



Characteristics of Law and Legal Research Methods

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Abstract Law has a regulatory and coercive nature, which means that everyone must obey the existing orders and prohibitions to maintain order and justice in society. The main purpose of law is to create order and justice. The legal research method is a way used to study legal rules and their application. This research is usually conducted with a scientific approach, namely looking for relevant data to answer existing problems. One method used is qualitative research, where researchers examine existing legal literature or sources to understand legal concepts more deeply. In legal research, there are two main approaches: first, studying the legal texts themselves normative studies, and second, seeing how the law is applied in society empirical approaches. These two approaches help us understand the law from a theoretical and practical perspective.

Keywords: Characteristics of Law, Legal Science, Research Methods.

1. INTRODUCTION

Characteristics of legal research Legal research is doctrinal research because legal science is prescriptive, and not descriptive like other exact natural sciences or social and humanities. The meaning of prescriptive is to provide instructions/based on applicable official provisions. Prescription is to state what is required by law. This is different from the descriptive nature which contains explanation/description in words clearly and in detail. Descriptive means descriptive, describing what is according to the facts and data found. Legal research is a process to find legal rules, principles, legal principles or doctrines in law to answer the legal issues faced. This is in line with the prescriptive character of legal science. And different from research conducted in descriptive science that tests the truth of the existence or absence of a fact caused by a certain factor. So that legal research is conducted to produce arguments, theories, new concepts as prescriptions in solving problems faced in legal problems.

Following are some characteristics of law:

- The law is mandatory and regulatory
- The law aims to maintain order and justice.
- Law has characteristics that are fixed and unchanging.
- Law is a series of rules that can influence human behavior.
- Laws apply in society and must be obeyed

Law in Indonesia has special characteristics, such as: based on Pancasila, people's sovereignty, government based on a constitutional system, equality in law and government, judicial power is free from the influence of other powers.¹

Soerjono Soekanto explains that research is "a scientific activity based on certain methods, systematics and thoughts that aim to study one or several specific legal phenomena by analyzing them". In addition, conducting an in-depth examination of legal facts, to then attempt a solution to the problems that arise in legal phenomena. Research is a scientific activity related to analysis and construction, which is carried out methodologically, systematically and consistently. Systematic means carried out based on clear planning and stages. Methodological means using certain and consistent methods, namely there is nothing contradictory in a certain framework. So as to obtain results in the form of scientific findings in the form of products or processes or scientific analysis or new arguments. The scientific measure of a research result, namely: a. Is knowledge; b. Systematically arranged; c. Uses logic; and d. Can be tested or controlled and proven critically by others. Therefore, the truth of the research results is a scientific truth that is different from that which comes from superstitious shaman predictions and cannot be proven by others. The scientific truth of the results of scientific research can be obtained the same results by others, if the other person tries using the same system and methodology. Legal research has a very important role in the framework of the development of legal science and is one of the causal factors in solving legal problems that occur both theoretically and practically in society. The term legal research in English is known as legal research, legal method². Some definitions of legal research according to experts include the following: Abdulkadir Muhammad, explains that legal research is "an activity to re-express legal concepts, legal facts, and legal systems that have existed to be developed, or improved, or modified according to the needs of society. In addition, legal research also seeks to explore, seek, and find new values that are beneficial to human welfare due to the development of science and technology"³. F. Sugeng Susanto explains that legal research is "research that is

¹ amiruddin and zainal asikin, 2004, introduction to legal research methods, rajagrafindo persada, jakarta. _____, 2006, introduction to legal research methods, jakarta: pt. raja grafindo persada

² soekanto, s. (1986). introduction to legal research. jakarta: ui-pers

³ Law and Legal Research by: Muhammad, Abdulkadir Bandung Citra Aditya Bakti Published: (2004)

applied or treated specifically to law". Salim HS and Erlies Septiana Nurbani explain that legal research is "research that examines and analyzes legal norms and the workings of law in society based on certain methods, systematics and thoughts, in-depth examination, problem solving and has certain goals ". Peter Mahmud Marzuki, defines legal research as: "a scientific activity, based on certain methods, systematics and thinking, which aims to study one or several specific legal phenomena by analyzing them". A process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced, this is in accordance with the character of legal science law

Definition of research and legal research research in English is called research, is an activity of "searching again" for the truth (truth) 17. The search for truth in question is a human effort to understand the world with all the secrets contained therein to find solutions or ways out of every problem faced. Therefore, the truth can be sought in various ways, namely: a. Based on experience. B. Asking an expert. C. By chance. D. Based on research. Law number 12 of 2012 explains that "research is an activity carried out according to scientific rules and methods systematically to obtain information, data, and information related to the understanding and/or testing of a branch of science and technology".

Legal research methods are a series of steps and techniques used to solve legal problems. This method uses a systematic, logical, and organized scientific approach.

Types of legal research methods:

- **Normative legal research**

Research that examines the internal aspects of positive law, such as legal principles, legal concepts, and legal rules. This research uses legislation as primary legal material.

- **Empirical legal research**

Research that uses empirical facts obtained from human behavior. The data used can be primary or secondary data. Primary data is obtained directly from the field through interviews.

- **Normative-empirical legal research**

Research that combines normative and empirical legal research methods.

- **Comparative approach**

Research that compares Indonesian state regulations with other countries or court decisions in several countries.

Legal research is conducted to answer research questions or solve legal problems of an academic and practical nature.⁴

Science and research the term science has two meanings, namely as a product and as a process. As a product, science is knowledge that has been proven to be true in a particular field and is structured in a system. According to Wim van Dooren, he explains that "science can be defined as intersubjectively valid knowledge in a particular field of reality that is based on one or more starting points and is systematically arranged" 1 . As a process, the term science refers to the activity of human reason to obtain knowledge in a particular field in an orderly (stelselmatig) or systematic manner by using a set of understandings that are specifically created for that purpose, to observe relevant symptoms in that field, the results of which are decisions whose validity is open to review by others based on the same criteria and have been agreed upon or are customary in the environment of the community of expertise in the relevant field.

Ca van Peursen, defines that science is "a policy, a strategy to obtain reliable knowledge about reality, which is carried out by people towards those who are concerned with reality ". Research in English is called research, is an activity of "re-searching" a truth. The search for truth in question is human efforts to understand the world with all the secrets contained therein to find solutions or ways out of every problem they face. For students, the word research is not foreign. Because students often get assignments to do simple research or research. Research has many definitions. Basically, research is "an effort made to obtain, develop and test the truth of a problem". There are two types of research, namely passive research, meaning research that is not only wants to get an overview of a situation or problem; and active research is research that basically wants to test hypotheses and solve problems. In fact, truth can be sought in various ways, namely : 5 1. Based on experience. 2. Asking an expert. 3. By chance. 4. Based on research. To carry out empirical research, a scientific method is needed. The scientific method is a scientific process to obtain⁵

Systematic knowledge based on scientific methods or ways . Scientists make observations and form hypotheses in their efforts to explain phenomena or events that occur. Predictions made

⁴Susanto, F. Sugeng, 2007, *Legal Research*, CV Ganda, Yogyakarta.

⁵ tamaulina br. sembiring, et al. 2024. *textbook of research methodology (theory and practice)*, karawang, cv saba jaya publisher.

based on these hypotheses are tested by conducting experiments. If a hypothesis has been tested, then the hypothesis can become a scientific theory.⁶

According to Philipus M. Hadjon⁶, legal science has a unique character, namely its normative, practical, and prescriptive nature. Such a character causes some people who do not understand the personality of legal science to begin to doubt the nature of legal science. This doubt is because with its normative nature, legal science is not empirical. With the character of legal science (namely its normative, practical, and prescriptive nature), legal science is a separate science (*sui generis*). So that with its scientific quality it is difficult to group

In one of the branches of the tree of knowledge, both branches in natural sciences, branches of social sciences, and branches of humanities. According to Bernard Arief Sidharta, legal science is included in the group of practical sciences, legal science occupies a special position in the classification of sciences, not because it has a long history, but also because of its nature as a normative science and its direct impact on human life and society which is carried by its nature and problems. In terms of terminology, legal science has several terms, namely: *rechtstenschap* or *rechtstheorie* in Dutch is called, jurisprudence or legal science (English), and *jurisprudent* (German). In Indonesian literature, the use of terms is not sharp. The term legal science is aligned with the terms in these foreign languages. The terms jurisprudence, legal science, and legal philosophy in English have different meanings from the Dutch terms. The term *rechtswetenschap* (Dutch) in the narrow sense is legal dogmatics or legal teachings whose task is the description of positive law, the systematization of positive law and in certain cases also explanation. Thus, legal dogmatics is not value-free but is value-required. *Rechtstenschap* in the broad sense includes: legal dogmatics, legal theory (in the narrow sense) and legal philosophy⁹. Legal science in terms of objects can be distinguished in the narrow sense and the broad sense. Legal science in the broad sense can be studied from the perspective of the nature of the viewpoint of science as well as from the perspective of legal science in terms of objects which are distinguished in the narrow sense and in a broad sense⁷. Legal science in a narrow sense is dogmatic (normative legal science). Legal science in a broad sense can be studied from the perspective of the nature of the scientific

⁶ Structure of Knowledge: An Introduction to the Philosophy of Science By CA Van Peursen Published: Pt. Gramedia, 1989 Institution: Samarinda City Library Service

⁷ Friedman, L.M. and S.M. (1969). *Law and the Behavior Sciences*, the Bobbs-Merrill Company, Inc, New York.
Golding, M. (1975). *Philosophy of Law*. Prentice-Hall Inc, New Jersey, Englewood.

viewpoint or from the layers of legal science as done by j. Gijssels and mark van hoeck . Legal science from a scientific perspective is distinguished between positivist and normative views. From this perspective, normative legal science and empirical legal science are distinguished. The difference between empirical legal science and normative legal science according to dhm meuwissen is described in the nature of empirical legal science, including: 1. Strictly distinguishing facts and norms , 2. Legal phenomena must be purely empirical, namely social facts, 3. The method used is the empirical scientific method, and 4. Free of values¹¹. The implications of the fundamental differences between normative legal science and empirical legal science are: first, from the basic relationship of the scientist's attitude ⁸. In empirical legal science, the scientist is as an audience who observes the symptoms of his object that can be captured by the five senses, while in normative legal science, the jurist actively analyzes the norms so that the role of the subject is very prominent. Second, in terms of scientific truth. The truth of empirical legal science is correspondence truth, namely that something is true because it is supported by facts with a basis of pragmatic truth which is basically a consensus of colleagues with the same expertise.⁹

2. RESEARCH METHODS

This research method uses a qualitative research method with a literature study approach. This approach allows researchers to review and analyze various relevant literature sources in order to understand and explore concepts in the field being studied. In the context of this research, literature studies are very important because they allow researchers to collect various perspectives and previous findings related to the development of legal research methods in Indonesia. In this way, researchers can compile stronger arguments based on existing data, and build conclusions that are relevant to the phenomenon being studied. The literature study method in this study aims to explore the development and transformation of legal research methods in Indonesia, both in terms of theory and practice. This research involves the analysis of various scientific works, books, articles, and journals that already exist, related to the topic of the development of legal research methodology. With this approach, researchers can present a more comprehensive understanding

⁸ muhaimin, legal research methodology, university of mataram press, 2020

⁹ Hadjon , Philipus M., 2009, lecture material delivered at the legal research methods lecture for the Doctoral Program in Law, Postgraduate Program, Airlangga University, Surabaya.

of the paradigm shift in legal research, both normative and empirical, and identify various challenges and opportunities that arise in the scientific and practical context of law in Indonesia.

3. RESULTS AND DISCUSSION

1. Based on the above opinion, Philip M Hadjon argues that legal science must confirm¹³:
1. In what definite way, he builds his theory, 2. Must present the steps so that other parties can control the results of his theory, 3. Must be responsible for why he chose such a method. Legal science has characteristics as a prescriptive and applied science¹⁴, following the characteristics of this science, legal science is always related to what should or what should be. The question is whether scientific methods can be applied to legal science. In accordance with the discussion above, legal science has a distinctive character, namely prescriptive, applied and normative in nature. Such characteristics cause some people who do not understand the personality of legal science and doubt the nature of legal science. This doubt is because the normative nature of legal science is not an empirical science. In addition, the object of its study is concerned with behavioral guidelines in a certain way whose compliance does not entirely depend on the free will of the person concerned, but can be forced by public power. With the above problems, Indonesian legal experts are trying to raise the level of legal science by empiricizing legal science through sociological studies.

2. The purpose and characteristics of legal research legal research aims to develop law and legal science in accordance and in line with the development of science and technology, especially global information technology. The impact is that legal research will become a sub-discipline of law that is studied professionally based on ability and expertise, as a profession that is a source of income²⁸. The purpose and objectives more specifically for conducting research are as follows:²⁹ 1. To find out what has happened or is happening. 2. To solve problems 3. To test (test, ed.) A theory of legal research is basically not to verify or test hypotheses as in social science research or natural science research. In legal research according to some legal experts, there is no such thing as data. Legal research according to Peter Mahmud Marzuki, is carried out to find solutions to legal issues that arise. So that the results achieved are not reject or accept the hypothesis, but rather provide a prescription (solution) regarding what should be done to solve the problem of the problems that occur). So that the method used in studying legal science also has differences with the method in studying sciences other than legal science, for example social sciences or natural

sciences³⁰. Abdulkadir Muhammad explained that the basis of legal research includes: a. Philosophical basis includes 1. Truth and justice, 2. Honesty and objectivity, 3. Regularity. B. Basis of curiosity c. Basis of logical thinking, d. Qualitative basis, e. Language basis. Important elements of philosophy that underlie legal research activities include:³¹ a. Intellectual activity (logical thinking); b. Seeking the ultimate meaning (interpretation); c. All legal phenomena and empirical facts (objects); d. By means of reflection, methodical, and systematic (method); and e. For human happiness (purpose). Legal research as a scientific activity has scientific characteristics as explained below: a. Systematic, meaning that the study material is arranged regularly and sequentially according to systematics. B. Logical, meaning in accordance with logic, reasonable, and correct according to reasoning. C. Empirical, meaning based on experience, especially that obtained through discovery, experimentation, and observation. D. Methodical, meaning based on or according to a method whose truth is recognized according to reasoning.

The function of legal research according to Abdulkadir Muhammad, legal research can function as: a. A means of developing law, legal science, and legal information technology which is currently very weak, including the use of computer systems as a data or information processing tool. B. Efforts to bring legal theory closer and adjust legal practice which is currently felt and experienced by the community as a gap in law enforcement in Indonesia. C. Efforts to realize hopes into reality which are now felt by the community that legal hopes are difficult to realize into a reality that prospers the community, even makes the community miserable, because the law has not sided with the community fairly. D. Efforts to prosper the community according to the philosophy of hope contained in the formulation of the law. E. As a profession as a source of income that deserves to be appreciated and developed³⁵

Types of legal research according to the type, nature and purpose of legal research are generally divided into 2 (two), namely normative legal research and empirical legal research. However, in the practice of legal research in Indonesia, it is divided into 3 (three) types of legal research, namely: a. Normative legal research. B. Empirical legal research and c. Normative-empirical legal research. According to Soerjono Soekanto, legal research conducted by researchers can be studied and analyzed from the perspective of: 1. Its nature; 2. Its form; 3. Its application; 4. Its purpose; and 5. The scientific discipline being studied.³⁷ research from the perspective of nature and purpose is research that is seen from the characteristics of research that will be

conducted. This research can be seen from the existence of data that will be analyzed or not. Research from the perspective of nature and purpose is divided into three types,

A. Exploratory research, namely research conducted to obtain information, explanations and data regarding things that are not yet known.

B. Descriptive research, namely research that is explanatory in nature, and aims to obtain a complete picture (description) of the legal conditions that apply in a particular place, or regarding existing legal phenomena, or a particular legal event that occurs in society.

C. Explanatory research, namely legal research that is explanatory in nature and aims to test a theory or hypothesis in order to strengthen or even reject a theory or hypothesis from existing research results. Research from the perspective of its form, is research that examines the causes of problems, their descriptions, and assessments of a problem. This research is divided into three types, including: a. Diagnostic research, namely research conducted with the aim of obtaining and analyzing data or information regarding the causes of an event or problem. B. Prescriptive research, namely research that aims to provide a description or formulate a problem according to existing conditions/facts. C. Evaluative research, namely research aimed at assessing an event.

Research from the perspective of its purpose, namely research that is studied from the intent and purpose and direction of the research carried out. This research is divided into four types, namely;

A. "Fact-finding" research. Research that aims to find legal facts or phenomena.

B. "Problem-identification" research. Research that aims to identify, inventory and then classify legal problems to find solutions.

C. Problem finding research, namely research that analyzes previously known problems and carries out an inventory of the facts.

D. "Problem-solution" research. Research that aims to find solutions to problems. Research from the perspective of its application, namely research that can be directly used, practiced or utilized by its users. This research includes:

- I. Pure research. This research aims to develop science or is theoretical or for the development of research methods.
- II. Applied research. Research that aims to solve problems that arise or exist in society and can be directly applied and utilized.
- III. Problem-focused research. Research aimed at problems that are currently popular and widely discussed by the public. Research from the perspective of the science being

studied is research that analyzes and examines problems from one field of science or various fields of science. This research is divided into two types, namely:

- Monodisciplinary research, namely research that focuses only on one field of scientific discipline.
- Multidisciplinary research, namely research that focuses on the use or combination of several existing scientific disciplines.

Likewise, when viewed from the type of method, there are two, namely research that uses qualitative research methods and quantitative research methods.

Definition of legal research research is a means used by people to improve, promote, or develop their knowledge. Research begins with trying to solve a problem systematically and scientifically using a method or technology. Therefore, scientific activity is an effort of analysis and construction that is methodical, systematic, and coherent (Soekanto, 1986). Research is a systematic study of the body of human knowledge that is developing and is a stage of identifying and investigating "facts" or "problems" to better understand or find appropriate solutions for them. A systematic approach in which a researcher follows a certain scientific method. The object of legal research can measure the interaction of legal relations with social values (Luhman, 1986), attitudes, behavior so as to support the legal and social system, while providing a means of social control and an instrument of social change (Friedman, 1969). The legal system that supports the social system can be conceptualized in (3) three ways, first (normative legal system) namely the legal system can be understood as a collection of legal norms; second (legal system as a social system) namely

The basic concept and characteristics of legal research by Ady Purwoto so that he finds something "ars" of scientific skills whose purpose is to be able to compile a legal opinion as an output of the problem solving step to be able to form legal reasoning or legal argumentation (Golding, 1975) which is essentially giving reason.

4. CONCLUSION

1. Based on the discussion that has been done, it can be concluded that legal science has distinctive characteristics, namely prescriptive and applied, which focuses on what should be done according to law, not just describing the existing situation. Although often viewed skeptically because of its

normative nature, legal science still has a strong scientific basis, with an emphasis on systematics, logic, and transparency in the application of legal theories.

2. Legal research has a clear purpose, namely to develop and enrich legal science and provide solutions to legal problems that occur in society. This research is prescriptive, not to test hypotheses as in social or natural sciences, but to provide guidance on what should be done based on applicable law. Therefore, legal research must be carried out systematically, logically, methodically, and based on the principles of justice, truth, and objectivity.

Types of legal research include normative, empirical, and a combination of both (normative-empirical), each of which has a different approach and purpose. Legal research has a very important function in developing legal science, reducing the gap between legal theory and practice, and realizing the public's hopes for justice and welfare through the application of fair laws that are in the public interest. In addition, legal research also has the potential to become a profession that generates income for legal researchers. Overall, legal science and legal research have a very large role in creating social justice, as well as strengthening the relationship between legal theory and developing social reality.

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