Current Trends in the Legal Research of Ethiopian Law Schools: A Move from Doctrinal to Empirical Legal Research

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Abstract

This paper examines the priority and culture of non-doctrinal (empirical) legal research in Ethiopian law schools. It explores how legal education in the past and the old LL.B. Curriculum affect the nature of legal research in Ethiopian law schools. The author argues that the nature of articles published in Ethiopian law journals, term papers, assignments and senior essays written by law students, absence of a course in the old curriculum on legal research, skill oriented and interdisciplinary courses contribute much toward having had solely doctrinal legal research. Additionally, this paper shows the current trend of moving from the traditional doctrinal legal research to the non-doctrinal (empirical) legal research in Ethiopian law schools. Through examining how the revised LL.B. Curriculum, the newly opened LL.M. graduate programs and the attempt to conduct empirical legal research by law instructors contributes to the move to non-doctrinal (empirical) legal research, the challenges of legal research faced by Ethiopian law schools are also revealed. Finally, the author concludes that though there have been some attempts toward positive change, sufficient priority is not given to non-doctrinal (empirical) legal research in Ethiopian law schools.

Key Terms: Doctrinal Legal Research, Interdisciplinary Legal Research, Legal Research, Mono-Disciplinary Legal Research, Non-doctrinal (Empirical) Legal Research.

Introduction

Following the adoption of the Reform Document on legal education and training in Ethiopia in 2006, considerable attention has been given to both legal education and legal research. The Reform Document, among other things, pointed out the problems of the curriculum that was in place. The curriculum's failure to focus on skill oriented courses and its inclination towards theory based courses stood out as a major problem of the

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curriculum.[1] The Reform Document also singled out the fact that in the area of conducting research, law schools in Ethiopia lagged behind their supposed responsibility. One of the major categories of problems that the Document identified was competence problems. Poor research methodology training at the undergraduate level and lack of (non-existence) graduate programs where students hone their research skill were, among other things, identified as problems of research capacity.

Nowadays it has been accepted that legal problems can not be identified and addressed simply by interpreting legal provisions and cases decided by a court of law. The legal researcher should go beyond the mere analysis and interpretation of legal provisions and case laws. Legal research should address the real problem affecting the society. Legal researchers should investigate through empirical data how law and legal institutions affect or shape human behavior and what impact on society they create.

From the findings of the Reform Document, we can understand that legal research, in general, and empirical legal research, in particular, was at the infancy stage of development. Even if the Reform Document did not address the priority of doctrinal legal research and empirical legal research separately, one can understand from experience that the latter type research was still, neglected and cornered by the law schools. However, following the adoption of the national LL.B. Curriculum based on the guidelines set in the Reform Document, and the opening of graduate programs in law, the culture of conducting empirical legal research is beginning to develop. The incorporation of skill oriented, interdisciplinary and legal research methodology courses in the revised LL.B. Curriculum; the opening of the graduate law programs in different law schools, and the focus of these programs on conducting empirical research are encouraging the growing culture of empirical legal research in Ethiopian law schools. However, this does not mean that challenges in law schools have not been faced in moving from the traditional doctrinal legal research culture to that of empirical legal research. Absence of the basic tools to find existing laws and lack of uniform rules of citation are some of the challenges that law schools have faced in conducting empirical legal research.

[1] FDRE, *Legal Education and Training Reform Document*, Addis Ababa, 2006 (unpublished).

In this article, the author assesses the nature of legal research in the early days of the opening of the Faculty of Law at the then Haile Selassie I University and examines what the current practice of legal research in Ethiopian law schools look like; specifically, how the law schools are shifting toward the tradition of developing empirical legal research is. To show the current trends in Ethiopian law schools, the author examined journal articles published by law schools, surveyed the content of LL.M. thesis, interviewed editor-in-chief of journals and instructors who had taught legal research methodology in the LL.M. program, and legal researchers, and analyzed relevant documents.

The first section of this article introduces different types of doctrinal legal research. The nature of non-doctrinal or empirical legal research is addressed in the second section; the meaning and the priority of interdisciplinary research is discussed in the third. The fourth section examines the trends of legal research in Ethiopian law schools and the last section singles out the current changes and problems that Ethiopian law schools have faced.

1. Doctrinal Legal Research

This section discusses the nature of doctrinal legal research and the approach and methodology of doctrinal legal research. The nature of doctrinal legal research is addressed in relation to empirical and socio-legal research.

1.1. Nature of Doctrinal Legal Research

Legal research in the past was dominantly doctrinal. The word 'doctrine' is derived from the Latin noun *'doctrina'* which means instruction, knowledge or learning.''[2] In the context of legal research, doctrine refers to legal concepts in legislation and cases decided by a court of law. It should not be also forgotten that in addition to the primary legal sources, the researcher is also expected to refer to books, journal articles, commentaries and other secondary sources of law. Therefore, according to the traditional doctrinal legal research method, what is expected from the researcher is to ascertain

[2] Terry Hutchinson and Nigel Dunca, Defining and Describing what We Do: Doctrinal Legal Research, *Deakin Law Review*, Vol. 17, No.1, 2012, p. 84.

the meaning of the law enshrined in legislation and case laws. This was not only the culture of legal research in the past, but also today legal research is predominantly doctrinal. This is because [h]istorically, law was passed on from lawyer to lawyer as a set of doctrines, in much the same way as happened with the clergy."[3]

Doctrinal legal research was not only considered as the tradition of legal research, it was also considered as the appropriate legal paradigm[4] and the natural research method of the legal profession. At this point, one may raise the following questions: What is the priority and the importance of doctrinal research method in other disciplines? Do other disciplines employ a doctrinal research method? In other disciplines, however, doctrinal research methodology is not known and even it is hardly taken as a scientific research method. Terry Hutchinson and Nigel Dunca explain this fact in the following words:

> *Where does the doctrinal methodology 'fit' in terms of the spectrum of scientific and social research methodologies used in other disciplines? The doctrinal method lies at the basis of the common law and is the core legal research method. Until relatively recently there has been no necessity to explain or classify it within any broader cross-disciplinary research framework.*[5]

It must be because of this that some commentators argue that doctrinal research method is not a separate research methodology but it is simply a scholarship.[6] For the critics of doctrinal legal research, one of the limitations of doctrinal legal research is that it is limited to investigating what the law is. It fails to look in to how the law functions in the society and

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[3] *Ibid.*

[4] Research paradigms are world view, believes and philosophical foundations in research. They are directly or indirectly linked to the *axiological*, *ontological*, *epistemological*, and *methodological* pillars and assumptions. Positivism (post positivism, post empiricism), constructivism, transformative and pragmatism are the major research paradigms. *A paradigm may be viewed as a set of basic beliefs (or metaphysics) that deals with ultimates or first principles. It represents a worldview that defines, for its holder, the nature of the world", the individual's place in it, and the range of possible relationships to that world and its parts, as for example, cosmologies and theologies do* (Egon G. Guba and Yvonna S. Lincoln, Competing Paradigms in Qualitative Research, p. 107).

[5] *Id.*, p. 85

[6] *Id.*, p. 83

the way the law affects legal institutions. It does not also look in to the economic, social, political and cultural impact of the law. However, social scientists who undertake research related to the law have employed a different approach. In this regard, Emerson H. Tiller and Frank B. Cross point out that:

> *Legal researchers have extensively dealt with doctrine as a normative matter but have given little attention to the manner in which it actually functions. Social scientists, who have done important descriptive work about how courts actually function, have largely ignored the significance of legal doctrine. Consequently, we are left with a very poor understanding of the most central question about the law's function in society. Fortunately, recent years have seen the beginning of rigorous research into this question. As legal researchers increasingly conduct quantitative empirical research and collaborate with social scientists, we may hope for an efflorescence of this research and greatly enhanced understanding of legal doctrine.*[7]

Even if similar critiques were raised from other disciplines, doctrinal legal research had been the dominant, if not the only, approach employed by legal researchers until the 1960s. It was after this period that a new approach of studying the law was borrowed from other disciplines and incorporated as the second approach of legal research method. As will be discussed in detail, [the] second legal tradition which emerged in the late 1960s is referred to as 'law in context' [non-doctrinal (empirical) research]. In this approach, the starting point is not law but problems in society which are likely to be generalized or generalisable.[8]

In relation to the nature of doctrinal legal research, there is an ongoing qualitative quantitative debate. As will be further discussed below, there are two types of non-doctrinal legal research: qualitative and quantitative non-doctrinal research. The debate is whether doctrinal legal research is

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[7] Emerson H. Tiller and Frank B. Cross, What is Legal Doctrine? *Northwestern University Law Review*, Vol. 100, No. I, 2006, p. 518.

[8] Mike McConville and Wing Hong Chui, *Introduction and Overview, in* Mike McConville and Wing Hong Chui, (eds.), *Research Methods for Law*, Second Edition, Edinburgh University Press, Edinburgh, 2007, p. I, [hereinafter Mike McConville and Wing Hong Chui, *Research Methods for Law*]

qualitative or quantitative in nature. Conventionally the meaning and nature of quantitative and qualitative research are described as follows:

> *Quantitative research deals with numbers, statistics or hard data whereas qualitative data are mostly in the form of words. Qualitative researchers tend to be more flexible than their quantitative counterparts in terms of the structure to research. […]Objectivity is commonly ascribed to quantitative studies, and to achieve this, the researcher attempts to rule out bias through random assignment of subjects, the use of a control group in experiments and statistical manipulation.*[9]

From the reading of this paragraph one can simply understand that what is important in quantitative research is the measurement of the behavior or the phenomenon. In quantitative research, among other things, the researcher should be able to *objectively* measure or quantify the behavior or the phenomenon being investigated. In contrast to quantitative research, qualitative research is more flexible, and what is important is the meaning that the researcher gives to the phenomenon being studied.

Given the aforementioned differences between qualitative and quantitative research, the question is: Where can we place doctrinal legal research? In other words, the issue is whether we do have an *objective* or *subjective* approach of ascertaining and understanding the law. It can be argued that [i]f the law can simply be discovered using a systematic approach and the same law would be found no matter who was carrying out the research, then it could be argued that doctrinal research was quantitative.''[10] Ian Dobinson and Francis Johns argue about the possibility of considering doctrinal legal research as quantitative. They point out that doctrinal legal research can be characterized as being quantitative as there is somehow an objective approach to finding the law.[11]

Ian Dobinson and Francis Johns seem to have made a distinction between doctrinal legal research undertaken by legal academics and the legal reasoning technique employed by legal practitioners, especially by judges.

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[9] *Id.,* p. 48.

[10] *Id.,* p. 21.

[11] *Ibid.*

This is because they argue that [t]his assumption about the law is at odds with the type of reasoning that judges apply. Judges reason inductively, analyzing a range of authorities relevant to the facts, deriving a general principle of law from these authorities and applying it to the facts in front of them.''[12] Unfortunately, Ian Dobinson and Francis Johns fail to justify why the law finding approach employed by the legal academics is scientific and objective, unlike the reasoning technique used by legal practitioners and judges, apart from stating the perspective of the social science which considers inductive judicial reasoning as a qualitative research methodology. [13] However, considering the inherent nature, purposes and functions of quantitative research it is hardly possible to consider doctrinal legal research as quantitative.[14]

1.2. The Approach and Methodology of Doctrinal Legal Research

As it has been noted above, the main objective of the traditional doctrinal legal research method is to ascertain what the law is as enshrined in legislation and cases decided by the court of law. Therefore, if the objective is find what the law is, the legal researcher is expected to have some tools or methods of finding out what the laws are. Unfortunately, unlike disciplines in the social science and humanities there is no a well developed and universally accepted research methodology of doctrinal legal research. Even [s]ome commentators are of the view that the doctrinal method is simply scholarship rather than a separate research methodology.''[15] The following scenario tells us a lot about the issue of distinct legal methodology:

> *What data is contained in the research? How was this data collected? At some point there must be a statement, however brief, concerning the method of collection of the data - for example: 'This study will include a doctrinal analysis of legislation and case law.' Is this sufficient? Should funding agencies, examiners and*

[12] *Ibid.*

[13] *Ibid.* It has to be noted that even if these writers try to show the possibility of having doctrinal quantitative legal research in the subsequent paragraphs they argue that as legal research involves the process of selecting and weighing materials according to their hierarchy doctrinal legal research is qualitative in nature.

[14] See discussions *infra* on the nature, purposes and functions of quantitative legal research.

[15] Terry Hutchinson and Nigel Dunca, s*upra* note 2, p. 83.

> *reviewers expect more detail from legal scholars? Should scholars be including a statement concerning the breadth and depth of the literature, legislation and case law being examined, together with a list of the pertinent issues in proving the argument or thesis? Even accepting that it would be difficult to formulate a thesis without stating the major issues, is it then possible to delineate how these issues are going to be analyzed? Is it feasible for doctrinal researchers to describe the legal reasoning techniques being used together with any theoretical underpinnings involved in the analysis? Is it possible to unpack the doctrinal method in this degree of detail?*[16]

It is evident that it is not common to have a separate methodology section in traditional doctrinal legal research. The doctrinal legal researcher hardly articulates what type of legal information they are going to gather, how are they going to analyze the information gathered, and how they are going to interpret the data/information that has been collected. [17]

Despite the argument about the existence of doctrinal legal research methodology it is important to have some discussion on the existing process of doctrinal legal research. Some writers who have undertaken research on the area suggest a particular research methodology to be employed by doctrinal legal research. The suggested methodology is not inherently a legal research methodology. It has been established and adopted from the qualitative research methodology employed by disciplines in the social sciences. In doctrinal legal research the researcher is expected to identify laws and secondary legal sources relevant and related to the problem under

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[16] *Id.*, pp. 98-99.

[17] For instance, from the survey of doctrinal research papers undertaken by Australian Universities the point under discussion has been identified as follows:

An examination of the database demonstrates that only 16 of the 60 theses include a methodologies chapter (26.6 per cent), 21 discuss methodologies as part of another chapter, and one deals with the methodology in an appendix. Therefore, only 38 of the 60 law theses (63.3 per cent) include a discussion of the methodology as part of the thesis. Non-doctrinal methodologies are treated more expansively, with extensive descriptions and lengthy chapters. Where the thesis represents traditional legal research, significantly less, and sometimes no attention is given to explaining the methods used in conducting the research. Fifty-six per cent (n=34) of these legal theses are of a research nature that is unlikely to require ethics clearance. These numbers obviously differ from those in social science disciplines which rely largely on empirical method demonstrating that law is still essentially a 'scholarly' endeavour. (*Id.* p. 100).

investigation. The identification of relevant legislation, cases and secondary materials in law can be seen as analogous to a social science literature review.[18]

Mike McConville and Wing Hong Chui are of the opinion that the requirements of literature review identified by A. Fink can be adopted and used by analogy as doctrinal legal research methodology. [19] These requirements are:

- Selecting research questions
- Selecting bibliographic or article databases
- Choosing search terms
- Applying practical screening criteria
- Applying methodological screening criteria
- Doing the review
- Synthesizing the results

The very idea of borrowing research methodology from other disciplines is innovative. The most important question is whether these requirements can be applied in the context of doctrinal legal research.[20] Much work and effort is expected from doctrinal legal researchers to contextualize these requirements and develop research methodology that fits doctrinal legal research.

2. Non- Doctrinal (Empirical) Legal Research

Empirical research refers to statistical studies, i.e., those that involve the application of statistical techniques of inference to large bodies of data in an effort to detect important regularities (or irregularities) that have not been previously identified or verified.[21] In the context of legal research, the meaning of empirical research goes beyond statistical studies and it includes case studies and legal history.[22]

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[18] Mike McConville and Wing Hong Chui, *supra* note 8, p. 22.

[19] *Ibid.*

[20] *Id.*, p. 23.

[21] Peter H. Schuck, Why Don't Law Professors Do More Empirical Research? *Journal of Legal Education*, Vol. 39, 1989, p. 323.

[22] *Ibid.*

The act of borrowing research methodologies from other disciplines in general and from the social sciences in particular is a relatively recent phenomenon. Naturally, legal research is doctrinal. Later, it was realized that legal problems cannot be effectively addressed by doing the traditional doctrinal legal research. Legal problems should be broadly understood and accordingly solved in their political, social and economical context. This view paved the way for the incorporation and adoption of empirical research methods and interdisciplinary research in the legal science. This is because [s]ocio-legal scholars point to the limitations of doctrinal research as being too narrow in its scope and application of understanding law by reference primarily to case law [and legislation]."[23] In the following sections, a brief overview on the types of empirical legal research is provided.

2.1.Qualitative Legal Research

As mentioned above, empirical research in general and the qualitative-quantitative classification and debate are historically important in the social science and humanities. But this does not mean that lawyers do not employ qualitative research methods.[24] What is uncommon for legal researchers is the qualitative-quantitative paradigm debate.[25] This section discusses the meaning, nature and the importance of qualitative legal research method.

The term qualitative research can be defined in different ways. To define this term, what is important is to understand the word quality. Quality refers to the what, how, when, and where of a thing - its essence and ambience.''[26] What is important in qualitative research is the experience, the understanding, or the meaning that the researcher gives to the population under study. Therefore, qualitative research is all about the definitions,

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[23] Mike McConville and Wing Hong Chui, *supra* note 8, p. 5.

[24] Lisa Webley, *Qualitative Approaches to Empirical Legal Research, in* Peter Cane and Herbert Kritzer (eds), *Oxford Handbook of Empirical Legal Research*, 2010, p. 1.

[25] *Over the years there has been a large amount of complex discussion and argument surrounding the topic of research methodology and the theory of how inquiry should proceed. Much of this debate has centered on the issue of qualitative versus quantitative inquiry – which might be the best and which is more 'scientific'.* (Catherine Dawson, *A Practical Guide to Research Methods*, 3rd edition, Spring Hill House, Begbroke, Oxford, 2007, (first published in 2002) p. 16)

[26] Bruce L. Berg, *Qualitative Research Methods for Social Sciences*, 4th edition, A Pearson Education Company, Boston/ London /Toronto/ Sydney/Tokyo/Singapore, 2001, (first published in 1989) p. 3.

meanings, concepts, characteristics, symbols, metaphors, and description of the phenomenon being investigated.[27]

The most important question one needs to ask is about the circumstances or conditions under which qualitative method, but not the quantitative, is appropriate and important. This question will directly lead to the methodological question. If the researcher is doing empirical research, one of the issues that need to be considered carefully is the methodology to be employed. Method is relevant and to ignore methodological standards may result in unreliable research [output]."[28] There has been an ongoing debate and paradigm war about whether it the qualitative or the quantitative method that should be employed. It is beyond the scope of this work to go into the details of the debate on research paradigms and the research methodology.. However, it is generally accepted that qualitative research is recommended if the researcher wants to undertake a more narrative understanding of the phenomenon being studied, or if a richer and deep understanding of the group under study is the objective.[29] Qualitative researchers believe that knowledge is not something that objectively exists, rather it is constructed through the communication, interaction, the perception and the interpretation and the meaning that the researcher gives to the population under study.[30] Accordingly, as the aim of qualitative research is the deep understanding of the opinions, feelings and the attitudes of research participants, interviews, focus group discussions, observation and document analyses are used as data collection tools in a qualitative research. The researcher, in turn, is expected to analyze and interpret the collected data using these data collection tools.

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[27] *Ibid.*

[28] Wendy Schrama, How to Carry out Interdisciplinary Legal Research? Some Experiences with an Interdisciplinary Research Method, *Utrecht Law Review*, Volume 7, No. 1, 2011, p. 150.

[29] Scott W. Vanderstoep and Deirdre D. Johnston, *Research Methods for Every Day Life, Blending Qualitative and Quantitative Approaches,* 1st edition, John Wiley & Sons, Inc. San Francisco, 2009, p. 8 (hereinafter Scott W. Vanderstoep and Deirdre D. Johnston, *Research Methods for Every Day Life*).

[30] *Id.,* p. 166.

2.2.Quantitative Legal Research

Depending on the nature of the research problem, research objective and research questions formulated the researcher may find it important to employ quantitative research method. Unlike qualitative research, quantitative research deals with the numerical assignment of the phenomenon under study.[31] Quantitative research deals with numbers, statistics or hard data whereas qualitative data are mostly in the form of words."[32] Generally, quantitative research can be defined as a research method which […] refers in large part to the adoption of the natural science experiment as the model of scientific research, its key features being quantitative measurement of the phenomena studied and systematic control of the theoretical variables influencing those phenomena."[33] Unlike qualitative research in a quantitative research is believed to be free from the researcher's personal values, bias and subjectivity, and the researcher is believed to report the findings objectively.

Before employing quantitative research method, as it has been stated above, one of the most important points that the researcher needs to consider is the objectives of the research and the nature of the research questions. The researcher has to check; among other things, what type of data can help meet the research objectives and to answer the research questions before deciding on the use of quantitative research method. Therefore, as one can understand from the above definition, if the phenomenon under study can be measured and quantified in terms of number, and if the researcher is able to identify variables from the theoretical framework, then the quantitative research method can safely be employed. Accordingly, it is recommended that quantitative research method can be widely used in the field of criminal law and criminology, corporate law, and family law.[34] For instance, in the United States, quantitative methods have been used in leading criminology

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[31] *Id.,* p. 7.

[32] *Id.,* p. 48.

[33] M. Hammersley, *'What is Social Research?'* in M. Hammersley (ed.), *Principles of Social and Educational Research: Block I,* Milton Keynes: Open University Press, 1993, p. 39

[34] Wing Hong Chui , *Quantitative Legal Research, in* Mike McConville and Wing Hong Chui, *Research Methods for Law*, Edinburgh University Press, Edinburgh, 2007, p. 47 (hereinafter Mike McConville and Wing Hong Chui, *Research Methods for Law*).

and criminal justice journals.[35] *Crime and Delinquency*, *Criminology*, *Justice Quarterly*, *Journal of Research in Crime and Delinquency*, *Journal of Criminal Justice*, *Journal of Quantitative Criminology*, *Journal of Criminal Law and Criminology*, and Criminal *Justice and Behavior* are some of the journals that published quantitative articles. [36] Questionnaire is widely used as a data collection tool in quantitative studies.

The characteristic of qualitative and quantitative research respectively is summarized by Scott W. Vanderstoep and Deirdre D. Johnston as follows:[37]

Characteristic	**Quantitative Research**	**Qualitative Research**
Type of data	Phenomena are described Numerically	Phenomena are described in a narrative fashion
Analysis	Descriptive and inferential Statistics	Identification of major themes
Scope of inquiry	Specific questions or Hypotheses	Broad, thematic concerns
Primary advantage	Large sample, statistical validity, accurately reflects the population	Rich, in-depth, narrative description of sample
Primary disadvantage	Superficial understanding of participants' thoughts and feelings	Small sample, not generalizable to the population at large

3. Interdisciplinary Legal Research in Ethiopia

Interdisciplinary legal research refers to legal research which incorporates insights from other non-legal disciplines.''[38] The tradition of legal research

[35] Claire Angelique R.I. Nolasco, Michael S. Vaughn and Rolando V. del Carmen, Toward a New Methodology for Legal Research in Criminal Justice, *Journal of Criminal Justice and Education*, Vol. 21, No. 1, 2010, p. 3.

[36] *Id.* p. 4. In these journals out of the total 1,299 articles published from 2004 to 2008, 1,011 (77.8%) of them were quantitative articles. This figure shows us that quantitative method is more appropriate for legal research on criminal justice and criminology.

[37] Scott W. Vanderstoep and Deirdre D. Johnston, *Research Methods for Every Day Life*, *supra* note 29, p. 7.

[38] Wendy Schrama, *supra* note 28, p. 147.

in the past was not only doctrinal but also mono disciplinary. Legal researchers stick to what the law says as enshrined under legislation or case laws. Therefore, legal research was an island where researchers from other disciplines did not keep in touch with them. However, this has changed in the last few decades and nowadays it has become common for researchers from other disciplines to come together and join legal researchers. For instance, in the United States, the use of economics and philosophy to evaluate legal doctrines dates back to the 1950 and 60.[39] Legal researchers can learn from researchers in other disciplines. The traditional mono-disciplinary legal research can also borrow methods from other disciplines which will contribute much to the development of empirical research. It is therefore natural that scholars in other disciplines-particularly the social sciences would want to assess the quality of work being done by legal scholars […]''[40]

Even if there is a move in the law schools away from the traditional mono-disciplinary legal research toward the interdisciplinary approach, it does not mean that all legal research projects should be combined with methods and concepts from other disciplines. The method to be employed should be interdisciplinary if and only if the law as it is" cannot properly address the problem being investigated. In other words [w]hen the aim of a certain research project is to find legal answers on the basis of legal data an external non-legal perspective is not required."[41] Therefore, the nature of the research design in general and the research method in particular (including interdisciplinary research) depends on the nature of the research question. For instance, if the research question is formulated in such a way to understand the intention of the law maker behind silent legal provisions, the researcher would not be expected to employ methods and concepts from

[39] Richard A. Posner, the Present Situation in Legal Scholarship, *Yale Law Journal*, Vol. 90, No. 1113, 1981, p. 1125.

[40] Richard L. Revesz, A Defense of Empirical Legal Scholarship, *the University of Chicago Law Review*, Vol. 69, 2002, p. 170.

[41] Wendy Schrama, *supra* note 28, p. 148.

other disciplines.[42] This and other similar research questions can be properly addressed without employing interdisciplinary research.

However, if the research objective is to assess the law in action, the researcher will find it important to borrow'' methods and concepts, and to collaborate with researchers from other disciplines.[43] For instance, in our legal system, the law is clear on the appointment of guardians and tutors.[44] The law clearly provides the requirements that the court of law should take into account in appointing a person other than the parents of the child as a guardian and tutor. In this case, it is better if the court makes its decision in consultation with psychologists and social workers. A legal researcher working on a similar research problem would benefit from being involved with researchers from other related disciplines.

To effectively undertake interdisciplinary legal research, legal researchers are expected to have and develop the culture of teamwork and coauthoring. In Ethiopian law schools, interdisciplinary legal research in general and the culture of teamwork and coauthoring journal articles in particular is at infant very early stage of development.[45] For instance, [t]he Articles published in the Journal of Ethiopian Law provide [an] example of how little we cooperate in research and publications."[46] However, recently the tradition of co-authoring journal articles seems to have been developing.[47] The team

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[42] Schrama calls this the internal consistency or the internal effectiveness of the law. According to Schrama interdisciplinary research is not necessary to address the *internal consistency* or the *internal effectiveness* of the law. See Wendy Schrama, *supra* note, 28.

[43] Schrama calls this the external effectiveness of the law which refers to refers to the external consistency of the legal system with the context and culture in which it functions." See Wendy Schrama, s*upra* note, 28.

[44] See Articles 219ff. of the Revised Family Code of the Federal Democratic Republic of Ethiopia on organs of protection of minors, Proclamation No. 213/2000.

[45] See the discussion *infra* under Section 4 on legal research in Ethiopian law schools.

[46] Tadesse Lencho, Scholarly Productivity-Has Academic Tradition or Culture anything to do with it? *Ethiopian Journal of Legal Education*, Vol. 2, No. 2, 2009, p. 107.

[47] For instance, journal articles by Abebe Assefa and Wondmaggn Gebrie, Enforcement of the Principle of Legality after Ethiopian Revenue & Customs Authority v. Ato Daniel Mekonnen, in *Bahir Dar University Journal of Law*, Vol. 2, No. 2, (2012); Goce Naumovski & Dimitri Chapkanov, Convergence of Trademark Law and E-Commerce: Overview of US, EU and China Regulations on Trademarks and Domain Names, in *Mizan Law Review*, Vol. 8, No. 2, (2014), Martha Belete Hailu & Tilahun Esmael Kassahun, Rethinking Ethiopia's Bilateral Investment Treaties in light of Recent Developments in International Investment Arbitration, in *Mizan Law*

should preferably bring together lawyers and social scientists. In this regard, a good example is the research undertaken on exit exam by a team of experts including from other disciplines. There is similar research underway on externship.

When we come to the priority given to interdisciplinary research in the journals published by Ethiopian law schools, *Journal of Ethiopian Law* had given a high priority to interdisciplinary in the first two decades after its inauguration. In evaluating the Haile Sellassie I University-Northwestern Research Project in the Eighth Annual Report from the Dean, Dean Cliff F. Thomson stated that:

> *The project involved intensive field work for six months on research topics of importance to Ethiopia. It was not a new project at the Faculty, but this past year was only its second trial since 1968-69, and we added the important element of involving our students in the writing as well as the research for the completed articles. Again expertly directed by Associate Professor Beckstrom of Northwestern University Law School, the project teamed three Northwestern law students and three students from our Faculty with scores of student- researchers from the School of Social Work and our Faculty. The research was interdisciplinary, and focused upon the socio-economic-political and legal aspects of juvenile in trouble, and upon the economic potentials and problems of traditional commercial institutions in Mercato.*
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> *The preceding Northwestern- HSIU [Haile Sellassie I University] project resulted in three published articles, and our expectation is that the same quality will be achieved this time. More important, I believe our students have had a superb opportunity to receive the benefits which arise from close professional supervision in the intricacies of field research into often sensitive topics.*[48]

Review, Vol. 8, No.I , (2014); Amos O. Enabulele & Bright Bazuaye, Setting the Law Straight: Tanganyika Law Society & anor v. Tanzania and Exhaustion of Domestic Remedies before the African Court, in *Mizan Law Review,* Vol. 8, No. I, (2014); Hailu Burayu, Elias N. Stebek & Muradu Abdo, Judicial Protection of Private Property Rights in Ethiopia: Selected Themes, in *Mizan Law Review,* Vol. 7, No. 2, 2013; Aron Degol and Abdulatif Kedir, Administrative Rulemaking in Ethiopia: Normative and Institutional Framework, in *Mizan Law Review,* Vol. 7, No. I, 2013.

[48] Cliff F. Thomson, Eighth Annual Report of the Dean, *Journal of Ethiopian Law*, Vol. 8, No.I, 1972, p. 17. The journal articles by the Northwestern University research project were on local

Unfortunately, what was established in those early days of the inauguration of the *Journal of Ethiopian Law* did not last long and were never well developed. Issues published in the Journal after the 1970s were not empirical and interdisciplinary as intended by the founding deans and the staff of the then Haile Sellassie I University.

Among the law journals published by the second generation Ethiopian law schools, *Mizan Law Review* developed the practice of publishing interdisciplinary works.[49] Therefore, *Mizan Law Review* is the leading pioneer in coauthored journal articles and interdisciplinary works.

In the earlier days of the Faculty of Law of Haile Sellassie I University, it was common to organize seminars on interdisciplinary issues. For instance, the Faculty in cooperation with the College of Business held a series of ten informal seminars on law and economic development during 1964-65."[50] Topics on legal and economic frameworks of development, Ethiopia's second Five Year Plan, development of Ethiopian natural resources, Ethiopian manpower needs, investment law and sources of investment, credit institutions in Ethiopia, and the role of parliament in a developing country were discussed and instructors from other departments and officials from the parliament were invited.[51] I referred to this historical account for the following reason: Organizing and hosting interdisciplinary seminars and workshops inspires legal researchers to think of research ideas. Such seminars and workshops should also create the forum of socialization which would ultimately result in co-authorship and collaboration in research. However, this legacy did

courts administration, divorce procedures 10 years after the Code, and labour relations. An article on the effect of customary law in development was also published by Norman J. Singer. See the Seventh Annual Report of the Dean, *Journal of Ethiopian Law*, Vol. 7, No. 2, 1970, p. 316.

[49] Two interdisciplinary works by Aleksandar Stojkov, Goce Naumovski, & Vasko Naumovski, Economics of Copyright: Challenges and perspectives, in *Mizan Law Review*, Vol. 7, No. 1, 2013; and by Elias Nour , Ambiguities and Inconsistencies in the ' Prescriptions' toward 'Development' in *Mizan Law Review*, Vol. 6 No. 2, 2012, are published in the Journal.

[50] James C.N .Paul, Thomson, Second Annual Report of the Dean, *Journal of Ethiopian Law*, Vol. 2, No. 2, 1965, p. 523.

[51] *Id.*, p. 524.

not last long and was not succeeded by the second generation law schools or even by the Faculty of Law of Addis Ababa University.

4. Trends in the Legal Research of Ethiopian Law Schools

The history of formal legal education in Ethiopia is traced back to 1963, the year in which the first law school in the history of the country was opened at the then Haile Selassie I University. Even if the attention given to empirical research at Haile Selassie I University and later at Addis Ababa University was insignificant, the importance of the empirical research was emphasized immediately after the opening of the Law Faculty. Here it is important to see the observation of one of the deans of the Faculty of Law of the then Haile Selassie I University:

> *…what I submit is desperately needed and deserves greater Law Faculty research effort from now on is the description and critical evaluation of how Ethiopian law and legal institutions actually operate, and from such observations what modifications in and additions to the law and its institutions are needed. This is a very difficult form of research for it requires slight reliance on libraries or archives and heavy reliance on data gathering through interviews, questionnaires and participant observation.*[52]

However, due to a variety of reasons, the aspiration of the Dean did not come true in Ethiopian law schools. In the following sections discuss the priority given to doctrinal and empirical legal research in Ethiopian law schools and the challenges of legal research faced by Ethiopian law schools.

4.1. Doctrinal Legal Research: The Effect (Legacy) of the *Old Curricula*

In the old curriculum of Ethiopian law schools[53] no proper attention was given to the non-doctrinal (empirical) legal research. In this section the

[52] Quintin Johnstone, Sixth Annual Report of the Dean (1968-69), 6 J. Eth. Law, 22, June 1969, quoted in Tadesse Lencho, *supra* note 46, pp. 104-105.

[53] *The old curriculum* refers to the respective conventional curricula implemented by Ethiopian law schools before the adoption of the 2006 new curriculum. The new curriculum implemented in 2006 was revised and harmonized, and adopted as a modular LL.B. curriculum in 2012/13 Academic Year.

author shows how the old curriculum laid a fertile ground for doctrinal legal research as opposed to the socio legal (empirical) ones. To do so, in the following paragraphs present a survey of journal articles, senior essays written by graduating LL.B. students, and discuss the place given to skill oriented and interdisciplinary courses in the old LL.B. curriculum. Finally, a survey is provided of the collection of law school libraries on non- doctrinal research.

To understand the priority given to doctrinal legal research by Ethiopian law schools in the past one can survey the nature of published journal articles. In the history of legal education in Ethiopia the first legal journal was published by the Faculty of Law of the then Haile Selassie I University in 1964. The second generation law schools at Bahir Dar University, Mekelle University, Haramaya University, Jimma University and Gondar University are also publishing their own law journals. What makes all these journals the same is the priority they have given to doctrinal works. The author assessed the content of four journals: *Ethiopian Journal of Legal Education*, *Mizan Law Review*, *Journal of Ethiopian Law* and *Bahir Dar University Law Journal*.

From this assessment, the author understands that in the *Journal of Ethiopian Law*, in its issues published in the 1960s an1970s, a priority was given to empirical works.[54] When we come to the publications of the second generation law schools, almost all issues (with only a few exceptions) have been devoted to finding authorities in primary and secondary legal sources.[55] Among these journals *Mizan Law Review* and the *Ethiopian Journal of Legal Education* give a higher priority to empirical works.

[54] See Eighth Annual Report of the Dean, *Supra* note 48 on the priority given to empirical works in the Journal of Ethiopian Law.

[55] The following are instances of published empirical works:

1. Mulugeta Getu, Ethiopian Floriculture and its Impact on the Environment: Regulation, Supervision and Compliance, *Mizan Law Review*, Vol. 3 No. 2, 2009, (the author has used empirical data obtained through interview to enrich his article).
2. Taddese Lencho, Scholarly Productivity: Had Academic Tradition or Custom anything to do with it? *Ethiopian Journal of Legal Education*, Vol. 2, No. 2, 2009, (the author used questionnaire as a n empirical data collection tool).

Other evidence that assesses the priority of doctrinal legal research in the Ethiopian law schools is the contribution of the LL.B. graduating students. In the old curriculum graduating LL.B. students had to work on a senior essay which was a partial fulfillment for the Bachelor of Laws. In this regard, the author has assessed senior essays written by students at Addis Ababa University School of Law and by the newly established law schools.

From the content analysis of journal articles the author comes to the conclusion that most of the senior essays written by students at the newly established law schools are doctrinal by nature. Very few works are devoted to show whether the practice is in line with the law. However, most of these types of works are restricted to the analysis of documents and cases decided by the court of law. Therefore, strictly speaking they cannot be taken as empirical works. Few students try to conduct empirical research and use interviews and questionnaires as data collection tools. However, these

3. Hussein Ahmed, Overview of Corporate Governance in Ethiopia: the Role, Composition, and Remuneration of Boards of Directors in Share Companies, *Mizan Law Review*, Vol. 6 No. 1, 2012, (this author used interview to collect empirical data).
4. Endalew Lijalem, the Doctrine of Piercing the Corporate Veil: its Legal and Judicial Recognition in Ethiopia, *Mizan Law Review*, Vol. 6 No. 1, 2012, (this author used interview to collect empirical data).
5. Seyoum Yohannes, Eritriea- Ethiopia Arbitration: A 'Cure' Based on Neither Diagnosis Nor Prognosis, *Mizan Law Review*, Vol. 6 No. 2, 2012, (this author used interview to collect empirical data).
6. **አስቻለዉ አሻግሬ፣ የታክስ ክፋዮች ቅሬታ አፈታት ሥርአት በኢትዮጵያ** (Tax Appeal Procedures in Ethiopia), *Mizan Law Review*, Vol. 8 No. 1, 2012, (this author used interview to collect empirical data).
7. Fekadu Petros, Effect of Formalities of on the Enforcement of Insurance Contracts in Ethiopia, *Ethiopian Journal of Legal Education*, Vol. 1, No. 1, 2008, (the author used interview as an empirical data collection tool).
8. Mulugeta Getu, Law Schools' Access to Legislation and Decisions: Current Trends and Suggested Outlets, *Ethiopian Journal of Legal Education*, Vol. 3, No. 2, 2010, (the author has used interview and questionnaire as empirical data collection tools).
9. Gadissa Tesfaye, Quality Assurance in Legal Education: Choosing Lead Organ/s in Responding to the Current Reality and Challeges in ethiopia, *Ethiopian Journal of Legal Education*, Vol. 3, No. 2, 2010, (the author has used interview as an empirical data collection tool).
10. **ፊሊጳስ አይናለም፣ ሳይፋቱ (ዲ ፋክቶ) ፍቺ፣** *Mizan Law Review*, Vol. 2 No. 1, 2008, (this author used interview and key informants to collect empirical data).

empirical works fail to justify, among other things, why interviews and questionnaires are used as data collection tools, the sampling techniques employed to select interviewees and research respondents, the size of the population from which the interviewees and research respondents are selected, the sample size (the number of interviewees and research respondents), and the types of interviews used. Generally, these and other methodological issues are left untouched in these empirical works. Therefore, strictly speaking, it is difficult to consider these works full-fledged empirical works.

Other features of the old LL.B Curriculum can be seen from the perspective of the priority given to legal research as a course, skill oriented and interdisciplinary courses. In the old curriculum, legal research methodology was not offered as a course. Students did not have the opportunity to acquire the necessary skills in legal research in general and empirical legal research in particular. What the students were required to do was just to read senior essays written by former graduating students and adopt the style and the approach used by these former students. However, as it has been discussed above, almost all senior essays written by former graduating students were doctrinal by their nature. Therefore, students did not have the opportunity to learn informally about methods of empirical legal research even from the works of former law graduates. The absence of skill oriented and interdisciplinary courses are two more factors that contributed for the dominant tradition of doctrinal legal research in the old curriculum.

4.2. The Current Trend: The Move to Empirical Legal Research

Though the tradition of legal research in Ethiopian law schools in the past was predominantly doctrinal, we are seeing the trend of moving toward the socio-legal and the empirical. In this section, the author shows how the legal research conducted by Ethiopian law schools is being moved in to the socio-legal and the empirical research. Accordingly, the effect of the revised LL.B. Curriculum, the post graduate LL.M. programs, the effort of law instructors to conduct empirical research, and finally the challenges to empirical legal research faced by Ethiopian law schools will be discussed.

4.2.1. The Effect of the Revised LL.B. Curriculum

The revised LL.B. Curriculum has contributions to the emerging tradition of empirical legal research in Ethiopian law schools. As will be discussed here, the curriculum contributes much for the new trend of empirical legal research because of the incorporation of skilled oriented, interdisciplinary, and legal research courses.[56]

4.2.1.1. Incorporation of Skill Oriented Courses in the Revised LL.B. Curriculum

One of the departures of the newly implemented revised modularized LL.B. Curriculum from the older one is the incorporation of skill oriented courses in the former. Courses like Legal Writing, Legislative Drafting, Pre-Trial, Trial and Appellate Advocacy/Moot Court, and Clinical programs on Restorative Justice, Domestic Violence, Child Rights, and the Right of Prisoners are included in the new curriculum.[57] What these clinical programs share in common is the priority given to the development of interviewing skills, identifying the gap between the law and practice, and field work reporting.[58] The courses also provide students the opportunity to practice their legal knowledge and skills in a real-world working environment.[59] Engaging students in these courses and enabling them to acquire the aforementioned skills will help them considerably to develop the skill in empirical legal research.

4.2.1.2. Incorporation of Interdisciplinary Courses in the Revised LL.B. Curriculum

Offering interdisciplinary courses both in the undergraduate and post graduate programs is very important in terms of its contribution for the development of the tradition of empirical research by students and law instructors are concerned. That is why law schools in the United States, in the United Kingdom, and in other universities around the world are offering

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[56] It has to be also noted that even for the conventional courses, 30% of the course is supposed to be practice-oriented. See sample course syllabi, particularly their assessment and delivery part.

[57] The National Modularized Curriculum of the LL.B Program in Laws, Bahir Dar University, School of Law (hereinafter the National Modularized Curriculum).

[58] *Ibid.*

[59] *Ibid.*

in their postgraduate programs courses like socio-legal studies, feminist legal studies, and critical legal studies.[60] Accordingly, the revised LL.B. Curriculum incorporates some interdisciplinary courses that would encourage and pave the way for both law students and instructors to undertake an empirical legal research. Psychology and Forensic Science, and Sociology and Criminology have been incorporated as interdisciplinary courses in the national modularized LL.B. Curriculum.[61]

The first course, Psychology and Forensic Science, has two parts: Psychology and Forensic Science. The first part of this course endeavors to introduce students with the subject matter of psychology, covering the meaning, goals, historical development, subfields, theoretical perspectives and research methods used in psychology."[62] If students are introduced to the basics of research methods in psychology, they will be able to integrate their knowledge and skills that they have acquired from this course with their substantive legal knowledge. The second part explores the relationship between forensic psychology, law and psychiatry, and the role of forensic science and psychologists in connection with offenders, victims, criminal responsibility, insanity and civil incapacity."[63]A legal researcher who wants to conduct empirical legal research on the law of criminal procedure in general, and on the law of evidence in particular may find it important to import ideas and concepts from this course.

Sociology and Criminology is the second interdisciplinary course. Like the first one, this course has also two parts: sociology and criminology. The course on sociology deals with culture, socialization and society and law, and focuses on the relationship between social and legal systems.[64] The second part of this course presents on the making and breaking of law and society's reaction to such conduct.[65] Therefore, this part of the course will help students to deeply understand the causes and consequences of crime as

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[60] Mike McConville and Wing Hong Chui, *Research Methods for Law*, *supra* note 34, pp. 4-5

[61] The National Modularized Curriculum, *supra* note 57.

[62] *Ibid.*

[63] *Ibid.*

[64] *Ibid.*

[65] *Ibid.*

individual and social phenomena.[66] Students as prospective legal researchers on criminal justice system and constitutional law can benefit much from this course.

4.2.1.3. Incorporation of Legal Research Methodology as a Course in the Revised LL.B. Curriculum

One of the major departures of the revised national LL.B. Curriculum is the incorporation of course on legal research methodology. The course on Legal Research Methods intends to explain the nature, scope, significance, types, tools, and models of legal research and scientific methods of inquiry into the law."[67] Offering a course on legal research methodology equips students with the necessary skill and knowledge that will help them undertake not only empirical legal research but also the doctrinal. As can be understood from the course objectives, students are expected to be able to itemize the basic techniques of selection, collect and interpret primary and secondary data in legal and socio-legal research, and explain the significance and role of legal research in the reform and development of law and in the socio-economic development of the country.[68] The course gives emphasis to empirical legal research that is based on the analysis and interpretation of primary data. Generally, it can be concluded that this course aims at equipping students with the basics of legal research methods.

4.2.2. The Effect of Postgraduate Programs

One of the objectives of graduate programs is to enable students to conduct and original and independent research. Course work, directly or indirectly, should enable students to build an academic foundation that will help them to effectively and successfully undertake their research. In some law schools, a candidate for the graduate program should demonstrate the ability to undertake research in law.[69] The following section surveys the impact of the graduate program in general and legal research methodology as a course in particular.

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[66] *Ibid.*

[67] *Ibid.*

[68] *Ibid.*

[69] A.W.R. Carrothers, *University of British Columbia Law Review*, the Graduate Program, Vo. I, No. 5, 1959-1963, p. 562.

To achieve the aforementioned objective, graduate law schools in Ethiopia are offering a course on legal research methodology. The syllabus of legal research methodology introduces students to the nature of the traditional doctrinal legal research and how it is different from empirical research. The syllabus of almost all law schools contains a topic on empirical research methods, and there are increasing efforts towards inculcating empirical research chapters in the Legal Research Methodology Course.[70] However, the actual time allocated to cover this topic is not adequate.[71] Again, there are reasons for this; notably, inadequate skill on the part of the instructors who handle these courses.[72] For instance, quantitative data analysis and interpretation technique require statistical knowledge. However, it may be a daunting task for most law instructors to deliver a lesson on quantitative research methods.

Another impact of the graduate program on the current trend of legal research can be seen from the perspective of the nature of LL.M thesis written by graduate students. From the content analysis of LL.M thesis of Bahir Dar University School of Law, the author discovers that there is an improvement and progress from year to year towards empirical works. For example, more than 80% the LL.M. thesis conducted in the 2014--15 academic years were empirical. Although the number of empirical works is increasing from overtime, generally, LL.M. students are not confident in conducting empirical research.[73] While a few of them select research topics that require empirical research, most of them prefer to do purely doctrinal research.[74] The reasons for this trend include: lack of empirical research skills; lack of adequate time to carry out empirical research and reluctance to undertake a highly demanding empirical research compared to the doctrinal one.[75] Limited or absence of financial resource is one of the

[70] Interview with Mizanie Abate (PhD), Assistant Professor of Law at Addis Ababa University College of Law and Governance Studies. Dr. Mizanie has taught so many times *Advanced Legal Research Methodology* in the LL.M. Program

[71] *Ibid.*

[72] *Ibid.*

[73] *Ibid.*

[74] *Ibid.*

[75] *Ibid.*

reasons why most LL.M students in the past did not have the interest in empirical legal research.[76]

4.2.3. Empirical Legal Research Conducted by Law School Instructors

Nowadays, law schools are allocating a modest budget to finance the research project of law instructors.[77] However, most of the law instructors have little or no interest in conducting research in general, let alone empirical research.[78] There may be multiple factors for this lack of interest including the financial administration process, lack of skill, the perception that their research output will not be used for various reasons.[79] But few instructors at different law schools are expending serious efforts to undertake empirical legal research. These empirical works are presented at national workshops, seminars and different symposia, and at the university level. Another related problem is that law instructors are not developing the goals of publishing their empirical works. What comes to the minds of most law instructors is that empirical works based on primary data are not worthy of publication.[80] There is also unwarranted stereotyping among legal scholars including professors who consider empirical research as something social science style.[81] For these law instructors, it is only a doctrinal legal research that deserves publication. And they test the quality of their work accordingly.[82] However, compared to the past, there is an improvement.[83]

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[76] Interview with Ermias Ayalew, former Assistant Professor of Law, Coordinator of the LL.M. program, and Head of the Office of Research and Publication at Bahir Dar University School of Law. Ermias had taught *Advanced Legal Research Methodology* in the LL.M program. According to Ermias LL.M. students take into consideration the relatively longer time needed to conduct empirical research as one of the most important factors to completely avoid it.

[77] For example, in 2014/15 fiscal year Birr 800,000.00 was allocated a research fund to Bahir Dar University School of Law.

[78] Interview with Ermias Ayalew, *supra* note 76.

[79] *Ibid.*

[80] Interview with a law instructor (anonymous) at Bahir Dar University School of Law.

[81] Interview with Ermias Ayalew, *supra* note 76.

[82] Interview with a law instructor (anonymous) at Bahir Dar University School of Law, *supra* note 80.

[83] Interview with Mizanie Abate (PhD), *supra* note 70.

Although there are researchers who have done and are doing empirical research; generally, researchers still prefer to doctrinal research.[84]

As it has been continually stressed, the traditional doctrinal legal research persists and legal researchers are trading–off empirical legal research for the traditional legal research. At this point, it is important to look into the reasons why law schools and legal researchers refrain from undertaking empirical legal research. The author borrows the reasons stated by Peter H. Schuck for the poor culture empirical legal research in the law schools of the United States and contextualizes it in our context. Schuck classifies the reasons into two. The first reason is related to the reaction and the concern of different stakeholders. He argues that […] if opinion leaders to whom deans look for legitimation-alumni, the elite law schools, political leaders, the bar, and foundation executives-viewed empirical research as more important than the more traditional modes of legal scholarship, the schools would make it their business to support it."[85] In the context of our system, we can also think of the contribution and the pressure expected from the judiciary and judges, bar associations, regional justice bureaus and the Ministry of Justice, and other stakeholders. Law schools jointly undertake research projects financed by these institutions. The cooperation between law schools and different institutions can be seen as an opportunity to develop the culture of empirical research.[86] The contribution and the pressure from judges, practitioners and public prosecutors are also highly important for the development of the culture of empirical research if the forum for the interaction between legal academics and these professionals is created.

Under the umbrella of the second reason: inconvenience, lack of control, tedium, uncertainty, ideology, resources, time, tenure and training are the disincentives for avoiding empirical legal research.[87] The following paragraphs a discuss some of these disincentives to show how they

[84] *Ibid.*

[85] Peter H. Schuck, Why Don't Law Professors Do More Empirical Research? *Journal of Legal Education*, Vol. 39, 1989, p. 331.

[86] From his experience the author knows that research problems in the financed research projects need empirical inquiry.

[87] *Supra* note 85, p. 331.

negatively affect the development of empirical legal research in our law schools.

Inconvenience: Doing empirical research projects is more inconvenient than the traditional doctrinal legal research. To effectively undertake doctrinal legal research what the researcher needs, among other things, is good library collection and access to the internet. It is enough for the doctrinal researcher to confine himself to his desktop. But if someone is interested in doing empirical works she has to go out of her office and the library and go to the field to collect data. Data collection as one of the most important steps in empirical works is complicated and inconvenient in terms of time money and other resources.

Lack of control: In doctrinal works the researcher has the full control over his ideas, opinion and arguments. With empirical work, however, the scholar's ideas may be the least of her problems.''[88] With empirical works data collectors, research respondents and other participants are not in the direct control of the researcher. This would obviously push the researcher away from empirical studies.

Tedium: According to Schuck, tedium is the third disincentive. As it has been mentioned, before our students, both graduate and under graduate students, find it tedious to undertake empirical works. Our students have little interest to engage themselves in empirical works.[89]

Uncertainty: Because of the different steps involved, ranging from the data collection to interpretation, in empirical works the researcher may not be certain about the findings of the study. The researcher has to wait until the data are analyzed and interpreted. With empirical studies, however, both the process and the outcome are totally different; the researcher knows only after the course of the study what the outcomes of the research will be.

Resources and time: Empirical studies are time consuming and cost the researcher a lot in of financial and other resources. The researcher needs to finance different activities in the course of data collection e.g., to pay,

[88] *Ibid.*

[89] Interview with Muhammed Daud, Lecturer of Law and former LL.M. student at Bahir Dar University School of Law.

among other things, for data collectors, research supervisors, research respondents and participants, and for transport and accommodation. Unless these and other related costs are funded, it will be hard for the researcher to shoulder them single handedly. Data collection as one of the most important steps in empirical works is burdensome in terms of time, money and other resources. [90]

5. Challenges to Legal Research Faced by Ethiopian Law Schools

5.1. Absence of Basic tools to find the Law

One of the features of legal research that distinguishes it from research in other disciplines is the importance and the use of the law as an ingredient or as a source of data. Therefore, if the law is the principal source of information in legal research, the researcher should be equipped with the basic tools to find the law. The researcher needs to have the necessary skills of finding the law. King George III once stated that 'if he asked a legal question of a layman, he found that he neither knew the law nor where it could be found; whereas, if he asked the same question of a lawyer, he observed that he also did not know the law, but that he did know where to find the law.'[91] From what King George III stated we can understand that one of the skills that a legal researcher needs to acquire is the means and the tools of finding the law.

Legal encyclopedias, case digests, legislation annotators, and online legal information aggregators are the basic tools to find the law as secondary data. These tools are highly used by law schools especially in the United States.[92] When we come to our system we do not have a legal encyclopedia, case digests or a legislation annotator.

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[90] Interview with Worku Yazie, Assistant Professor of Law and former Editor-in-Chief of Bahir Dar University Journal of Law.

[91] Jelf, *Where to Find the Law*, cited in Frank Hall Childs, *Where and How to Find the Law to the Use of the Law Library*, p. 1929.

[92] *The English and Empire Digest* in the UK, *the Australian Digest* in Australia, *Abridgment of New Zealand Case Law* in New Zealand, the *Canadian Encyclopedic Digest* and *the Canadian Abridgment* in Canada, and the *American Digest System* in the United States are the most important case digests.

Legal encyclopedias are publications that cover the law of a certain jurisdiction and support the discussion with primary legal sources such as legislation and case laws.[93] In other jurisdictions it is common for legal researchers first to refer to legal encyclopedias as a starting point in their research journey. *Halsbury's Laws of England* (published in the United Kingdom by LexisNexis Butterworths), *the Laws of Scotland: Stair Memorial Encyclopaedia*, *Halsbury's Laws of Australia*, *Halsbury's Laws of Hong Kong*, *Halsbury's Laws of India* and *Laws of New Zealand*, all published by local LexisNexis companies are the most important legal encyclopedias used in other jurisdictions.[94] Therefore, legal encyclopedias can be used as tools of finding secondary legal data that define and explain primary legal sources. However, unlike the practice in other jurisdictions, in Ethiopia there are no legal encyclopedias. Therefore, it would be difficult, especially for an average researcher, to identify the relevant primary legal sources that would define and explain the problem being investigated.

The second tool that can be used to find the law is case digest. This tool does not only provide an overview of an area of law it also it digests case facts and holdings, and categorizes them under a comprehensive legal taxonomy.[95] Therefore, one can imagine how much easier it may be for a legal researcher to find the appropriate and relevant case law which will help support an argument with judicial authority. In Ethiopia, there has been an attempt by the Federal Supreme Court to publish the decisions of the court. The publications are available in both hard and soft copy. Publishing the decisions of the court can be taken as one step forward; however, that is not enough unless an action has been take by the concerned bodies to prepare the case digests.[96]

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[93] Mike McConville and Wing Hong Chui, *Research Methods for Law, supra* note 34, p. 24.

[94] *Ibid.*

[95] *Id.*, p. 25.

[96] The Justice System and Legal Research Institute, the Ministry of Justice, the Federal Supreme Court, the Consortium of Law Schools can be taken as interested stake holders as far as the preparation case digests on the decisions of federal courts is concerned. Regional Justice Bureaus, Supreme Courts, justice system and legal research institutes and law schools in the respective regional states can take the initiative of preparing case digests in the regional states.

One of the practical problems that a legal researcher may face is the means of knowing changes to legislation. Legislation can be amended and repealed. Legislation annotators are also used to check the currency and the judicial consideration of legislation.[97] Therefore, there has to a means of knowing changes to legislation. Legislation annotator is the law finding tool which is used in other jurisdictions to know changes to legislation.

In addition to the aforementioned traditional law finding tools, the access to online databases is an important source of information. The number of law schools that have access to online legal information aggregator in general and subscribed legal information aggregator in particular is very small.[98] Another related challenge is a poor collection of law school libraries on legal research and empirical legal research. From this survey, the author also understands that law schools do not have an adequate library collection on legal research methods and particularly on empirical legal research. There is lack of textbooks, journal articles and periodicals, and other reading materials on these areas.[99]

5.2. Absence of Uniform Rules of Citation

Another challenge encountered by Ethiopian law schools today is the absence of a uniform rule of citation. Whenever a researcher takes the idea or the opinion of others, the researcher must give credit to the owners of the idea and properly cite the sources from which the idea was taken. This enables the reader to find and read the material that has been cited. Citing the sources from which the idea has been taken is not an end by itself. We need to a have also a conventional way of showing or citing our sources. Almost all disciplines have adopted their own conventional way of citing to authorities. Law schools in other jurisdictions have successfully adopted

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[97] Mike McConville and Wing Hong Chui, *Research Methods for Law, supra* note 34, p. 27.

[98] For example the Law School at Bahir Dar University had the opportunity to the Hein online legal information aggregator. However, the School could not renew the terms of the contract because the practical problems in relation to the online procurement of the service. It should be also born in mind that there are free access online legal information aggregators. But compared to the subscribed ones the source of information that can be accessed from these data bases may be limited.

[99] This author has taught legal research methodology in the LL.B and LL.M programs. As the library collection at Bahir Dar University is poor, he has provided his students with the soft copy of books, journal articles and other reading materials.

their own uniform rule of citations. Some of these rules of citation have been used nationally and even internationally. A *Uniform System of Citation* or the *Bluebook* and the ALWD Citation Manual are widely used by law schools in the United States and in other countries.[100]

When we come to the experience of Ethiopian law schools they have neither adopted a national uniform rule of citation nor adapted a rule of citation used by law schools in other systems. The author has surveyed *Bahir Dar University Journal of Law*, *Ethiopian Journal of Legal Education*, *Journal of Ethiopian Law* and *Mizan Law Review* to show the absence of uniform rule of citation in Ethiopian law schools. *Bahir Dar University Journal of Law* provides rules of reference or manuals of citation. The rules of reference guide the writer how books, contributions in edited books, articles in journals, legislation, codes, treaties, resolutions, cases and internet sources can be cited. The manual gives examples of citation of the aforementioned sources. The manual also provides how quotations, footnotes and references in footnotes can be used.[101] The author observes that the rules of citation have been properly observed in almost all issues of the journal. *Journal of Ethiopian Law* also adopts the same rule of citation.

Unlike Bahir Dar University Journal of Law and *Journal of Ethiopian Law*, the *Ethiopian Journal of Legal Education* and *Mizan Law Review* do not have their own manual on rules of citation. The author even observed inconsistency of citation in *Mizan Law Review*. For example, two authors use their own rules of citation in citing journal articles. There are also some inconsistencies of citation in the *Ethiopian Journal of Legal Education*. These journals lack standardization, which is one of the principles of citation form.[102] We can understand two important points from this: the first one is the absence of national rule of citation that can be used by all Ethiopian law schools and the second one is that some law schools

[100] The *Bluebook* has been adopted by the Review Association at Harvard, Yale, Colombia and the University of Pennsylvania. And the ALWD Citation Manual is developed by the Association of Legal Writing Directors of the United States.

[101] For more information see the citation manuals of *Bahir Dar University Journal of Law*.

[102] For more information on the principles of citation form see Paul Axel-Lute, Legal Citation form: Theory and the Practice, *Rutgers Law School Library Journal,* Vol. 75, 1982.

(journals) even fail to adopt a consistent rule of citation. This will negatively affect the effort of production and dissemination of knowledge.[103]

Concluding Remarks and Suggestions

It was not only the experience of Ethiopian law schools but it was also the culture of law schools in other jurisdictions to stick to the traditional doctrinal legal research. These days, it has become clear that it is not possible to properly address all legal problems by using doctrinal legal research approach. To properly understand the law it is important to investigate the impact of the law on legal institutions and the impact that the law has created on the society it is necessary to employ one of the methods in socio-legal or empirical legal research. These issues cannot be properly addressed by conduction only the traditional doctrinal legal research.

Accordingly, in our law schools, there is a move from the traditional doctrinal legal research in to the socio-legal empirical legal research. In the old LL.B. Curriculum legal research methodology was not offered as a course. In the new modularized LL.B. Curriculum legal research methodology, interdisciplinary and other skill oriented courses are offered. The contribution of these courses in equipping students with the skill of socio-legal empirical legal research is clear. A course on advanced research methodology is also offered for post graduate LL.M. students. In the course an emphasis is given to the socio-legal empirical legal research. Post graduate LL.M. students are also assigned to develop a research proposal by using empirical legal research methods. From the survey of the LL.M. theses, it can also be seen that most of the works of students are empirical. There are also some attempts by law instructors to undertake empirical legal research. Unfortunately, the empirical works done by law instructors are infrequently published and disseminated. The culture of getting empirical works published is at its budding stage of development.

Even if there is a move from the traditional doctrinal legal research toward the empirical, there are a number of challenges that law schools have faced.

[103] See the 2006 Legal Education and Training Reform Document, *supra* note1, to know more about the challenges and the standards it set for future improvement.

One of these challenges is lack of a sufficient library collection. There are very few reference and teaching materials on empirical legal research. The second challenge is absence of basic tools that can be used to find Ethiopian laws. In the current system, there are no legal encyclopedias, case digests, and legislation annotators. The existence of these and other law finding tools make it more feasible for legal researchers to find and use the relevant law. As we are in the age of information, access to the internet in general and subscribed internet legal sources in particular, is irreplaceable. But most of the law schools are not connected to the internet. Even those which are connected to the internet do not have access to the subscribed legal information databases.

In order to overcome the problems related to lack of specific attention to empirical legal research, I suggest that law schools and other relevant institutions should organize trainings on empirical legal research. Law journals, reviews and proceedings are also expected to encourage the publication of empirical works. I also suggest that adequate and encouraging budget should be allocated for those instructors/legal professionals who seek to undertake empirical legal research. Finally, law instructors must ready themselves to learn about empirical research methods and skills in preparation to become empirical researchers.