Understanding Legal Research:
A Comprehensive Guide to Methods, Theories, and Scope[1]

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A. Background

Knowledge, or what can be called command, can be interpreted as the result of previous human thought using the five senses. Self-knowledge aims to gain certainty and eliminate doubts from unfounded prejudice. If this knowledge is systematically arranged, adequately reviewed, and critically controlled by humans, then this knowledge becomes "science." Science describes ordered and systematic knowledge [1] so that both are close units. The purpose and intent of studying science are to acquire knowledge that enables people to solve everyday problems. In this case, scientific thinking is a tool for each branch of material knowledge. Science is a branch of knowledge with specific characteristics [2].

While the meaning of research is an attempt to seek new knowledge systematically by emphasising empirical data (experience), the new purpose above is not only interpreted as something that does not exist but can also be interpreted as a refinement or improvement of knowledge.[3] Therefore this research is objective. The scientific research discussed later provides more than just an explanation regarding data collection, seeking information, or anything else. Here, we explain how a researcher must be able to research methods, read related theories, and make reports.

In this case, there is a discussion on legal research. Legal research is also interpreted as a scientific activity based on specific methods, systematics, and thoughts to solve legal problems through analysis. The steps that must be known are understanding facts, legal issues, and relevant phenomena.

In this case, more emphasis is placed on the study of legal research, not only limited to methods, sampling, and preparation of reports but also must pay attention to the scope of the law itself. For more details regarding legal research methods, the author will explain this entitled "Law and Legal Research."

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[1] This paper was presented in the Research Methodology course. The purpose of presenting this material in the Legal Research Methodology course is to assist students in identifying legal issues that will be the subject of their research and in selecting appropriate research designs that align with their legal knowledge at the Sharia Faculty of UIN Maulana Malik Ibrahim Malang.

B. Problem Formulation

1. What Is Legal Research?
2. What is the object of legal research?
3. What is the Scope of Legal Research?
4. What are Legal Research Theories?

C. Research, Law and Legal Research

1. Law Definitions and Legal Research

Research is a truth-seeking activity (*truth)*. The search for truth is an attempt to understand the problem to find a solution or a way out of the problem.[4] Research can also mean a scientific activity related to analysis that is carried out systematically and consistently. Methodological means according to specific methods and rules. Systematic, that is, following the system. [5] Research must be conducted based on specific rules and methods appropriately and consistently without any conflict. Then, the research results were considered absolute with different scientific truths. [6] That means that all research is equally valid if scientifically proven. However, the same truth can be obtained if that person adopts the same method and system.[7]

While the meaning of the law rules, regulations, norms, or human guidelines that are considered appropriate, it can also be interpreted as regulations written by the government in a country because they are written and made by government law is called positive law. Some people also consider the traffic police to be lawful as action officers.

From the description of some of the above meanings, it can be interpreted that legal research is a scientific activity based on specific methods, systematics, and thoughts that aim to study a phenomenon imposed by rules or laws. The way to do this is by analysing the law or checking the facts before solving problems that arise in a law you want to examine. In conducting legal research, researchers must relate law to meanings [8] that are considered to be related to law or something that can be called understanding to analyse the law. Whether this does not seem right or wrong, these things are real. If these meanings are used as the starting point in the legal research process, it is hoped that there will be a neutralisation of the confusing issues that usually occur when discussing the law.

Usually, research results are in the form of ideas, reaffirmations, or proof of existing theories based on continuous observation and research[9], focusing on solving legal problems.

2. Legal Research Objectives

Legal research aims to adapt legal knowledge to suit the development of time and information. The more important purpose is to find solutions to solving problems, test a theory, and know the things or conditions that are currently happening. Legal research does not recognise the term data, unlike natural or social sciences. Legal research has also been conducted to solve the problems or issues of law. Thus, the conclusions of legal research are neither rejected nor accepted. However, it provides a solution or a view for solving it. [10] Legal research also aims to study one of the many legal causes using analysis. So it is necessary to analyse and examine the facts, which will provide a solution to something subject to the law.[11]

3. Legal Research Function

Sometimes, what happens around us is a gap in law enforcement to avoid this. One function of legal research is to bring legal theory closer to and adapt to the legal practices that occurred then. Legal research also seeks to turn expectations into a reality beyond any doubt. [12] Because legal research looks at issues from a different point of view. However, they also use analysis and proven sources.

D. The object of Legal Research Study

Before stepping onto the objects of legal research, it is necessary to know the meaning of the object of research. According to the Big Indonesian Dictionary (KBBI), an object (noun) is a thing or matter that is the subject of discussion and is targeted for research. That way, the object of research is the thing or case being targeted in research. According to Supranto, the object of research is a set of elements in the form of people, organisations, or goods to be studied. Moreover, other opinions say that the object of research is the subject matter to be studied to obtain data more directly.[13]

Then, the law is defined as a norm formed, enforced, and recognised by public power authorities to regulate the state and society enforced by sanctions. The real object of study of law is norms, and not attitudes or human behaviour, such as those used as objects of study, for example, by the sciences of sociology, anthropology, psychology, economics, and politics.[14]

Legal research is a scientific activity based on specific methods, systematics, and thoughts, which aims to study one or several specific legal phenomena by analysing them. In this way, of course, legal research must have a legal object in the form of criminal law, civil law, state administrative law, constitutional law, customary law and Islamic law. In addition, objects of legal research can also be in the form of legal subjects, rights and obligations, legal events, and legal relations.[15] For more details, the following is an explanation of the objects in legal research:

1. Legal subject

   Legal subjects are defined as parties who support rights and obligations or have legal authority*(jurisdiction),* mentioned with the words "everything that is considered to be able to support their rights and obligations," which implies that besides humans, in the practice of legal traffic or legal interaction, it is also known that bodies or associations that can have rights and can act as a human being.

2. Rights and obligations

   Rights are authorities/roles that may not be exercised, whereas obligations are roles/tasks everyone must carry out.

3. Legal events

   What is meant by a legal event is an event whose consequences are regulated by law. The same thing was conveyed by R. Soeroso, that what is meant by legal events is the actions and behaviour of legal subjects that bring legal consequences because the law has binding power for legal subjects or because legal subjects are bound by legal force.[16]

4. Legal relationship

A legal relationship is every relationship that occurs in a society qualified by law as a legal relationship, as a bond of rights and obligations for each party that does it. So, Every legal relationship has two aspects: aspect authority (power/authority or right) with its opponent's duty or obligations.[17]

In general, this legal research is divided into two types, namely normative legal research and empirical legal research, so the object of study differs from the two. The objectives of legal research are as follows:

a) Normative legal research
   1) Research on Legal Principles
   2) Research on Legal Systematics
   3) Research on the Level of Legal Synchronisation
   4) Research on Comparative Law
   5) Research on Legal History
   6) Research on Positive Law Inventory
   7) Research on In Concreto Law Discovery[18]
b) Empirical legal research
   1) Research on Legal Effectiveness
   2) Research on Legal Compliance
   3) Research on the Effect of the Rule of Law on Legal Issues
   4) Research on the Effect of the Rule of Law on Social Problems.[19]

E. **Scope of Legal Research**

A simple definition of the scope is a limitation. According to Emil Salim, the general understanding of scope says that scope is any form that has influence and is around us, namely, where these conditions are occupied by humans and even used as a place for human life. Everything that coexists with human life, such as nature, social economy, and objects.

While the scope of research explains the limitations of the subject in the problem under study, the scope includes the material studied, variables used, the number of subjects, and locations to be studied. In essence, the existence of limitations in the research affects the reality of the results.

If narrow, the scope itself is a technique used to limit scientific material. For example, the study of legal science includes a basic understanding of legal science, the position of legal science, legal theory, legal philosophy, and others. The techniques used in order to be able to understand the scope itself by understanding in terms of terminology and the limitations of the

method to be studied. Thus, it can create the boundaries of study material that is precise, directed and has an original side.[20]

From the above understanding, of course, in legal research, researchers must seek and reveal legal truths that are carried out in a methodological, systematic, and consistent manner. For example, this research uses the trial and error method. In this case, the researcher must carry out activities to find the truth in a problem that takes precedence over an opinion generated by individuals or institutions because there is the authority given so that it can test its findings. The use of this method is typically based on his own experience. These activities often ignore existing methods and systematics because they are not based on planned thoughts and work.

Some people's evaluation of legal research is not scientific, but the law is normative. Therefore, the law focuses on the realm of value. Likewise, the description of law is the rules governing human behaviour in social and social life so that from the start, it can be said that "the law is true." This view also shows that legal research is based on judgment because these legal principles contain human behaviour.

According to Satjipto Raharjo, carrying out various activities in the field of law means implementing his actions, such as actions and applying the law. Everything that humans do is a form of expression in their minds. Can this be said to be the making and application of the law? Therefore, under this condition, all efforts and activities towards the principles of thinking begin to open.

Legal work involves solving problems and returning decisions because legal research must be distinct from procedures in scientific methodology. In this case, legal research is a scientific activity associated with the meaning of the law, which according to Soerjono Soekanto and Purnadi Purnadi Purbacaraka, includes law in the sense of science (knowledge), discipline or system of teaching about reality, rules and norms, the legal system or positive law. Written decisions of officials, officials, government processes, regular behaviour and the fabric of values.[21]

From some of the legal meanings above, whether or not the meanings given by law are valid. These meanings were used as the first step in conducting legal research. Another hope is that these meanings can also confuse understanding the law.

F. **Legal Theories**

1. Definition

Peter Mahmud's book legal theory states that the current term *legal theory* in English is used interchangeably with jurisprudence. Even *legal theory*, *jurisprudence*, and *law philosophy* are not infrequently identified.[22] The legal theory approach broadly divides legal science into three main layers: legal dogmatics, legal theory (in the narrow sense), and legal philosophy. The test of the meaning of legal theory appears in Radbrucnch's writings, namely, "*The task of legal theory is a clarification of legal values and postulates up to their ultimate philosophical foundation*", which means that the task of legal theory is to make clear legal values and postulates down to their deepest philosophical foundations. If understood in depth, the legal theory that Rabrunch means is the science of law itself, or legal theory in a broad sense, which consists of three layers of law.

The relationship between legal dogmatics and legal theory can be explained narrowly. Legal philosophy is legal dogmatics studying regulations from a technical and juridical perspective, talking about law from a concrete perspective, and looking at law from an internal perspective. A legal theory layer is a form of reflection on legal techniques, looking at law from a juridical perspective in a non-juridical language. Meanwhile, legal philosophy seeks to reveal the essence of law by finding the most profound foundation for its existence. The mainstay of the study of legal theory is the analysis of legal materials, methods and ideological criticism of the law.[23]

However, technically, legal theory differs from legal philosophy. Legal theory is related to the technical aspect of looking for

a. The ontological basis for the existence of specific laws
b. *The reason for the law* is the provisions in a particular law
c. *Reason for falling* certain court decisions.[24]

2. Example of Legal Theories

a. Responsive legal theory

Responsive legal theory was initiated by Nonet and Selznick, who wanted the law consistently to be sensitive to the development of society with its prominent character,

namely offering more than just procedural justice, oriented towards justice, defending the public interest, and prioritising substantial justice. Nonet and Selznick, through law responsive, place law as a means of responding to social provisions and public aspirations following its open nature. This type of law proposes a mode of acceptance of social changes to achieve justice and public emancipation.

Responsive law is a theory about the legal profile needed in the transition period because it has to be sensitive to the transaction situation around it. Therefore, responsive law is not only required to be an open system but also must rely on the primacy of goals, namely the social goals to be achieved and the consequences of the operation of law. Responsive law is an order or system that is inclusive in the sense of associating itself with non-legal social subsystems, including the power of law in a responsive legal order, which views itself as an inseparable part of the social world that surrounds it, in short, responsive legal order is a social institution. Therefore, the law is seen as more than just a regulatory system but also as how law carries out social functions in and for society.

In this context, responsive law, according to Nonet and Selznick, is an attempt to answer the challenge of carrying out a synthesis between legal and social sciences. Much more than an academic field understood by only a handful of people, the legal theory is neither blind to social consequences nor does it return to social influence.

b. The theory of legal realism

Realist legal theory is famous for its credo that "*the life of the now has not been login it has been experienc*ing", with the concept that law is no longer limited to logic but experience. The law is not seen from the perspective of the law itself but is seen and assessed from the social goals to be achieved and the consequences arising from the operation of the law. Understanding the law is not only limited to texts or legal documents but goes beyond these legal texts and documents. According to this school, the law results from social forces and control tools.

Legal realism is divided into two categories: American and Scandinavian realism. American legal realism places empiricism in the touch of pragmatism, an attitude toward life that emphasises aspects of benefits and usability. Meanwhile, this school of Scandinavian legal realism places empiricism in the touch of a flow of psychology that develops by seeking the truth of understanding certain situations using psychology, unlike

American legal realism, which focuses on the practice of law from its implementation. By utilising psychology, Scandinavian legal realism focuses on human behaviour under legal control. The exponents of this school study human behaviour towards the law to find the true meaning of the law.

c. Sociological *Jurisprudence*

In sociological Jurisprudence, those who study law are not only limited to the study of regulations but also look at the effects of law and the workings of the law. *Sociological Jurisprudence* argues that a good law must be a law that is under the law that lives in society. This theory strictly separates favourable laws from living laws. The well-known figure of this school is Eugen Ehrlich, who argues that new positive law will apply effectively applied if it contains or is in harmony with the laws that live in society.[25]

Sociological Jurisprudence arises as a dialectical process between streamsLegal Positivism (as a thesis) and the sect of history (as the antithesis), where Legal Positivism views that there is no law other than the orders of the authorities (*law is a command of lawgivers*). In contrast, the Historical School views that law arises and develops together with society. The School of Legal Positivism prioritises reason, whereas the School of History is more concerned with experience. In this case, the Sociological Jurisprudence School considers reason and experience equally important.[26]

3. The Function of Legal Theory

More is needed to research the law's dogmatic (normative) scope and go deeper into the legal theory to explore the further meaning of the rule of law. If research is within the scope of dogmatic (normative) law, legal issues regarding legal provisions contain legal meanings related to the legal facts encountered; for research on legal theory, legal issues must contain legal concepts. The concept of law can be formulated as an idea that can be realised in the orderly framework of the rules of social life. Several legal concepts that are widely known to the public, such as legal entities, power, authority, and criminal responsibility, greatly support social activities and transactions.

Legal research on this theory is necessary for those who wish to develop a particular field of legal study. Was done to increase and enrich knowledge in applying the rule of law. By

conducting a study of legal concepts, jurists will further increase their power of interpretation and will also be able to explore the theories behind these legal provisions.[27]

This approach, in terms of legal theory (in the broad sense), divides the science of law into three main components: legal dogmatics, legal theory (in the narrow sense), and legal philosophy. These three legal research and practice components bring different concepts because each has a unique character and a particular method. A lack of understanding from the legal theory perspective will prevent a law bearer from becoming chaotic. The term legal bearer is the same as the functionalisation of law, namely the subject (perpetrator) and all activities that refer to the existence of law and the enactment of a law.

Generally, it can be explained by the relationship between legal dogmatics, legal theory (in the narrow sense), and legal philosophy. Legal dogmatics study regulations from a technical juridical perspective, talk about law from a legal perspective and legal issues that are concrete, actual, or potential, and look at law from an internal perspective. Meanwhile, the composition of legal theory reflects legal techniques that disseminate ideas in the development of legal knowledge, how a legal expert speaks law and sees law from a juridical to non-juridical perspective and the reasons for justifying existing laws. In the past, the legal theory was often called the teaching of law (*doctrine*), which includes explaining various meanings and terms in law and connecting law with logic and methodology. On the one hand, the legal theory contains the philosophy of science from the science of law. On the other hand, legal theory is a teaching method for legal practice which focuses on law formation (legislation) and legal discovery (interpretation teachings).[28]

Bearing in mind that law is an applied science, legal theory is also needed in academic activities to produce new theories and even new legal principles that are very beneficial for the development of legal science. Therefore, the function of legal theory is to provide a theoretical basis both in making laws and in applying the law and suggesting the correct method. Theory development is not just theory but a theory that can be applied.[29]

There is an assumption that social science is a general group, whereas law is a particular type of social science. Due to the inclusion of legal science in the social science group, the debate on methodology in social science also enters legal science. This tendency is influenced by social scientists who study the law from their perspectives. Thus, it will have an impact or result from these writings; it is necessary to have a standard procedure for conducting legal

research that is patterned as a social science. Therefore, they consider a fatal mistake to occur, namely, starting legal research by submitting hypotheses, as is done in social research. They said, if so, then the purpose of the research was to verify the empirical truth. The function of legal research with this procedure is to carry out tests regarding the extent to which legal theory can be applied in a particular society and whether specific legal rules are complied with by the holders of roles in social life.[30]

G. Conclusion

Legal research is a scientific activity based on specific methods, systematics, and ideas to study a symptom imposed by a rule or law. The way to do this is by analysing the law or checking the facts of the law before solving problems that arise in a law that you want to examine. A target object exists in legal research. The real object of the study of law is norms, not attitudes or human behaviour. These can take the form of criminal law, civil law, state administrative law, constitutional law, customary law, and Islamic law. In addition, objects of legal research can also be in the form of legal subjects, rights and obligations, legal events, and legal relations.

In addition, the scope of legal research is similar to the object of legal study, namely, carrying out various activities in the field of law means implementing the actions he takes, such as actions and application of the law. Legal work involves solving problems and returning decisions. Thus, this legal research study is also inseparable from the methodology of science in which the two are mutually sustainable with one another.

Thus, we arrange this paper. Hopefully, what we have described above is about "Law and Legal Research." This study has many shortcomings, including a lack of data sources and a need for correlation in understanding Legal Research Methodology. We realise that, like ordinary people, we are not free from mistakes. Therefore, we hope for constructive criticism and suggestions for improving the paper. Hopefully, this paper will be helpful for a scholar on research methodology.

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