyadi, *Police’s Role in Investigation Process Fraud Criminal Act of Civil Servants Candidate 2* BRITAIN INTERNATIONAL OF HUMANITIES AND SOCIAL SCIENCES JOURNAL 5 (2020).

of facts pertaining to a situation which may be the subject of litigation.”²⁵ It is a task of trained professionals for which one needs to be specially trained in fact-findings which otherwise may lead to wrong finding of facts, affecting the very purpose of the research or investigation.

Taking into consideration the litigants’ points of views, legal investigation typically involves collection of evidences, interviews with clients, searching for the legal provisions, analysis of gathered information, documentation of findings e.t.c. it helps them to prepare their arguments in favour of the client. But here the researcher is not particularly confined to only litigants but for every investigation related to the legal field. Legal research includes each step of a course of action that begins with an analysis of the facts of a problem and concludes with the application and communication of the results of the investigation.²⁶

Our laws are not perfect and final, and cannot be so in a dynamic society, they are not always even intelligible and if intelligible not always intelligently made.²⁷ It is well known to everyone that law keeps on changing according to the varying needs and circumstances of the society like social values or ethos because it can’t operate in a vacuum. Here comes the need for legal research. In law, research may be undertaken for a variety of purposes, and no description of the objectives with which the research may be carried out will be exhaustive.²⁸ But there are some purposes which are associated with each type of legal research. These are-

1. Ascertainment of Law

Finding laws on a specific topic or subject are not an easy task because of the presence of secondary legislative instruments like rules, regulations, notifications, bye laws and variety of judicial pronouncements. So, it requires a particular skill to do legal research having this particular purpose in mind.

2. Highlighting Gaps and Ambiguities

One of the very important purpose of legal research is to find gaps and ambiguities in law. Generally, it is the task of academicians or scholars who generally have deep understanding of legal concepts. However well drafted a law can be, it still requires

²⁵ ANTHONY M GOLEC, “TECHNIQUES OF LEGAL INVESTIGATION” (Charles C Thomas, 3rd ed. 1995).

²⁶ *Supra* note 4, at 330.

²⁷ S.K. Verma and M. Afzal Wani, LEGAL RESEARCH AND METHODOLOGY (2nd ed. 2001).

²⁸ Anwarul Yaqin, LEGAL RESEARCH AND WRITING METHODS (1st ed. 2008).

interpretation. So, the legal researcher may be able to find these through systematic analysis and approaches.

3. Determining, Consistency, Coherence and Stability of Law

The very purpose of legal research is also to determine the consistency in legal provisions, coherence in legal development and ultimately to find stability in law by critical examination or evaluation, thorough understanding of the legal propositions.

4. Suggesting Reforms or Developments in Law

The most important purpose or goal of a legal researcher during his entire journey of legal research should be to suggest reforms in law so as to best serve the society. They should also address those situations that may arise in future by predicting the future trends of law. It was the task of the legal research that the law commission submitted its 279th report On Usage of The Law of Sedition²⁹ on the basis of which many reforms have been made with regard to the law on sedition under the new law i.e. Bharatiya Nyaya Sanhita, 2023.³⁰

So, the legal investigation helps all research scholars, academicians, legislators, policy makers, by giving an opportunity to critically analyze the law which ultimately regulates the relationships among people effectively. Under this legal investigation, concepts play a very central role there. Under this very idea of concepts, the whole legal research is moved or conducted which is evident through plethora of situations.

IV. CLASSIFICATION OF LEGAL CONCEPTS

Under the area of law while undergoing the research, the researcher went through a variety of concepts. And it is also evident and visible that due to diversity of peoples, territories or jurisdictions and circumstances in different parts of country there exist many numbers of legal concepts to deal to deal with the complexities. The researcher has tried to briefly classify the legal concepts in the following ways which although does not cover the entire legal concepts but tries to simplify the same in order to get some clarity.

²⁹ LAW COMMISSION OF INDIA, 279th REPORT ON USAGE OF THE LAW OF SEDITION” (2023).

³⁰ *Supra* note 15.

LEGAL CONCEPTS		
Constitutional	Criminal	Civil

- 1. Constitutional Concepts-** One of the most important classification of legal concept is constitutional concepts. The researcher while going through mainly the Indian Constitution came through many numbers of concepts that are fundamental or basic under it. For example- Fundamental Rights, the concept is very important for the citizens without which it is difficult to imagine a democratic life. Part-III³¹ of the Constitution of India deal with variety of fundamental rights like right to equality, right against discrimination, right to life and personal liberty, right to education, right to religion and many others. They themselves make different concepts under the head of fundamental rights which have to be understood within the context of the constitution of India. Moreover, there are many other concepts like Scheduled Castes, Other Backward Classes, Scheduled Tribes, defection, fundamental duties, emergency, money bill, e.t.c. constituting the body of the Constitution.
- 2. Concepts Under Criminal Laws-** Society is a collection or gathering of individuals where the conflicts always arises because of varying interests of them. It leads to different types of crimes like theft, extortion, dacoity, murder, assault e.t.c. The nature of crime is changing with the growth of society. For different categories of offences, different punishments have been prescribed. For the conviction under any particular crime, all the essential elements of that particular offence must be satisfied absence of anyone of which may lead to acquittal or reduction of punishment as well. Conceptual clarity relating to these aspects are not only significant on the part of the litigants but also for judges the combination of efforts of whom finally ensures justice to parties. These concepts are not only under classical criminal laws like Bharatiya Nyaya Sanhita, but have been covered under special criminal laws like POCSO³², 2012, UAPA³³,

³¹ *Supra* note 13.

³² The Protection of Children from Sexual Offences Act, No. 32 of 2012 (India).

³³ The Unlawful Activities (Prevention) Act, No. 37 of 1967 (India).

1967, AFSPA³⁴, 1958 or others. The concepts under substantial laws in combination with concepts under procedural laws finally provide justice to parties.

- 3. Concepts Under Civil Laws-** There are some concepts which arises because of civil relationships among individuals like marriage, adoption, maintenance, property and others where state is not a compulsory party. It generally governs civil nature of relationship among peoples. In this context also, there come across a variety of concepts. For example, in terms of marriage, it is important to know the definition of child, grounds of divorce, requirements to provide maintenance e.t.c. which are important to regulate the relationship among individuals without any uncertainty. Under the property law, the definition of movable and immovable property is crucial to decide the ownership over them. Under the contract law, the definition of free consent, unsound mind, unlawful objects and considerations, bailor and bailee, agents are important to be known. Under The Negotiable Instruments Act, 1881, the concept of cheque, promissory notes, drawer, drawee, e.t.c. are required to be considered.

V. ASSESSMENT AND USAGE OF CONCEPTS IN LEGAL RESEARCH

After analyzing the meaning, importance and needs of concepts and legal investigation, the researcher is now trying to assess the relation between concepts and legal research. It is important to know the role of concept in legal investigation or research. Concepts form the basis of the legal research conducted by various legal professionals during their entire journey of study.

As we all know about Malimath Committee Report³⁵, 2003 which was seen as a step towards reformation in criminal justice system in our country. It was the result of the comprehensive legal research of many renowned professionals like Dr. Justice V.S. Malimath, Prof. (Dr.) N.R. Madhava Menon, D.V. Subbarao e.t.c. Here the usage and importance of concepts can easily be observed. Our criminal justice system follows adversarial system but the committee suggested the shift towards inquisitorial system after completing the entire process of research. Here, the concept of inquisitorial and adversarial system has a very important role to play. One needs to understand the benefits and implications under both the system so as to adopt the

³⁴ The Armed Forces (Special Powers) Act, No. 28 of 1958 (India).

³⁵ GOVERNMENT OF INDIA, REPORT OF THE COMMITTEE ON REFORMS OF CRIMINAL JUSTICE SYSTEM (2003).

better which is best suited to the conditions of the Indian society. Under the adversarial system, the judge acts as a mere spectator and decides the conflicts based on the arguments given by the parties. In other words, he does not actively participate in the investigation process but can monitor the same. On the other hand, there is inquisitorial system where a judge is actively involved in the investigation process or have to actively participate in it. Coming to the Indian circumstances, the committee told that inquisitorial system would better serve the purpose. Although it suggested many other reforms also like enhancement of police custody from 15 to 30 days, restrictions for anticipatory bail, victim reformation, and many others. The committee suggested that power should be given to judges who can do anything for 'discovery of truth'. So, the entire legal research of the committee was surrounding the concepts the wrongful interpretation, misapplication and adoption of which would affect the entire criminal jurisprudence and ultimately undermining the human rights of the people.

If one wants to actually understand the role of concepts under legal investigation, there is a need to need to assess it by practical examples. So, in this process, there is another example which is 279th Report of the Law Commission on the Usage of the Law of Sedition.³⁶ The commission made a comprehensive study of the law of sedition and freedom of speech and expression from the British India period till the current period, which is clearly expressing the conflicts among the two but also emphasizing the need of having such law for the benefits of the country. So, the concept of sedition was entirely discussed and finally suggested the reforms under the new law which is Bharatiya Nyaya Sanhita, 2023.³⁷ If the committee would not have undergone this concept or would not have comprehensively studied the need and complexities with this law, it would not be able to suggest reformations in the new law. The result of this comprehensive research is that the word sedition having some colonial scent or favour has been replaced with acts endangering sovereignty, unity or integrity of India and even the extent of punishment has been changed. The most important change that has been made is that now it is an offence against state but not against the government, giving express and effective rights to criticize the policies of the government.

As we all know that three new criminal laws have been enacted replacing the traditional criminal laws where there was the requirement of comprehensive legal research. As a result of this, many new concepts have been added and many others removed pertaining to the current

³⁶ *Supra* note 29.

³⁷ *Supra* note 15.

situations. For example, the concept of preliminary inquiry has been incorporated under s. 173.³⁸ Moreover, trial and proceedings to be held in electronic mode has been added under s. 530.³⁹ Besides this, new concepts have been explained or incorporated under Bharatiya Nyaya Sanhita, 2023 like organized crime, terrorist act, mandatory minimum punishment suiting the conditions of our country.

VI. PRACTICAL APPLICATION

Only going through theoretical aspects would be of no importance if we leave considering the practical aspects. So, the researcher while undergoing through the research proposal underwent through various legal concepts without which it was impossible to prepare an effective proposal. Here, the researcher understood the importance of concepts in a legal research. While the researcher was trying to make a balance between freedom of speech and expression with sedition under the new law i.e. BNS, the researcher made an extensive literature review in which the researcher got encountered with many concepts like freedom of speech and expression, hate speech, sovereignty, unity, integrity, security, state, imputations, assertions, national integration e.t.c. The researcher went through a variety of cases the combination of all of which made a comprehensive and elaborative understanding of different terms like public order, elements of sedition and hate speech, prejudicial to national integration e.t.c. Due to misapplication of concepts and misunderstanding of real intent of the legislature, there was gross violation of not only freedom of speech and expression but also right to life and personal liberty. So, to bring some clarity and certainty in the legal provisions, there has been made extensive change in the new provisions so as to ensure fundamental rights effectively without harming the national integrity.

Apart from above, the researcher also got to know the distinction between hate speech and free speech which is important to be determined if the person who are actual threat to the society is to be punished while at the same time maintaining the fundamental rights of the people. While undergoing through the entire legal research, the journey started from the understanding of concepts and the gap or ambiguities that was found was also with regard to the concepts. The complexities that were found was related to secession, separatist activities, or other that was important to be made clear. This makes the path for furthering the legal research based on

³⁸ *Supra* note 6.

³⁹ *Ibid.*

which the meaning of these terms would be made clear.

VII. CONCLUSION

From the above discussion it is very clear or evident that the term 'concept' plays a very important role in the area of legal research. It is the concept which makes the very basis of entire legal research. It is well known that judges play a very important role in the administration of justice by implementing the actual intention of the legislature behind any legal provisions. So, not only the judges who are bound to give reasoned decisions but the litigants also who have to prepare their arguments in favour of clients, requires a comprehensive legal research. All concepts whether it is under criminal laws, civil laws, international laws, constitutional laws have some essential elements which need to be taken into consideration for the overall understanding of the same. Under a variety of cases, courts interpreted a particular concept differently in different cases. So, while going through the legal research, a clear understanding of the concept is required to bring uniformity in the applications of the law. Many of the academicians or jurists have contributed to the legal development by providing clarifications in the concept. If one would have the understanding of concepts, it is difficult to go on the journey of legal research. As from the examples mentioned in the above, it can be said that no one whether it is law commission, the specialized committees, judges, lawyers, legal scholars, academicians, or other legal professionals can actually contribute in the legal field without considering the aspects of concepts.