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Legal Research in Indonesia: Are We Not All Things ?

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Abstrak

Penelitian ini menganalisis bagaimana seharusnya peneliti hukum memandang dikotomi penelitian hukum di Republik Indonesia. Penelitian ini menganalisis sejumlah literatur terkait penelitian hukum di Republik Indonesia. Analisis menunjukkan adanya dikotomi antara penelitian hukum doktrinal dan non-doktrinal. Masing-masing memiliki cara pandang yang berbeda terkait bagaimana seharusnya suatu penelitian dilaksanakan, Penelitian ini menemukan cara pandang seorang peneliti yang seharusnya terhadap dikotomi tersebut. Penelitian bukan hanya sebuah kewajiban. Penelitian merupakan semangat untuk berkontribusi kepada Masyarakat dan ilmu pengetahuan. Oleh karena itu, para peneliti hukum di Indonesia wajib berkontribusi dalam dunia penelitian.

Keywords :

Doctrinal, Non-doctrinal, Perspective, Dichotomy

Abstract

This research analyzes how legal researchers should view the dichotomy of legal research in the Republic of Indonesia. This research examines a number of literatures related to legal research in the Republic of Indonesia. The analysis shows a dichotomy between doctrinal and non-doctrinal legal research. Each has a different perspective on how research should be conducted. This research found the proper perspective of a researcher regarding this dichotomy. Research is not just an obligation. Research is a spirit to contribute to society and knowledge. Therefore, legal researchers in Indonesia are required to contribute to the world of research.

INTRODUCTION

This research shows how the perspective of a researcher should be in addressing the dichotomy of legal research in the Republic of Indonesia. Research is an activity carried out according to scientific methodology to obtain data and information related to understanding natural and/or social phenomena, proving the truth or falsehood of an assumption and/or hypothesis, and drawing scientific conclusions (Regulation of the Minister of Research, Technology, and Higher Education of the Republic of Indonesia Number 36 of 2019, Art. 1). In other words, research is an effort by an individual to understand a phenomenon and prove the truth of their thoughts regarding that phenomenon.

The positive law in force in the Republic of Indonesia requires academics to conduct research. Article 50 number 1 letter (a) of the Law of the Republic of Indonesia Number 11 of 2019 classifies researchers as human resources in Science and Technology. Article 58 of the same law states that human resources in science are obliged to conduct research. However, this research views that research should be an aspiration as well as an obligation. The word aspiration means hope or a goal for success in the future (Indonesian Language Dictionary Editorial Team, 2008).

This research views the advancement of science and technology as a desirable aspiration for every legal researcher in the Republic of Indonesia. The reason is that the advancement of science and technology provides legal utility. Legal utility is one of the three objectives of law besides legal certainty and justice (Afriyanto, 2024). Terminologically, the theory of utilitarianism or legal utility evaluates the goodness of something based on the benefits and advantages it brings (Bakhtiar, 2024). The advancement of science and technology provides benefits to society. For example, COVID-19 vaccination aims to enhance the immune system by producing antibodies (Helmi & Lestari, 2022).

Therefore, research should be an aspiration for legal researchers. Dworkin divides legal research into two types based on its scope (Dworkin, 1973). Broad-style legal research examines how the law should function and its impact on society (Dworkin, 1973). Academic lawyers in the United States pursue this style, studying other fields of knowledge such as psychology, economics, and philosophy (Dworkin, 1973). Meanwhile, limited-style legal research investigates the relationships between legal doctrines and how courts make law in the form of court decisions and regulations (Dworkin, 1973). Therefore, academic lawyers from England emphasize law as the sole concentration for law students (Dworkin, 1973).

Legal research in the Republic of Indonesia recognizes two similar types of research. These types of research are doctrinal legal research and non-doctrinal legal research (Kamar & Rezah, 2020). Doctrinal legal research is research on the law that is conceptualized and developed based on the doctrine adhered to by the conceiver or the developer (Gunardi, 2022). Meanwhile, non-doctrinal legal research adheres to valid concepts and theories based on empirical evidence conducted by observers of legal life (Atikah, 2024). Both have different views on how legal research should be

conducted. Doctrinal legal research examines legal doctrine, whereas non-doctrinal legal research proves the observations of legal researchers.

Legal researchers can assess the type of research that suits them. For example, Dworkin considers legal research in a loose style to be superior compared to legal research in a restricted style (Dworkin, 1973). According to him, the social science theory approach offers new principles in addition to descriptions of previously existing knowledge (Dworkin, 1973). The tendency to choose this type of legal research will lead to a debate. Such a situation occurred in the legal research world of the Republic of Indonesia at the end of the twentieth century. Hartono shows that there was a debate among legal researchers about whether they should use social research methods in order to achieve the highest objectivity in legal research (Hartono, 2006). The situation at that time implied the emergence of a new style in legal research. Some legal researchers in the Republic of Indonesia accepted the new style while others rejected its use.

This research aims to demonstrate how legal researchers should view the dichotomy of legal research in the Republic of Indonesia. The word dichotomy comes from the English term 'dichotomy,' which means to distinguish or contrast two different things (Hidayat, Rama & Mahmud, 2023). In other words, dichotomy refers to two different things. Therefore, this research will present the perspective of legal researchers that should be related to the dichotomy of doctrinal and non-doctrinal legal research. The word perspective has various meanings depending on the context (Hughes, 2005). Thus, perspective is a person's point of view in assessing a phenomenon.

METHODS

This research is classified as doctrinal legal research. Normative or doctrinal legal research examines law as a complete system encompassing a set of principles, norms, and legal rules, whether written or unwritten (Baro, 2017). This study takes legal norms such as Article 58 of the Law of the Republic of Indonesia Number 11 of 2019 as the central focus of its analysis. This doctrinal research is descriptive in nature because it aims to study legal research phenomena in the Republic of Indonesia as accurately as possible. Descriptive legal research intends to provide data as accurately as possible related to a phenomenon (Soekanto, 1986).

The data collection tool for this research is a literature study. The literature study collects data by analysing the content of documents, or content analysis (Soekanto, 1986). This research conducts a literature study on primary legal materials in the form of legislation, such as the Laws of the Republic of Indonesia Number 11 of 2019 (Soekanto & Mamudji, 2015). In addition, the literature study is also carried out on secondary legal materials in the form of journal articles related to legal research methods and the *Black Law Dictionary* by Black (Soekanto & Mamudji, 2015). The aim is to examine how a researcher should address the dichotomy of doctrinal and non-doctrinal legal research in the Republic of Indonesia.

After explaining the background, the next section explains the research methods and systematics. In addition, this section will analyze several previous studies. The aim is to identify gaps in previous research (Wibisana, 2023). Thus, this research can offer novelties that have not been examined by various previous studies (Wibisana, 2023). Simatupang examines the phenomenon of bias in doctrinal and non-doctrinal legal research as well as its development among legal practitioners and academics (Simatupang, 2011). Indraswara argues that the choice of method should not be based on doctrinal dogmatism but rather determined by the research objectives (Indraswara, 2025).

Wiraguna explains the advantages and disadvantages of each normative and empirical legal research approach (Wiraguna, 2024). Benuf and Azhar explain the types of legal research to address various contemporary issues in the Republic of Indonesia (Benuf and Azhar, 2020). Yanova, Komarudin, and Hadi explain legal research methods as tools to solve very complex legal problems (Yanova, Komarudin, and Hadi, 2023). Hakim explains the phenomenon of the shift in orientation of legal researchers from doctrinal legal research to socio-legal research (Hakim, 2016). Muhdlor explains that the development of legal research methodology generates theories about the existence and function of law in society (Muhdlor, 2012). However, various previous studies have not shown legal research as an aspiration for researchers. This analysis constitutes the novelty of this research to close the gap from several previous studies.

The third section explains the dichotomy of doctrinal and non-doctrinal legal research in the Republic of Indonesia. This section analyzes relevant literature to clarify the differences between the two types of legal research. The fourth section presents the debates among legal researchers, who each prefer a particular type of legal research. The fifth section explains how legal researchers should view this dichotomy. In response to the differences in types of legal research methods, this section will provide the perspective that should be adopted by legal researchers in the country. The sixth section concludes this study with several conclusions.

RESULT AND DISCUSSION

Dichotomy of Doctrinal and Nondoctrinal Legal Research

This study explains the dichotomy of doctrinal and non-doctrinal legal research in the Republic of Indonesia. The term "dichotomy" refers to the classification of two things or situations that are considered different from one another. According to Wilson, dichotomization is a human trait based on their dyadic instinct to classify two things as separate parts (Kowalski & Mrdjenovich, 2016). In other words, a dichotomy means the classification of two different things.

The phenomenon of dichotomy also occurs in the field of legal research. Dworkin identifies two types of legal research. Legal research in a broad style allows the use of social sciences, including social research methods (Dworkin, 1973). Meanwhile, legal research in a limited style restricts researchers to making law the

centrepiece of their research (Dworkin, 1973). However, legal researchers in the Republic of Indonesia do not use the term that Dworkin uses. They already have several terms to distinguish the two types of legal research in the country. One of them is normative legal research and empirical legal research (Mamudji, 2005). Soekanto and Mamudji divide legal research into two types, namely normative and empirical legal research (Soekanto & Mamudji, 2015).

Normative legal research, which is known as normative legal research in English and normatief juridisch onderzoek in Dutch (Muhaimin, 2020). Normative legal research examines library materials (Nugroho, Haryani & Farkhani, 2020). However, in essence, normative legal research does not only stop at examining library materials alone. Normative legal research also studies the system of norms or rules (Fajar & Achmad, 2010). Therefore, the focus of normative legal researchers' studies is on norms in order to provide an argument whether an event is right or wrong according to the applicable law (Fajar & Achmad, 2010). Types of normative legal research include research to derive legal principles, legal systems, the level of synchronization of legislation, comparative law, and legal history (Mamudji, 2005).

Research to derive legal principles, whether of a constitutive or regulative nature (Soekanto & Mamudji, 2015). This research is different from research on the basic systematic understanding of law (Mamudji, 2005). Each type of normative legal research has its own distinctive characteristics that differentiate it from other types. For example, research on the level of synchronization of legislation can be vertical or horizontal (Soekanto & Mamudji, 2015). Therefore, its object can be two or more laws and regulations that are of equal rank or different levels (Soekanto & Mamudji, 2015).

Even comparative legal research is different from legal history research. Comparative legal research aims to analyze various similarities and differences between two or more laws originating from different legal families, as well as several factors underlying these similarities and differences (Qamar, 2010). Meanwhile, legal history research aims to analyze the relationship between legal events chronologically with existing social phenomena (Mamudji, 2005). Thus, the two differ based on the purpose of the research conducted.

Empirical legal research, or "*empirisch juridisch onderzoek*," is legal research intended to study how law works in society (Muhaimin, 2020). The focus of empirical legal science is the distinction between facts and norms or the differentiation between decisions that are explanatory (descriptive) and those that are prescriptive (Sidharta, 2013). Occasionally, empirical legal research is equated with sociological legal research and socio-legal research (Sidharta, 2013). Mamudji refers to empirical legal research as the same as socio-legal research (Mamudji, 2005). Both are divided into research to identify unwritten customary legal norms and to study how legal awareness and the implementation of law occur in the relevant society (Mamudji, 2005).

In fact, socio-legal research is different from empirical legal research. According to Irianto, socio-legal research, or socio-legal studies, is an approach that has the characteristic of being interdisciplinary between law and social sciences (Irianto, 2012).

The word 'interdisciplinary' in the previous sentence refers to the nature of the socio-legal research approach that combines knowledge and methods from different disciplines, namely the legal approach with approaches from other disciplines, in order to understand a legal issue (Rositawati, 2022). Therefore, socio-legal research differs from empirical legal research because of its interdisciplinary nature between law and social sciences. The interdisciplinary nature is not necessarily found in empirical legal research, which focuses on the effectiveness of the law (Nugroho, Haryani & Farkhani, 2020).

In addition to using the terms "empirical" and "normative" legal research, legal researchers in the Republic of Indonesia also distinguish legal research into doctrinal legal research and non-doctrinal legal research. Arnio defines doctrinal legal research as one of the oldest disciplines of legal science that traditionally must produce information about the law and make legal norms more systematic (Arnio, 2011). According to him, the focus of doctrinal legal research is information and legal norms.

Doctrinal legal research is also conceptualized and developed based on the doctrines adhered to by the conceptor or its developer (Irianto & Shidarta, 2017). The term "doctrine" refers to the thoughts of renowned experts that can serve as a source of law (Kansil & Kansil, 2017). Various thoughts or opinions of prominent legal experts are often cited by judges in determining matters that form the basis of their decisions (Kansil & Kansil, 2017). This is what allows doctrine to be recognized as one of the sources of law (Fardiansyah, 2023). Thus, doctrinal legal research starts from a perspective embraced by prominent legal scholars, and the strength of the researcher in doctrinal legal research lies in their analysis to test a legal norm or doctrine against existing facts in order to see the relationship between how far the legal answer addresses the legal event (Muhdar, 2019).

Meanwhile, non-doctrinal legal research is not like that because this type of research places the results of observations from various social realities as general propositions in order to find patterns of relationships or constancy between the relationships of various phenomena that manifest the presence of law in society (Irianto & Shidarta, 2017). The object of study of non-doctrinal legal research is not abstract like in doctrinal legal research. The object of study is the phenomena that arise in social life (Angkasa, 2011). Therefore, non-doctrinal legal research differs from doctrinal legal research in terms of its object of study, which prioritizes observation of social facts that have occurred.

Debate Among Legal Researchers: Two Camps of Legal Research, Doctrinal and Non-Doctrinal

The previous section has explained the dichotomy of doctrinal and non-doctrinal legal research in the Republic of Indonesia. This section highlights the debate among legal researchers in the Republic of Indonesia regarding their chosen research methods. A researcher is someone whose main task is to research and/or develop science and technology (Herman, 2024). Therefore, researchers are classified as legal

subjects. Legal subjects are humans and legal entities as bearers of rights and obligations (Rafidah & Nurrachman, 2024).

As legal subjects, humans have will and make decisions freely (Putra, 2022). Therefore, researchers in the Republic of Indonesia have free will to choose the type of legal research. Hartono explains the debate among legal researchers in the Republic of Indonesia at the end of the twentieth century regarding the use of social research methods in order to achieve the highest objectivity in legal research (Hartono, 2006). Some researchers accept the use of social sciences while others reject it (Hartono, 2006).

This research evaluates the idea that the specific characteristics of the field of law have led some legal researchers to reject the use of social science methods. They argue that the specific characteristics of the field of law should distinguish legal research from social science research. The word 'should' in the previous sentence refers to the normative nature of law. "Normative" means evaluating the applicable law (Zaini, 2011). This normative character makes law a distinct or sui generis type of science (Jamin, 2017).

Brotosusilo emphasized that research within the realm of legal discipline has at least five characteristics (Brotosusilo, 1994). First, legal science must show how the law should apply in society (Brotosusilo, 1994). Second, legal science must be prescriptive (Brotosusilo, 1994). The term "prescriptive" refers to what ought to be or ought to (Marzuki, 2014). Thus, the term "prescriptive" means guiding in providing advice regarding how a person should behave according to the applicable legal norms (Marzuki, 2014). According to Mertokusumo, there are two ways to view the law, namely the law as it ought to be (*das sollen*) and as it actually is or *das sein* (Mertokusumo, 2016).

Third, legal research should conclude problem-solving based on the relationship between legal norms and the legal facts that occur (Brotosusilo, 1994). Fourth, legal science should explain various key concepts in legal science, such as legal subjects (Brotosusilo, 1994). The fifth characteristic is showing the various existences of law according to antinomic values, ranging from the most abstract to the most concrete in the form of legal actions (Brotosusilo, 1994). These various characteristics differentiate legal science from other disciplines. As a result, there is a rejection of the use of social science in legal research. For example, Marzuki argues that socio-legal research is not legal research (Marzuki, 2014).

On the other hand, Irianto considers that there is a common methodological problem for legal scholars who deal with or study "other laws" (Irianto, 2025). According to Irianto, they find it difficult to liberate themselves to listen, see, and understand the perspectives of community members in understanding law and justice (Irianto, 2025). They set the standards of state law for the law that lives in the field based on the black letter of law framework, which is attached to various legal positivism terminologies (Irianto, 2025). There are even researchers who make recommendations or ideal models in their writings, suggesting that the government create regional regulations in the name of customary law, but using state law

terminology (Irianto, 2025). According to Irianto, this is quite confusing especially when they also claim to use a socio-legal studies approach (Irianto, 2025).

Simatupang explains the reasons for the phenomenon of favouritism towards one type of legal research in the country. According to him, the choice between doctrinal or non-doctrinal legal research is greatly influenced by two factors: the logical consequences of the problem being studied and the subjective 'bias' of the researcher themselves (Simatupang, 2011). For example, academics and universities feel it is suitable to apply doctrinal legal research. The reason is that the concept of legal science can be perceived as norms derived from a system of values and principles (Simatupang, 2011). In addition, another reason is that doctrinal legal research can be said to be specific and is only known within the field of legal science (Simatupang, 2011).

What is Ought?

This research not only aims to explain the dichotomy and debate between the two types of legal research. This research also explains how legal researchers in the Republic of Indonesia should respond to these differences. Therefore, this research explains the perspective that should be adopted by legal researchers in the Republic of Indonesia. This research argues that researchers should understand the differences between the two types of research. Essentially, the difference between them is important. The function of this distinction is to help legal researchers choose the type of legal research that answers various research questions. Therefore, legal researchers must understand the difference between doctrinal and non-doctrinal legal research. This includes the differences between normative legal research, empirical research, and socio-legal research.

This research does not intend to encourage legal researchers to hastily evaluate one type of research as superior to another. For example, legal researchers should not rush to conclude that legal research in Dworkin's limited style is suitable to be applied in Indonesia. This type of legal research in the limited style is not appropriate for implementation by legal researchers in the Republic of Indonesia. The reason is that the limited style explicitly states that law is made by courts in the form of various court decisions and regulations (Dworkin, 1973). This characteristic is commonly found in countries with law originating from the common law family (Darmabrata, 2006). An example is America, where Dworkin comes from (Fallon, 2013).

In countries like the United States, whose legal family is the common law family, the purpose of the law is to resolve individual problems (Sardjono & Hasbullah, 2003). Thus, the law of countries originating from the Common Law family comes from the decisions of various judicial bodies that recognize, affirm, and apply customs in society (Kusumohamidjojo, 2019). This is the foundation for why, in his journal article entitled *Legal Research*, Dworkin stated that according to legal researchers in England with their limited style, law comes from court decisions (Dworkin, 1973).

Meanwhile, the Republic of Indonesia is a country whose law originates from the Roman-Germanic legal family, or civil law (Suherman, 2012). Therefore, for legal researchers in the Republic of Indonesia, law is a norm that is contained in statutory provisions (Kusumohamidjojo, 2019). Law according to legal researchers in England with a limited style is different from law according to legal researchers in Indonesia. Therefore, legal researchers should not hastily assess whether that limited style research is suitable to be applied in conducting legal research in Indonesia.

This research agrees with Indraswara that the choice of method should not be based on doctrinal school dogmatism but rather determined by the research objectives (Indraswara, 2025). The term "method" comes from the Greek word "*methodos*," which means "way" or "path" (Simbolon, 2025). Scientifically, "method" refers to the working procedure used to understand the object of study (Simbolon, 2025). In other words, the method is not the goal but a tool to achieve the goal.

This study views that researchers should see legal research as an aspiration and not merely a legal obligation. The meaning of the word "aspiration" is hope or a goal for success in the future (Editorial Team of the Indonesian Language Dictionary, 2008). As explained in the introduction section, the aspiration of a legal researcher should be to provide legal benefits through their research results. In addition, legal researchers must also conduct research to fulfil the law in written form. Sidharta describes research as a means of fulfilling the law in writing to understand the law intellectually (Sidharta, 2013). Therefore, the perspective that a legal researcher should hold is to fulfil legal knowledge in writing in order to provide positive benefits to society through their research results.

In order to realize these aspirations, a researcher should deeply understand the two types of legal research in the Republic of Indonesia. Legal researchers in the Republic of Indonesia should strive to master both doctrinal and non-doctrinal research. Thus, their efforts to pursue legal knowledge in writing can provide benefits through their research results to the community. Therefore, researchers should view research as an aspiration rather than a legal obligation under the provisions of Article 58 of the Law of the Republic of Indonesia Number 11 of 2019.

This research agrees with Dworkin. Implicitly, Dworkin expresses his support for the development and use of legal research in a free style by legal practitioners in the United States. Dworkin encourages lawyers, as practical philosophers, to be sensitive to the fact that social science may provide concepts that they need to understand and use (Dworkin, 1973). This statement is Dworkin's recommendation for social sciences to be more utilized by legal researchers so that they can answer various questions or problems in their research that can only be addressed by social sciences.

For example, efforts to explain the causes of conflicts between religious groups or between ethnic groups in a region of the Republic of Indonesia require theories regarding the causes of conflict. Other branches of science provide these theories. One of them is the branch of sociology and anthropology. An example is Tajfel's social identity theory, which explains the cause of conflict as the tendency of every individual

to categorize and identify similarities and differences between themselves and others, thereby creating the concept of in-group and out-group as triggers for the emergence of conflict (Hogg, Terry & White, 1995).

The causes of the conflict cannot be explained by legal science alone. Therefore, legal research requires assistance from other scientific disciplines. In order for legal practitioners and researchers to help resolve conflicts, they need to understand and use the theories of conflict causes provided by the branches of sociology and anthropology. Thus, Dworkin's recommendation that legal researchers in the United States be more enthusiastic in trying to understand and use various social science concepts they have studied is good advice for legal researchers to follow.

This research found that legal researchers in the Republic of Indonesia need to apply Dworkin's recommendations. Legal knowledge continues to develop along with the progress of society (Ratnapala, 2009). An interdisciplinary approach from socio-legal studies is expected to serve as a means for legal researchers to address various types of problems that cannot be explained by the legal discipline (Irianto, 2012). For example, researchers need an interdisciplinary approach combining law and psychology to explain why a perpetrator who suffers from bipolar disorder commits a murder (Carson & Bull, 2003). The discipline of psychology contains various knowledge related to personality disorders and their relationship with deviant behaviour in the form of criminal acts committed (Kapardis, 2003). Therefore, the discipline of psychology can provide answers to the reasons behind the perpetrator's actions.

This research intends to encourage legal researchers to embrace the aspiration of providing the greatest possible benefit through research. Therefore, this research will quote Bukowski's opinion. In his book titled *Post Office*, Bukowski stated that he wanted the whole world or nothing at all, or 'I want the world or nothing' (Bukowski, 1971). The purpose of this quotation is to broaden the perspective of legal researchers, suggesting that they should provide as much positive benefit as possible through their research results. Therefore, legal researchers need to master doctrinal legal analysis methods in order to develop or improve legal structures (Dworkin, 1973). In addition, legal researchers must also be sensitive to the fact that social sciences offer various concepts that they need to understand and apply (Dworkin, 1973).

CONCLUSION

The closing section aims to conclude this research with several conclusions. First, there is a dichotomy of legal research in the Republic of Indonesia. Various terms describe the differences between the two types of research in Indonesia. These terms include doctrinal and non-doctrinal legal research, normative and empirical legal research, and legal research with free and limited styles. Each has a different perspective on how legal research should be conducted. One of them is the use of social science in legal research.

Secondly, the differences in legal research encourage legal researchers to debate which type of legal research is appropriate. Some believe that doctrinal legal research is the appropriate type of legal research. The reason is that doctrinal legal research reflects the characteristics of the legal discipline that specifically distinguish it from other fields of study. Meanwhile, some legal researchers actually support the interdisciplinary nature of non-doctrinal legal research.

Third, this research argues that legal researchers should not consider one method superior to other legal research methods. This study assesses that legal researchers in the Republic of Indonesia should view research as an aspiration and not merely a legal obligation according to the provisions of Article 58 of the Law of the Republic of Indonesia Number 11 of 2019. Researchers must have the aspiration to pursue legal knowledge in writing in order to provide legal benefits through research results. To realize this aspiration, they must deeply understand the differences between doctrinal and non-doctrinal legal research. Therefore, they are able to provide the greatest possible legal benefits to society.

This research provides theoretical benefits in the form of additions to the science of legal research methods in Indonesia. In addition, this research also provides practical benefits in the form of perspectives that should be possessed by legal researchers in the Republic of Indonesia: an aspiration to provide legal usefulness through research results.

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