

Legal Research Method: Theoretical and Implementative Review

Achmad Irwan Hamzani^{1*}, Tiyas Vika Widyastuti², Nur Khasanah³, Mohd Hazmi Mohd Rusli⁴

¹Faculty of Law, Universitas Pancasila Tegal, Indonesia

²Faculty of Law, Universitas Pancasila Tegal, Indonesia

³Universitas Islam Negeri K.H. Abdurrahman Wahid Pekalongan, Indonesia

⁴Faculty Syariah and Law, Universiti Sains Islam Malaysia, Malaysia

*Corresponding author: Al Hamzani, al.hamzani@upstegal.ac.id

Abstract: Legal research has methods like research in general. The process of legal research is adjusted to the legal events that occur. Legal research can be seen from various aspects. The purpose of writing this article is to describe the types, approaches, research data, data collection techniques, and data analysis methods in legal research. This research uses a conceptual approach which is still within the scope of the normative approach because it only examines the opinions that develop in the research method. The results of this study indicate that the type of legal research is divided into field research using primary data and library research using secondary data. Approaches in legal research are divided into normative, empirical, and philosophical approaches. Data in legal research is grouped into primary data which is obtained directly, and secondary data which is referred to as legal material. Data collection techniques depend on the type of research and data; Primary data was collected through observation, interviews, questionnaires, participation, and experimentation. Secondary data was obtained through offline and online searches. Methods of data analysis can be done qualitatively and quantitatively. Qualitative data analysis used content analysis, narrative analysis, discourse analysis, and interactive analysis methods. Quantitative data analysis using descriptive analysis method and inferential analysis method.

Keywords: Legal Research; Approach; Philosophical; Online; Interactive

1. INTRODUCTION

Legal research has methods, procedures, or systematic stages or what is commonly called a method. The use of appropriate and consistent research methods will determine the quality of research results. The choice of method to be used will show whether the research is worthy of being accepted or continued or not (Rob, et al., 2019). Legal research activities are adjusted to the legal events that occurred later given the legal basis as reinforcement. Legal research is carried out as an attempt to solve legal problems with various kinds of legal principles to explain so that they develop to give rise to new rules. The results of legal research can be used as a reference in the development of legal principles as well as in the formation of laws and their application (Jens & Michael., 2020).

As with research in general, legal research can be seen from various aspects. There is literature research and field research when viewed from a species perspective. Likewise, in terms of approach, data used data collection techniques to data analysis methods.

Researchers must be able to distinguish the choices of methods used so that the problems to be discussed can be answered according to the target. Sometimes there is a discrepancy in determining the choice of method used. Errors in choosing a method can be fatal, or at least it is difficult to justify the results scientifically (Ylona, et al., 2019). Legal research activities such as research in general as an activity to answer problems. Legal research is carried out by scholars and experts to discuss a problem scientifically according to needs. Research activities need time to get maximum and accurate results.

Research is also intended to construct a phenomenon methodologically so that it requires an appropriate method. Consistency and adherence to principles are also very necessary. Research as a scientific activity is based on certain methods, systematics, and thoughts aimed at studying one or several symptoms. If the object is law, research activities are intended to describe, study or analyze symptoms of legal problems. The results will be subject to a detailed examination of legal facts (Ani., 2020). Methodologically, there are similarities as well as differences with other research objects.

2. METHODS

This research is a type of library research because it only uses secondary data in the form of legal documents. The approach used in this study is a conceptual approach which is still within the scope of the normative approach. A conceptual approach is an approach with a perspective from the doctrine and views of experts. This research uses a conceptual approach because it examines the views that develop in research methods. Data collection techniques are carried out through conventional and online searches. The data analysis method used is qualitative. Qualitative data analysis is the process of organizing and sorting data into patterns, categories, and basic descriptive units so that themes can be found and presented in narrative form. This study uses qualitative data analysis because the data will be presented in a narrative-descriptive manner, not in the form of numbers or numbers.

3. RESULTS AND DISCUSSION

3.1. Types of Research in Legal Research

Broadly speaking, the types of legal research can be grouped based on the type of data. There are two types of legal research, namely field research, and library research. This grouping is based on the data obtained and used as the main data. Field research in legal research is research that uses primary data obtained directly by researchers from research objects or locations. Field research is conducted at a location chosen to research a legal issue. Primary data in question is data obtained directly by researchers, not yet available or not provided by other parties.

Many definitions of field research have been formulated by experts. For example, Moeleong defines field research as research that is considered a broad approach or as a method for collecting data. Researchers go to the field to make observations about a phenomenon in a natural state. Field research usually takes extensive field notes which are then coded and analyzed in a variety of ways (Moeleong., 2018).

Some define that field research as research activities directly to research sites to obtain and collect data (Snyder., 2019). In summary, field research in legal research is a type of research that uses primary data because the data is obtained by the researcher directly. Field research places have an attachment to the problem to be studied.

Meanwhile, library research in legal research is research that only uses secondary data in the form of documents or library materials. The documents in question are several references which can be in the form of books, journal articles, magazines, newspapers, laws and regulations, contracts, cooperation agreements, notes, or research reports from previous studies. The presentation of data in this type of literature research is generally qualitative.

Many definitions have been formulated by experts in library research. Mardalis defines library research as a study that is used to collect information and data with the help of various materials in the library such as documents, books, magazines, historical stories, and so on. Library research is a study that examines various reference books as well as the results of similar previous studies which are useful for obtaining a theoretical basis for the problem to be studied (Sari., 2021).

Another definition states that library research is a data collection technique by conducting a review of books, literature, records, and various reports relating to the problem to be solved. Literature research is a theoretical study, references, and other scientific literature related to culture, values, and norms that develop in the social situation under study (Sloan., 2021). In summary, library research in legal research is a type of research that uses secondary data because the data has been provided by other parties. Field research does not require a place as a research object to be visited, and research can be done behind the desk (research desk).

3.2. Approaches to Legal Research

Broadly speaking, the research approach is the whole way or activity in a study to assess a problem. Specifically, the research approach is a way of assessing research problems using a certain perspective (Kaur, et al., 2017). The approach in legal research means the use of perspective in assessing a phenomenon as a problem in legal research. That is, what is used as a benchmark for assessing a problem is to use of a legal perspective.

The approaches that can be used in legal research are broadly divided into three approaches with all their variants. The three approaches are a normative approach, an empirical approach, and a philosophical approach. The selection of one of the approaches used will describe the level and objectives of the research.

3.2.1. Normative Approach

The normative approach in legal research is to review or view legal issues from a legal-formal or normative point of view. A legal-formal review will lead to whether or not it is permissible based on applicable laws and regulations or positive law. Normative is all the doctrines contained in laws and regulations that are imperative (Taekema, 2018). The normative approach can include five approaches, namely:

a. Statute Approach

A statute approach is a research approach that is carried out by conducting a study of laws and regulations that are related to the legal issues that are being examined. The researcher will look for the legal ratio and the ontological basis for the birth of the law so that the researcher can understand the content of the law and be able to conclude whether there is a clash of *solen* with *sein*. Furthermore, the researcher will be able to find out whether the new laws and regulations contain the provisions needed for the situation at hand or vice versa (Rossi., 2019).

b. Case Approach

A case approach is an approach by examining cases related to the legal issues at hand. The case in question is a case that has become a court decision that has permanent force or *inkracht*. The main study in the case approach is the judge's *ratio decidendi* or reasoning to arrive at a decision (Rossi., 2019).

c. Historical Approach

A historical approach is an approach by examining the background of the things studied and the development of arrangements regarding the issues at hand. Historical analysis is needed when researchers want to uncover the philosophy and mindset that gave birth to the issue being studied. Legal research with a historical approach will be needed if the researcher considers the philosophical expression and mindset of something that is studied when the issue is indeed relevant to the present (Holden., 2020).

d. Comparative Approach

A comparative approach is an approach by comparing the law in a country with other countries, or one area of law with another field of law. Researchers can compare a regulation with other regulations, or one decision with another decision for the same case between countries or within one country. The function of legal research with a comparative approach is to find similarities and differences. Furthermore, these differences are to answer the issue between the provisions of the law and the philosophy that gave birth to the law (Ali., 2020).

e. Conceptual Approach

A conceptual approach is an approach with a perspective from the doctrines and views that have developed in the science of law. With a conceptual approach, researchers will find ideas that can then generate legal understanding, legal concepts, and legal principles that are relevant to the case under study based on the views of

existing legal experts as well as the views of the researchers themselves. The understanding that emerges will become the basis for researchers to build legal arguments so that researchers will be able to solve the legal issues being studied (Gstrein & Anne., 2022).

3.2.2. Empirical Approach

The empirical approach in legal research is to view or review legal issues as a cultural reality. Unlike the normative approach which sees a legal-formal phenomenon that boils down to "may or may not", but will be viewed as an empirical fact of human behavior in society. The empirical approach also has a non-doctrinal character because it is field research. Researchers will obtain facts from the order in society as a social reality (Nurhayati, et al., 2021). The research results will not provide a statement that the phenomenon under study is right or wrong based on laws and regulations or a certain perspective. The empirical approach can include three or more approaches, namely:

a. Sociological Approach

A sociological approach is an approach to looking at a state of society that is equipped with a structure or description of social phenomena that are interconnected (Jovanoski & Aqron., 2021). Sociology can be used as an approach to researching a legal practice from religion or tradition. Because religious law and tradition have something to do with society in its implementation.

b. Phenomenological Approach

A phenomenological approach is an approach to understanding or studying human life experiences. For research with a phenomenological approach to have high standard values and results, it must pay attention to the characteristics that surround it (Loidolt, 2021). The phenomenological approach refers to reality, understanding the meaning of events and their relation to people who are in certain situations.

c. Anthropological Approach

An anthropological approach is a comprehensive approach to humans by studying various types of humans and also studying aspects of human experience (Ledvinka., 2020) . The method used is a holistic method. The problems studied are positioned in the context of the totality of the culture of society.

3.2.3 Philosophical Approach

The philosophical approach in legal research is to look at or review the problem from an ideal side which aims to explain the essence, essence, or wisdom about something that is behind the formal object of the law. Research with a philosophical approach is an attempt to explain what is behind something that appears. Applicatively, a philosophical approach is an approach that focuses on studying how to view the law as a set of abstract ideas and moral ideas about justice (Widiyono & Md Zubair., 2022).

The philosophical approach is used when the researcher sees the phenomenon or problem under study as an ideal reality that can be used as a consideration for legal formulations. The legal phenomenon under study is positioned as *ius constituendum* (ideal law to come). Legal problems are seen from a philosophical perspective and try to offer solutions and problem-solving with analytical-critical and speculative-analytic methods (Widiyono & Md Zubair., 2022).

Ideally, a philosophical approach is intended so that provisions containing doctrines can be understood and studied in depth, and comprehensively reveal the essence within them. Researchers will not be trapped in formalistic experiences, namely, the law has no meaning or is empty without meaning. The position of a philosophical approach to studying law has an important position (Taekema., 2021).

By using a philosophical approach a person will be able to give meaning to something he encounters and be able to capture the wisdom and teachings contained therein. In this way when the law is applied, there is a meaning behind it. The more one can explore the philosophical meaning of a law, the more one's attitude, appreciation, and binding power will increase (Taekema., 2021).

Through a philosophical approach, one will not be trapped in formalistic laws. The philosophical approach also does not mean denying or underestimating formal forms of law. Philosophy studies the inner aspect which is esoteric, while form focuses on the outer aspect which is exoteric.

3.3. Data in Legal Research

The data used in legal research is like research in general, namely primary data and secondary data. Primary data is data obtained by researchers directly by researchers. Researchers to obtain primary data must directly retrieve data from the source. Primary data that has been successfully collected by researchers can be in the form of numerical data (which is processed by quantitative methods) and non-numeric data (which is processed by qualitative methods) (Budianto, 2022).

While secondary data is data that is not obtained directly but has been provided by other parties which are generally in the form of documents. Secondary data is associated with legal research and normative/doctrinal research. Documents in legal research are commonly referred to as legal materials which can be grouped into primary legal materials, secondary legal materials, and tertiary legal materials.

3.3.1. Primary Legal Materials

Primary legal material is the main legal material that is authoritative or has authority and is binding. Primary legal materials consist of legislation, judge's decisions, contracts, or legal sources that are used as references (Marzuki., 2017). In other words, primary legal materials are all official documents that contain legal provisions.

3.3.2. Secondary Legal Materials

Secondary legal materials are legal materials that are not legally binding but can provide an explanation of primary legal materials. Secondary legal material sometimes serves as an explanation of primary legal material, for example, academic texts, or legal doctrine (expert opinion on law) contained in books or journal articles (Marzuki., 2017). All publications about law or writing, in general, are also referred to as secondary legal material.

3.3.3. Tertiary Legal Materials

Tertiary legal materials are legal materials that provide instructions and explanations of primary and secondary legal materials. Tertiary legal materials can be in the form of encyclopedias, and dictionaries both related to law and in general (Marzuki., 2017). Sometimes tertiary legal materials can also be included in secondary legal materials.

3.4. Data Collection Technique

Data collection techniques in legal research depend on the type of research and the data. Legal research with the type of field research with primary data, data can be collected through observation, interviews, questionnaires, participation, or experimentation. Field research also still requires secondary data, but not primary data.

3.4.1. Observation

Observation is reviewing or observing a place, situation or person to find out both ordinary and unusual things. The results of observations are outlined in a report. Observations can be made systematically about what is observed. So that the observation does not contain bias, the researcher must make a plan in advance of what will

be observed, grouping based on the priority scale of what is observed accurately, and which is only as support (Pryce, et al., 2021).

3.4.2. Interview

The interview is a conversation between two or more people conducted by the interviewer with the resource person. Interviews are also a form of oral communication that is carried out in a structured manner by two or more people, either directly or remotely. Interviews can be conducted in a structured (formal) and free (informal) manner. According to Moleong, the interview is a conversation with certain goals using the method (Döringer., 2021). Researchers and respondents face to face (face to face) to obtain information verbally to obtain data that can explain research problems.

3.4.3. Questionnaire

The questionnaire (questionnaire) is several questions whose answers have been provided. Collecting data through a questionnaire by giving a set of questions to respondents to answer. Research using questionnaires is the same as survey research which is a form of activity that has become a habit in the community (Adiyanta., 2019). Survey research is commonly used for exploratory, descriptive, and explanatory (explanatory or confirmatory), namely explaining causal relationships and hypothesis testing, evaluating, and predicting certain events in the future.

3.4.4. Participation

Participation is a special form of interaction and communication related to the distribution of authority, responsibility, and benefits. By collecting data through participation, researchers will become part of the research so that it can be referred to as Participation Action Research (PAR). Participation can be done directly and indirectly. Direct participation is participation that occurs when individuals display certain activities in the participation process. Indirect participation is participation that occurs when individuals delegate their participation rights (Aithal & P.S. Aithal., 2020).

While legal research with the type of library research with secondary data as the main data, can be obtained in two ways; offline and online.

3.4.1. Offline Data Search

Offline data tracking is a secondary data collection method by coming directly to the location where the secondary data is stored or termed offline (outside the network). Researchers can come directly to the library, buy books, attend scientific activities such as seminars directly, or private reference collections (Wanyama., et al., 2022). Currently, offline data collection is rarely done, because secondary data is generally available on the website.

3.4.2. Online Data Search

Searching for data online is a method of searching research data on the internet or in terms of online (in the network). Online secondary data collection, for example, collects electronic book (ebook) data, electronic journal articles (Gusenbauer & Neal., 2020), laws and regulations in the form of pdf files, and so on. Electronic books are currently more widely used as references in research because they are easy to obtain and trace their whereabouts so they are valid.

Journals are currently the main reference in research, especially electronic journals. Electronic journals (e-journals) are internet-based journals where the process of preparation, publication, and publication is carried out electronically. Electronic journals are used as primary research references, even more than books. Currently, print journals rarely do not publish. Even a journal will be judged as credible or not if there is an online version.

Meanwhile, statutory files in pdf format can be downloaded from the websites of certain institutions or agencies. A website is a collection of site pages contained in a domain or subdomain that is on the world wide web (www) on the Internet (Laily., 2022). Currently, the website is the most important thing, because almost all researchers use the website to find various reference sources. The website will display various kinds of information that can be accessed by anyone around the world.

3.5. Data Analysis Method

Data analysis is a very important part of the research. In this data analysis stage, the data that has been obtained will be understood or given meaning to discuss the problem. Performing data analysis can be done with two methods depending on the form of the data, namely qualitative and quantitative.

3.5.1. Qualitative Data Analysis

Qualitative data analysis is the process of systematically searching for and compiling data obtained from documents, observations, interviews, or participation so that they can be read and understood. Qualitative data analysis is carried out by organizing data, describing it into units, synthesizing, compiling it into patterns, choosing which ones are important to learn, and making conclusions that can be included in research reports (Saleh., 2017). There are many ways to implement qualitative data analysis, but content analysis and interactive analysis are more relevant for legal research.

a. Content analysis

Content analysis is revealing hidden symbolic meanings in research data. Researchers reveal the content of meaning contained in the legal materials used as references. As a simple example, for example, the researcher has collected a lot of references, of course, it will be very tiring if you have to read all the references one by one (Roller., 2019). With content analysis, researchers will use keywords in each document that has been obtained.

b. Narrative Analysis

Narrative analysis is qualitative data analysis by telling chronologically. If data has a story element in it, it would be better to use narrative analysis. The narrative analysis provides more insight because it has important data that is not only related to context, but also time, place, specifications, and experience, and maybe some suggestions can also be taken into consideration.

c. Discourse Analysis

Discourse analysis is a method of analyzing qualitative data in the form of text, audio, or video to find out the relationship of the text to a context. The discourse analysis method will help to find out the rules or ideas that are trending and get the reasons why this is important (Jacobs., 2019). Discourse analysis makes it easier for researchers to provide suggestions on the problems studied in recommendations.

d. Interactive analysis

The interactive analysis is a qualitative data analysis method that is carried out interactively and continues continuously until completion. This method was formulated by Miles and Huberman (Miles & Huberman., 1994). Currently, this method of data analysis is most relevant for use in legal research. There are three stages in the operationalization of interactive analysis, namely data reduction, data presentation, and conclusion.

1) Data reduction

The first stage in analyzing qualitative data is data reduction. The data reduction stage is the stage of reducing or simplifying the data to suit the needs and of course easy to obtain information. The data obtained from

observations, interviews, questionnaires, participation, or secondary data in the form of documents has a complex shape. All data that has been obtained is then grouped into important, less important, and unimportant data. Only important data is used (Miles & Huberman., 1994). Data becomes simpler, according to research needs, and is considered capable of representing all the data that has been obtained so that it is easier to process to the next stage so that it becomes unanimous, has clear information, and answers a problem.

2) Data presentation

The second stage after completing the reduction stage then enters the data presentation stage. As the name implies, at this stage the researcher can present data that has been reduced or simplified in the previous stage. The form of presentation of the data then varies, which can be presented in the form of graphs, charts, pictograms, and other forms. The data set can be easier to read and understand the information contained in it (Miles & Huberman., 1994). The process of presenting data is needed in qualitative data analysis to be able to present or display data neatly, systematically, arranged in a certain relationship pattern, organized, and so on, so that the data is no longer in the form of raw data but already presents information.

3) Conclusion drawing

The third stage in qualitative data analysis is conclusion drawing. The data that has been compiled and grouped is then presented with a technique or pattern, conclusions can be drawn. This conclusion becomes information that can be presented in the research report and is placed in the closing section, namely in the conclusion section, so that readers of the research report can also find these conclusions. The process of drawing new conclusions can be done when all the varied data is simplified, compiled, or displayed using certain media, only then can it be understood easily.

3.5.2. Quantitative Data Analysis

Quantitative data analysis is a method for analyzing data on certain samples of the population. The sampling technique is generally done randomly (random). Quantitative data can be collected through questionnaires.

Quantitative research seeks to report findings objectively and the role of the researcher is neutral. One method of quantitative analysis that is commonly used is to use statistical methods assisted by data processing software. The steps for processing data quantitatively generally start from coding the data, transferring data to a computer (data entering), ensuring that the input data is correct and appropriate (data clearing), data processing, data presentation (data output), analyzing data (data analyzing) to interpreting data (data interpretation). Quantitative data analysis aims to test hypotheses that have been set or look for causal relationships (Jung., 2019).

Broadly speaking, there are two kinds of quantitative data analysis methods, namely descriptive and inferential methods. Descriptive analysis methods are used to explain certain phenomena and inferential to make predictions. The two methods are interrelated and are used in presenting statistical data.

a. Descriptive Analysis Method

The descriptive quantitative data analysis method is a method that helps describe, show or constructively summarize data. This method refers to statistical descriptions that help understand detailed data by summarizing and finding patterns from certain data samples. Through the sample, the researcher will obtain absolute numbers which do not always explain the motives or reasons behind these numbers, so an inferential method is needed for further analysis (Jung., 2019).

The purpose of the descriptive method is to describe a problem clearly, accurately, and systematically based on the facts in the field. Descriptive statistical methods can be divided into two methods: 1) the Correlational method, which describes the relationship or influence between variables; 2) The comparative method is to compares two or more variables involved in the research.

b. Inferential Analysis Methods

The method of inferential analysis is a method of analyzing quantitative data by converting raw numbers using numerical values and descriptive statistics into meaningful knowledge. The goal is to make predictions of possible outcomes from the data being analyzed. The results will find a relationship between several variables for testing hypotheses that predict differences or changes.

In general, inferential methods include: First, the T-test, which is a method for making average comparisons between two groups and knowing the differences between each other. Second, analysis of variance, namely statistical analysis or testing to determine the extent to which two or more groups differ from each other. This analysis includes parametric statistics and multivariate analysis techniques. Third, regression analysis, processing methods, and quantitative data analysis determine the extent to which certain independent variables affect the dependent variable. Fourth, factor analysis, namely multivariate analysis is a technique of reducing a large number of correlated variables into a small number of factors.

CONCLUSION

Based on the discussion above, it can be concluded that research has methods, procedures, and systematic stages. There are two types of legal research, namely field research using primary data and library research using secondary data. There are three approaches to legal research: a normative approach with a formal legal perspective based on positive law, an empirical approach with a cultural reality perspective, and a philosophical approach with an ideal perspective. Data in legal research is grouped into secondary data, namely data obtained directly by research, and secondary data, namely data that has been provided by other parties in the form of documents. Secondary data in legal research is referred to as legal materials which can be grouped into primary legal materials, secondary legal materials, and tertiary legal materials. Data collection techniques in legal research depend on the type of research and the data. In legal research with primary data, data can be collected through observation, interviews, questionnaires, participation, or experimentation. Secondary data in the form of legal materials can be obtained through offline and online searches. While the method of data analysis in legal research can be done qualitatively and quantitatively. Qualitative data analysis can use content analysis, narrative analysis, discourse analysis, and interactive analysis methods. Quantitative data analysis can use descriptive analysis methods and inferential analysis methods.

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