LAW REPORTING AND RESEARCH IN INDIA

--P. PRAKASH RAO, B.Sc., LL.M.
Section Officer,
Law Department,
A.P. Secretariat, Hyd.

Introduction :

Substantive rules of law derive their authority from the following namely :

i. Judicial Precedents
ii. Legislation
iii. Certain ancient texts, sayings, adages, maxims
iv. Local custom
v. Usage

These are called the legal sources.

The art of law reporting is known as the collection of judge made law to enlighten the public at large. Law reporting in India is systematic and regular. The reports become authorized since they are semi-official. Judgmade law is known as judicial precedents and derived by the sources of law referred to above.

The difference of statute and judgment is tabulated below :

Statute	Judgment
1. Creates new law	1. disclaims any attempt to create new law.
2. Lays down general rules for the guidance of future conduct.	2. Applies an existing law to a particular set of circumstances.
3. Is imperative	3. Binding on parties.

Judgemade law is of two kinds *viz*, '*res in rem*' and '*res in personam*', the former has universal application and the later has personal application.

Citation of cases :

Where cases are determined by a court at first instance, (*i.e*., heard for the first time), the proceedings are cited thus; *Civil case* A *v.* B; A, is the plaintiff, B, is the defendant.

Criminal case: (*In England*)

Regina (or R) v. Smith (1950)

Regina (the queen) is the prosecutor, Smith is the defendant.

(*In India*)

State vs. X. (1950 AIR SC 1111 (Page No.).

Appeals:

B.vs. A; B is the Appellant and A is the Respondent.

X vs. State. X is the Appellant and State is the Respondent.

The mode of citation will be displayed in all reporting journals. Comparative Table of reports equivalent to other journals shall also be displayed in each journal. This table will help to know that how many other journals published the particular citation of a particular journal. Famous journals like AIR shall publish the list of Supreme Court cases over-ruled, reversed followed *etc*. This information shall help to prosecute legal research.

What is Legal Research :

The branch of Philosophy which deals with "knowledge" is known as the "doctrine of epistemology". Any research including legal research can be properly understood with the application of the said doctrine.

The term 'Research' has been defined variously as 'intensive search', 're-inforced search' or 'intensive study'. It is epistemology which presents the process of research in proper perspective. In legal research the researcher investigate into various aspects like legal theory, legal process, basic structure of law, comparative study, adopting the techniques of Jurisprudence *etc*. The entire endeavour is to be exercised by the researcher with due application of the doctrine of epistemology. There are basically two views namely realism and idealism. Realism advocates that there is world independent of ourselves which exists in reality. Idealism does not accept this theory and believes that the world consists of creation of our own mind. In other words we can say two theories, (1) Normative (2) Derivative. Normative Theory developed from the existing norms, Derivative Theory developed from the law derive from various sources. However, while remembering the adage "knowledge is power" it can be said that knowledge is the prime thing for legal research. The different meanings of knowledge is of five types *viz*., (1) mystical (ii) intutional, (iii) rational, (iv) empirical and (v) pragmatic.

Mysticism knowledge is the enlightenment attained by mystical experience. Mystical experience of the ancient sages of our holy land is vedas. Mystical experience of prophet *Mohammed* is holy Quran. Mystical experience of Lord Jusus Christ is the holy Bible. Vedas are the base of Hindu law, holy Quran and holy Bible are the source of Mohammadan law and Christian law.

It is only intution which gives us definite knowledge whether right or wrong, it is imaginary.

Knowledge obtained through exercise of reason and logic is rational knowledge.

Empirical knowledge is based on analysis.

Pragmatic knowledge consists of statements which lead to satisfactory results.

The Indian Law Reports Act 1875 :

The purpose of the Indian Law Reports Act, 1875 (Central Act 18 of 1875) was to control the law reporting in India. It is an act for improvement of law reports. It is a very small enactment which provide that (Section 3 *ibid*.). "No Court shall be bound to hear cited or shall receive or treat as an authority binding on it the report of any case other than a report published under the authority of the Government."

Herold Potter stated that the "gradual development of the art of law reporting reflects the growth of the authority of precedents. (Dr. *S.K.Puri*, Indian Legal and Constitutional History, 186).

Thus, law reports are considered as precedents. The obvious advantage of the precedent are four fold *viz*., (1) certainty (2) uniformity (3) convenience, and (4) avoid delay in law.

Article 141 of the Constitution of India provides that the 'law declared by the Supreme Court shall be binding on all courts within the territory of India'. This is based on Section 212 of the Government of India Act, 1935 which provided that the decisions of the Privy Council and Federal Court shall be binding upon the Indian Courts.

It was, with the establishment of Supreme Court at Calcutta in 1774 that the system of law reporting started in India. During 1862 to 1875, the Madras High Court reports were published in eight volumes with all appreciations.

Now-a-days both official and non-official law reports are being published in India and the number is on the increase. I.L.R. series published from various places, Supreme Court reports 'Unchchattam Nyalaya Nirnaya Patrika' and 'Uch Nyalaya Nirnaya Patrika' are of official law Journals. (Fitt Law Commission, Fourteenth Report pp 634-635). Remaining journals sundry in number are all non-official law journals.

The Supreme Court in *All India Reporter Karmachari Sangh v. AIR Ltd*., (AIR 1988 S.C. 1325 at 1331). held that the "Law Reports" are "News Paper" within the meaning of the Working Journalists and other Newspaper Employees (Conditions of Service) and Misc. Provisions Act, 1955 (Central Act 45 of 1955).

The Indian Law Reports Act (Supra) does not contain the definition of a law report.

Conclusion :

Sir *James Stephens*, the then Law Member of the British India expressed his great dissatisfaction with the system of Law reporting. He was particularly bitter towards private agencies which had no other interest than commercial one. Such agencies hardly cared to make distinction between a case worth reporting. (Dr. *S.K. Puri*, Indian Legal and Constitutional History, 190).

It is advocated for uniform law reporting, the Indian Law Reports Act (supra) is to be re-structured with necessary provisions in order to control the system of law reporting in India. Government shall exercise due control over the agencies, to achieve, uniform reporting, requisite information, regulate its price, and to benefit the common man.

The reports (law reports) are defined in *corpus juris secondum* as 'Collections of authoritative exposition or the law by the regularly constituted judicial tribunals supplemented and arranged by an officer called the Court Reporter (77 CJS. Reports-1) (AIR 1983 Bombay 101 at 206). English law, (1971(3) All E.R. 1029), says the publishing the law reports can be charitable institution, because the publication is for the benefit of the society as a whole (AIR 1983 Bombay 201 at 205).

Having regard to the land mark judgment of the Supreme Court in *All India Reporter Karmachari Sangh v. AIR Ltd*., that the "Law Reports" are "News Paper", and having regard to Article 141 of the Constitution of India, it is submitted that all leading newspapers in this country should publish the precise text of important judgments which require for the benefit of the citizens of this vast country, a separate edition namely 'legal edition' may be inserted in all leading daily newspapers and systematic law reporting may be adopted.

The prime object of law reporting in India, is to propagate knowledge in an economical way. All Newspapers may come forward to introduce systematic law reporting which is useful to the public at large.

BREACH OF INJUNCTION ORDER

-- V. TIRUMALA RAO
Advocate, Guntur.

Introduction of Injunction :

1. Injunctions are of two types - temporary or interlocutory and permanent. They are prohibitory or mandatory. Now they are granted in the writ jurisdiction of High Court and Supreme Court also.

2. The aim of the Courts is to protect the rights of the individuals in the subject matter of the dispute. An attempt is made to maintain *status quo* emte of the property as on the date of approach to the Courts, so that further complications may be avoided. If a person is in possession of certain property then that possession should be protected and the opposite party should be prohibited from disturbing possession till the matter is finally heard and decided. If a person has a right of easement to flow water in a certain direction over the property of another who obstructs