"SOCIO-LEGAL" RESEARCH—HURDLES AND PITFALLS*

*B.S. Murty***

EXPRESSIONS SUCH as "socio-legal", "interdisciplinary" have now become symbols of progressionism, and it is rather fashionable to express preference for research of this stamp. The purpose here is not to debunk these expressions. Rather it is to identify precisely the more significant methods of research that may go under these labels, to point out the difficulties involved in applying these methods and the ways of overcoming them. We may also indicate when, judged by the criterion of costs-payoff ratio, a particular method may be considered more suitable for adoption.

All lawyers agree that a great deal of legal research has been and is in progress in our country. There are indeed different qualitative levels, as they are in other countries as well. Most of this research has two characteristics : It is addressed to a limited audience—the members of the forensic profession (judges and lawyers); and it is meant to assist them in the discharge of their day to day professional tasks. The researcher explains the relevant juridical concepts, analyses statutory provisions, picks out significant judicial dicta, formulates principles deducible from judicial decisions, and arranges the whole material in some logical order. The mediocre products of this method may not merit characterization as anything other than digests. But the better ones do contain excellent statements of principles, identify the problems likely to arise in future for decision, and indicate how the principles can be adapted to the solution of such problems. Though these books are not of much use to non-lawyers, their usefulness to the legal profession cannot be denied, and such research need not be discouraged.

This type of research may be characterized as monodisciplinary—the discipline involved is only one, *i.e.*, "law". There may be sub-divisions within it, each one having some peculiar features of its own, but all fall within the major discipline "law". Different branches of law

---

* This is a revised version of the paper presented to the 17th All India Law Teachers' Conference, December 1977.

** Former Professor of Law and Head of the Department of Law, Andhra University, Visakhapatnam.

are distinguished as procedural law and substantive law, public law and private law, criminal law and civil law, etc.

It is easy to point out the limitations of the research products of this character. One may say that a statement which a scholar makes in writings of this character is normatively ambiguous,[1] that is to say, it will not be easy to say from the statement whether it represents the author's appraisal of the trend of past decisions, his prediction of how future decisions will be made, or his demand or preference in regard to future decisions. In order to avoid such ambiguity, it is suggested that appraisals of past decisions should be differentiated from projections into the future and recommendations of future policies. There is much force in this thesis, and unless particular care is exercised, normative ambiguities are bound to be present in legal writings. The reason is that the lawyer, like the physical as well as the social scientists, is concerned both with a scientific investigation into facts and making of policy. The scientist makes a systematic study of facts and formulates empirically verifiable propositions which might form the premises for further enquiry. The scientist makes a policy choice at every stage, whether he would make the particular, necessarily corrigible, formulation on the basis of the observed data; which should form the starting point for his further enquiry, or which he would recommend to the fellow scientists for adoption for a similar purpose. The lawyer examines the past decisions, legislative, judicial, etc., appraises the past trend, and predicts the future trend. He then advises on the policy to be adopted by his client or by the society. His role as the policy adviser for the society is manifest either when he functions as the legal adviser to the government, or when he argues before courts. While there cannot be any ambiguity about his policy recommending role in some situations, it is very likely to be present when he purports to speak as an academician. When he performs the latter task, it is not only desirable that he should clearly differentiate the appraisals from predictions and recommendations of future policy, but it will greatly enhance his creative role if he can clearly formulate the different viable policy alternatives, make explicit the major preferred policy goals, and suggest which of the available alternatives appear to him to be most suitable ones to be adopted.

It may, however, be stated that the role of a lawyer as a policy adviser can only be a limited one. A lawyer can be expected to be a specialist in his own discipline, but not in others. Hence he may have to limit his enquiry to "law", and undertake such meaningful tasks as testing whether a particular law possesses the indices of what Professor

---

1. See in this connection, Harold D. Lasswell and Myres S. Mc Dougal, "Legal Education and Public Policy : Professional Training in the Public Interest," 52 *Yale L.J* 203, 267 *et. seq.* (1943)

Lon Fuller called the inner morality of law.[2] Important among these indices are the generality of the law, its clarity, consistency of its different parts, practicability of its implementation, *etc.* A legal research designed to throw light on the character of the distinctions which the law sets up, the ambiguities or inconsistencies it carries, or the difficulties in implementation likely to be encountered, will indeed be useful to a great extent. Monodisciplinary research cannot be dismissed as useless, though the guidance it supplies to policy-makers, especially the policy-makers for the society, is only partial.

Research can be, and has indeed been in the past, transdisciplinary. Law is not, nor can any discipline be, an insular one. Each legal rule postulates a factual situation of life to which the rule is to be applied to produce a certain outcome. All intellectual disciplines that treat of these factual situations have a necessary connection with law. History, philosophy, religion and science (physical and social) are all thus related. The visceral affinity with other disciplines has led some legal scholars to extend their range of investigation beyond "law" into other disciplines, to bring out the wider implications of legal rules and to recommend more meaningful policies and rules.

Transdisciplinary research does not present many problems for the researchers or promoters of research. It depends exclusively on the depth of scholarship of the researcher in law and in fields allied to law. He brings greater clarity to the discussion of legal issues by the light drawn from the allied discipline or disciplines in which he is proficient. Scholars in personal laws have in the past used their learning in the corresponding religious literature. A writer on taxation laws can fully make use of his learning in accountancy or public finance to explain in depth the legal rules. There is, however, a limit to the number of other disciplines in which the lawyer can be proficient, and the depth of his scholarship in them. Nevertheless, a capability to understand and interpret the contributions of the leading scholars in allied disciplines will be a great asset to the scholars pursuing law.

If by "socio-legal" research is meant transdisciplinary research extending into the fields of social sciences, the task that faces legal educators is manageable or rather of limited range, but the expectations about the returns should be moderate. The students can be provided with incentives to learn some allied social sciences, and to develop the skill to utilize that knowledge in the study of legal problems. However, the number of social sciences currently cultivated is quite large. Actually what may appear to be a single social science to a scholar outside the discipline may, indeed, be considered by those inside that discipline to be a cluster of distinct disciplines. For example, economics is a distinct

2. Lon L. Fuller, *The Morality of Law*, 46 *et. seq.* (1964).

discipline to non-economists, but within economics there are specializations such as economic theory, economic history, economic policy, econometrics, finance, operations research, business administration, etc. And new sciences are developing—communication, cybernetics, bargaining, behavioural, systems analysis, *etc.* And sociologists may be classed into many groups on the basis of the methods they adopt. Political science now consists of a large cluster of different social sciences. The question is what social science should be selected for transdisciplinary instruction. The choice is not simple. There are indeed many options.

The difficulty which the legal educators face is that instruction in social sciences at the graduation stage is superficial and far from research-oriented. The master's courses too do not differ considerably. In this respect, the position in India stands in marked contrast with that in Western countries. And when one earns a Ph. D. in a social science, he becomes a specialist, and would rather not like to be a transdisciplinary scholar in law. He may be more inclined to use law as a transdisciplinary field for his specialized area of knowledge. We know of sociologists of law and legal philosophers coming from outside the ranks of lawyers. Whatever transdisciplinary scholars in law there are, they are persons who attained that distinction by a process of self-education. Can a few curricular changes at the LL. B. and LL. M. level, such as introduction of one or two relevant social sciences or elective subjects, help to produce in a dramatic way "socio-legal" researchers ? It is doubtful. That apart, the LL. B. curriculum is already crowded by legal subjects. At the LL. M. level one looks to specialization in some branch of law, and not to learning an allied social science. A student would study it only if he finds it necessary to complete a research project of a transdisciplinary character required for the degree. It is also quite possible to impart instruction in some subjects of law with transdisciplinary orientation. Such a step is likely to produce some graduates with attitudes congenial to transdisciplinary study, and skilled, though at an elementary level, in the transdisciplinary method.

Transdisciplinary method will, however, thrive only under two conditions : First, the output should be such as can capture the attention of all policy-makers and not merely the members of the forensic profession. It should be intelligible to nonlawyers as well. Second, the forensic profession, especially the Bench, should be receptive to transdisciplinary methods of enquiry and not adopt rigidly insular postures. A strict attitude of we-refrain-from-making-policy will be discouraging, while an attitude that welcomes "Brandies briefs" will be stimulative.

Fragmentation of disciplines and over-specialization have produced a reaction against monodisciplinary enquiries, based upon a realization that issues may require study from perspectives wider than those of a

narrow individual discipline. Issues connected with complex social problems may require a more comprehensive frame of study than what is possible through a single social science or a single philosophy. But interdisciplinary research is more readily advocated than effectively done.

The research that goes under the label "interdisciplinary" has been classified by a German professor, Bruno Knall, as multidisciplinary, quasi-interdisciplinary, and interdisciplinary.[3]

The multidisciplinary approach involves a study of a common problem by scholars of several disciplines, each studying from his own specialized angle. The outcome will ordinarily be a collection of essays, and the message conveyed can be gathered only by the hard labour of the reader studying these different essays. The result of this method of enquiry may sometimes be no more than the "Chinese Metaphysics" referred to in Pickwick papers—a combination of something about China and something about metaphysics put together in raw sequence.

The quasi-interdisciplinary method differs from the multidisciplinary in that each member of the researching team is given the benefit of criticism of his work by the other members. He gets an opportunity to make his contribution transdisciplinary, with the help of the suggestions and comments made by his colleagues. The contributions of the different members may be supplemented by an overview, contributed by some member of the team. But essentially the product is a collection of transdisciplinary essays.

Quasi-interdisciplinary research requires a great deal of time of the different scholars and expenditure, and the product may not be far different in quality than the one resulting from the multidisciplinary method. It differs from the transdisciplinary products in general only in so far as each participant has had opportunities for interpersonal discussions.

The interdisciplinary method comprises a concerted attempt by several scholars to integrate disciplinary insights, and to apply the integrated insight to the study of problems. The hope is that it is thereby possible to come forward with more sophisticated solutions to problems than can be suggested with the aid of any single discipline. An interdisciplinary exercise of this character presents a number of problems of operation, and precisely for that reason the returns have not been proportionate to the effort and resources invested on it. First, there is the problem of developing communication between the participants. Each discipline employs its own concepts. It takes considerable time for the participants to understand different "languages" spoken by them. Second,

3. Bruno Knall, "Interdisciplinary Cooperation in Development Research" 5 *Law and State*, 103 (1972).

there will develop a sort of tension among the participants as they proceed with the research, and each participant would attempt to see that his specialized discipline dominates the other. This tension should be overcome, and all the participants should agree upon a single integrated method of investigation, and this is not easy. Further, questions arise what and how many disciplines should be combined in the enterprise. These can probably be solved by confining to those disciplines which are most relevant to the subject of enquiry, and stopping with a manageable number. The costs-returns relationship may also determine the number. Third, the expenditure of time and resources invested on the project will necessarily be heavy, and one may be gambling about the results.

My personal experience with cooperative research enterprises indicates that we will be better off if our expectations of returns are kept moderate. In one project in which several of us from different political, geographical and cultural backgrounds were called upon to write a textbook on law, we soon found ourselves divided not on political or other lines, but on the basis of different jurisprudential approaches in which we were trained. Eventually our product had not turned out to be a fully homogeneous one. We started with the aim of producing a fully integrated work, but after going through a period of infighting, we reached the conclusion that we should moderate our goal. In a second project, a number of us, mostly political scientists of different persuasions, lawyers and economists worked on a collective work, and it turned out to be a collection of essays despite the fact that the participants had three discussion sessions at different times. A third project was a major one in which seven different national and transnational teams participated and each team was multidisciplinary in composition. Our initial aim was to produce a single work. In due course, the plan was altered to produce as many works as there were national (or transnational) teams. In each team, after a period of tension, a person of a particular discipline emerged as the leader, and the team's work turned out to be his transdisciplinary work. The expenditure incurred on this project was fantastic.

Nevertheless, interdisciplinary scholarly pursuits cannot be completely written off. A practical strategy for such a pursuit in law is to organize an interdisciplinary research institute in each university that can afford to finance it adequately, or elsewhere. A generalist should be its head. By generalist, it is not meant that he should be one who can talk a little about everything, but knows nothing about anything precisely. He should be a specialist in some discipline with an established aptitude for trans-disciplinary investigation. Such a head might succeed in drawing up plans for projects, enlisting suitable personnel, and conducting the interdisciplinary research through its various stages. There is, however, the danger that the head would succeed in producing no more than either

monodisciplinary or transdisciplinary works, or at the worst "Chinese Metaphysics". If successful in producing really good interdisciplinary work, the product can reach a much wider audience than monodisciplinary works, and may be useful to bring clarity to the task of all policy-makers, legislators, judges, administrators and others.

In conclusion, it may be stated that enterprises of "socio-legal" or "interdisciplinary" researches in law should be undertaken with a clear understanding of the goals of the enterprise, the costs involved in terms of the man-hours of the scholars and finances, the returns expected. the particular pattern of operations intended to be adopted and the audiences intended to be reached. More is involved in the choices to be made than mere adherence to the fashions of the day.