

Philosophical Approach in Legal Research

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Abstract. *This study discusses the philosophical approach in legal research as a fundamental framework that goes beyond the normative and empirical approaches commonly used in legal studies in Indonesia. This paper is motivated by the dominant tendency of the positivistic approach that ignores the philosophical dimension of law, thus making law merely a technocratic and functional instrument. This research is a normative legal research using a philosophical and conceptual approach. The philosophical approach is used to explore the ontological, epistemological, and axiological aspects of law, while the conceptual approach is used to examine key concepts such as the philosophical approach, legal epistemology, and legal rationality. In this study, the philosophical approach is approached through six forms: metaphysical, epistemological, ethical, logical, hermeneutical, and critical. Each approach is explained in a theoretical framework and its application in the context of legal research. The main findings show that the philosophical approach not only enriches theoretical insights, but also opens up reflective space to understand law as an expression of values, morality, and civility of society. Therefore, the integration of philosophical approaches in legal research methodology is very important in order to develop legal science that is not only normative and empirical, but also critical, ethical, and meaningful. This study also recommends the importance of reformulating legal education to be more sensitive to the philosophical and reflective dimensions, in order to produce graduates who are more critical and contributive to social transformation and legal science.*

Keywords: *Philosophical Approach, Legal Research, Legal Ontology, Legal Epistemology, Justice*

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INTRODUCTION

Muhaimi's article entitled Legal Research Methods, explains in general about the legal research approach in three approaches, namely the normative approach, the empirical approach, the combined normative empirical approach (Muhaimin, 2020). Muhaimin does not specifically explain the philosophical approach in legal research. In line with Muhamin, Nur Solikin explains that the normative approach includes laws, conceptual approaches, case approaches, historical approaches, and comparative approaches and the empirical approach includes sociological, anthropological, and psychological.

Qamar and Rezah's article entitled Research Methods (Doctrinal and Non-Doctrinal) touches on the topic of philosophy in the chapter on layers of knowledge, ontology layers, epistemology layers and axiology layers (Qamar & Rezah, 2020). However, Qamar and Rezah do not describe the three layers of philosophy in the focus of issues on law. Writings that specifically bring law and philosophy closer together in research are rarely found because philosophy in this case is merely a preface to provide a legacy to legal science.

The division of two spaces in legal research begins with the idea that written law inspires positivism and unwritten law inspires empiricism. The two schools of philosophy were born in

the modern era, post-renaissance (Dasgupta et al., 2024). The thesis on Sociological Jurisprudence which emphasizes the influence of norms on social behavior in society and Sociology of Law which emphasizes the influence of social behavior in society on the formation of new laws.

The thoughts of these experts also influenced Raharjo's thoughts on three choices of legal approaches that depend heavily on the researcher's paradigm, namely the choice of law as a value, then using an idealistic approach, the choice of law as a regulation to regulate and be obeyed by society, then using a normative approach, if law is seen as an act of individuals and institutions, then using an empirical approach. The paradigm in legal research that is solely based on the idea of Sociological Jurisprudence which has developed into normativism in doctrinal research, and Sociology of Law which tends towards empiricism in the study of law as a social phenomenon, tends to limit the epistemological and ontological horizons of legal science (Karjoko et al., 2019).

Khuat (2024) said that, the tendency to rely only on these two approaches without deepening more fundamental philosophical paradigms such as hermeneutics, phenomenology, existentialism, and even critical metaphysics, risks making legal science stagnant in the technocratic and functional realm alone. In fact, law is not only related to rules and facts, but also to values, meanings, and orientations of civilization (Nugroho, 2019). The general weakness in almost all universities in Indonesia is the dominance of the dogmatic approach, the lack of in-depth philosophical education, the lack of critical and reflective thinking skills, pragmatism for the sake of practical legal needs.

According to Sebok (1995), these weaknesses also have an impact on the quality of legal research and learning and the results of graduates of legal education, including a lack of criticality and reflection, being trapped in rigid legal positivism, a lack of contribution to legal science and social change. This reality is caused by several reasons, namely: the dominance of the legal positivist approach, legal philosophy is considered abstract and impractical, limited understanding and interest, academic pressure and the need for publication, market needs and the world of work.

If legal academics ignore the study of legal philosophy in the long term, there are several serious threats that could arise, both to the academic world (Probosambodo, 2024), legal practice, and society as a whole, such as the reduction of law to meaningless regulations, weak critical thinking in legal studies, giving birth to laws that are not responsive to social change, a crisis of legal legitimacy and loss of public trust, legal practice solely oriented towards practical and economic interests, the inability to answer complex legal issues, law becoming dogmatic and not open to dialogue between scientific disciplines.

Several legal academics in Indonesia have paid attention to the criticism of the crisis. Rahmatullah in an article entitled "Legal Philosophy of Critical Legal Studies; Concept and Its Actualization in Indonesian Law" (Rahmatullah, 2021). Emphasizes the importance of critical reasoning in understanding the substance of law which is often influenced by political and economic interests. Shidarta in an article entitled "Digital Humanities Multicentrism: Future Legal Philosophy and the Future of Legal Philosophy". Emphasizes the need for adaptation in higher legal education to the phenomenon of digital humanities (Li, 2024).

Manullang in an article entitled "Critique of the Structure of Legal Science According to Paul Scholten" (Manullang, 2019). Manullang discusses the relationship between law and internal contradictions that arise in legal doctrine. Gojali in an article entitled "Legal Philosophy: Actualization of Critical Legal Studies in Indonesia" Gojali opposes the formalism of law and accommodates various thoughts such as Marxism, liberal-radical, and postmodernism, and their relevance in the context of Indonesian law (Gojali, 2022).

This article focuses on the discussion of the application of various philosophies in legal learning and research so that it is more nuanced in the practice of philosophy in legal studies. The explanation is arranged systematically, accompanied by examples of normative practices, case

studies and human social behavior as legal subjects (Čehulić, 2021). Starting from the background in the introduction to this article, the author formulates the objectives and scope of the research as follows: (1) What is the meaning and scope of the philosophical approach in legal research? (2) What are the various applications of the philosophical approach in legal research?

METHODS

The research method used in this study is normative legal research, which is a type of legal research that is based on the study of legal norms, both those written in laws and regulations and in other legal documents. This study does not examine the law as applied in practice (law in action), but rather focuses more on the law as a system of norms (law in books). To explore the topic raised, this study uses two main approaches, namely the philosophical approach and the conceptual approach. The philosophical approach is intended to explore and explore the basic values, fundamental principles, and fundamental questions that are the basis of legal science. This approach places law in the context of philosophical thought, thus producing a deeper understanding of the ontological (the nature of law), epistemological (how to obtain legal knowledge), and axiological (values in law) aspects. The conceptual approach is used to examine and clarify key concepts that are the focus of the study, such as "philosophical approach", "legal epistemology", and "legal rationality". This approach aims to understand how these concepts are formed, used, and interconnected in the structure of legal science. In data collection, this study relies on legal materials, which consist of three categories: (1) Primary legal materials, namely the main sources that form the basis of the analysis, in the form of works of legal philosophy from thinkers such as Hans Kelsen, Gustav Radbruch, and Ronald Dworkin. These books provide a strong theoretical foundation regarding various schools and views of legal philosophy; (2) Secondary legal materials, namely literature that supports primary materials, such as scientific articles, legal journals, academic seminar results, and opinions of relevant experts. This material provides context and interpretation of the thoughts of legal philosophers; (3) Tertiary legal materials, namely sources that provide complementary information such as definitions or classifications, for example philosophical dictionaries, legal encyclopedias, and legal literature indexes. This material is useful for ensuring the accuracy of terms and conceptual understanding. The technique of collecting legal materials is carried out through library research, namely searching for various literature that is relevant to the research topic. This technique allows researchers to access and analyze various legal and philosophical thoughts from various credible and authoritative written sources. Meanwhile, the legal material analysis technique is carried out descriptively-qualitatively, namely by describing and explaining the contents of the legal materials collected systematically, without using statistical calculations. This analysis is combined with a reflective-analytical approach, where researchers not only present data, but also conduct critical reflection and in-depth analysis in order to compile a synthesis of understanding of the philosophical approach in legal science. This approach allows the development of new and in-depth perspectives on the issues discussed, especially regarding the philosophical and conceptual foundations in legal science.

RESULTS AND DISCUSSION

Understanding the Philosophical Approach in Legal Research

According to Halik (2018), approach is one of the important parts in research, it is intended to understand all sides of the research object. The choice of approach model is highly dependent on the researcher's paradigm because it is related to how researchers understand facts, reality, phenomena and other fundamental concepts (Batubara, 2017). Sugiyono said that approach is a way or strategy, Creswell said that approach is a plan and procedure, Lawrence said that approach involves philosophical assumptions and methods or procedures, which involve the intersection of philosophy, research strategies, and certain methods. In line with Lawrence, what a person sees depends on what he sees and also on previous conceptual-visual experiences that have taught him how to see. All of the opinions above, if put together, conclude that the approach

process determines the paradigm for researchers (Prayogi, 2021). Kuhn emphasized that paradigms shape how a person sees reality.

What a person sees depends on what he sees and also on previous conceptual-visual experiences that have taught him how to see (Vechinski, 2013). The philosophical approach focuses on the nature of the object, this is different from the focus on other approaches such as the empirical approach focusing on data, the social approach focusing on symptoms, the normative approach focusing on rules (Hangel & ChoGlueck, 2023). The philosophical approach that focuses on the essence (ontology) has become the basis of various disciplines, because it questions the essence of everything, including rules (normativity), symptoms (phenomena), and data (empirical). The philosophical approach is fundamental because it not only seeks answers about "how" something works (like empirical science), but also "why" and "what" something is in essence while finding the reality behind empirical reality (empirical reality). Heidegger established essence as an entity in the study of philosophy (Aditya, 2021).

The essence of law is "right" which gives birth to the values of justice, benefit and certainty. Several experts have similar views, namely Dworkin, who argues that law must be understood in the context of individual rights (Simanjuntak, 2019). Pound with the idea of Sociological Jurisprudence emphasizes that law must function to fulfill social rights and needs. John Locke and Immanuel Kant have similar views, namely that law comes from human rights that are inherent by nature. The legal search for the status of rights in each subject is central according to Radbruch's view of the Trias of Law, namely that law contains three main values: justice (*gerechtigkeits*), legal certainty (*rechtssicherheit*), and utility (*zweckmäßigkeit*). Legal constructivism is the peak in the era of legal philosophy studies that offers a middle ground for legal science in two references to thought, namely:

First, sociological jurisprudence on the influence of norms on social behavior, top-down, starting from the level of legislative authority, becoming rules (laws and policies), juris (court decisions), interpersonal and institutional contracts. In the scope of legal research, it is included in the group of normativism, a qualitative inductive reasoning system because it is based on the premise of a dogmatic constitution and a procedural norm structure (nureaucratic inertia). Second, sociological of law on the influence of social behavior on the formation of legal norms, both exclusive (state legal norms and decisions of the disciplinarian) and inclusive (social, customary and religious law). In the scope of legal research, it is included in the empiricism group, a qualitative deductive reasoning system because it supports the premise of behavior and the ability of individuals or society to adapt to changing social conditions (Social Plasticity).

The philosophical approach in legal research tends to be qualitative because it ends with the output of justice values (Leeuw & Schmeet, 2016). However, quantitative points apply as measuring tools for achieving justice in research issues. Hoecke said that modern legal research uses quantitative methods to measure the effectiveness and impact of law in society. The use of quantitative data in evaluating legal norms, compliance, or practical consequences of the law (Fransisco et al., 2025). In line with that, Posner argues that the quantitative approach is used to analyze the efficiency of the law. Tamanaha argues that quantitative methods can be used to understand how legal concepts are applied in real social life, for example through legal compliance statistics or data analysis related to social justice (Tamanaha, 2021).

Types of Philosophical Approaches in Legal Research

Through the lens of philosophy, law is understood not merely as a set of norms that regulate behavior, but as the result of human reflection on social reality, morality, and rationality. Therefore, a philosophical approach in legal research helps researchers to formulate in-depth questions about the purpose of law, the legitimacy of power, and the relationship between law, morality, and freedom (Nugraha et al., 2024). The philosophical approach is indeed different from the theory in legal research, although both can complement each other. The philosophical approach in research not only provides a conceptual framework, but also guides researchers in various theoretical aspects, namely: (a) Making Theoretical Support Choices, (b) Conducting

Theoretical Comparisons, (c) Criticizing Theories, (d) Giving Birth to New Theories. Legal research should avoid merely becoming a shallow technocratic or pragmatic-economic instrument, so it is important for researchers to have a strong philosophical foundation. The philosophical approach provides a deeper conceptual framework for understanding law such as criticism of legal texts, social phenomena, socio-cultural tendencies, political behavior and power. Here are some forms of philosophical approaches that can be used in legal research, depending on the paradigm and legal issues that are the focus:

Metaphysical Approach

Metaphysics refers to the view of metaphysics as a philosophical discipline that discusses the reality behind empirical reality. Metaphysics questions the nature behind what exists (ontology), the first cause of everything that exists, and the relationship between the physical world (being) and more fundamental or transcendental entities.

Epistemological Approach

Epistemology is based on knowledge obtained through the process of rationalization, empiricization, and criticism.

Ethical Approach

Ethics is an approach that sees something based on moral principles to assess the goodness of an action or condition. Some exponents who advocate the ethical approach are Emanuel Kant with the teachings of Deontology (Ethics of Obligation), Jeremy Bentham and John Stuart Mill with the teachings of Utilitarianism, Aristotle with the teachings of Virtue Ethics. The most important figure in the ethical approach is Kant, who emphasized the concept of the Categorical Imperative, namely a universal moral principle that must be followed without considering the consequences.

Logical Approach

The logical approach refers to four main teachings, namely Hegelian dialectics in the form of thesis, antithesis, and synthesis dialectics. Phenomenological Reduction by Edmund Husserl with an eidetical approach, phenomenological reduction, and transcendental reduction. The Analytical Method by Ludwig Wittgenstein includes the initial phase (Tractatus Logico-Philosophicus) and the final phase (Philosophical Investigations). The Skepticism Method by René Descartes with methodical doubt includes doubting all knowledge obtained from the senses, doubting the reality of the outside world.

Hermeneutical Approach

Two figures who focus on the hermeneutical approach are Gadamer with the concept of history (Wirkungsgeschichte) emphasizing dialogue between text and reader. Ricoeur who emphasizes understanding structuralism and phenomenology in understanding symbols and narratives. Critical Approach. Referring to the teachings of Jürgen Habermas who emphasizes rational communication and deliberative democracy in society to reveal injustice and encourage social change by dismantling existing domination and hegemony. Habermas' critical focus is to dismantle the power structure in society so that it is applied through Critical Legal Studies (CLS), analysis of law and social class, law and hegemony of interest groups.

Application of Philosophical Approach in Legal Research

The concept of applying a philosophical approach in legal research refers to the operation of a philosophical perspective as a basis for thinking in identifying and analyzing legal objects using prepared methods. This approach is not merely theoretical, but also functional, because it is able to transform abstract concepts into an applicable and operational framework for understanding legal reality. With this approach, legal researchers can explore the essence, ontological basis, and teleological direction of a norm, practice, or legal institution. The

philosophical approach opens up a reflective space in viewing law not only as a normative text, but as an expression of values, will, and the structure of community consciousness.

In the study of legal philosophy, the metaphysical approach highlights the deepest dimensions of the existence of law. This approach can be explained through several main theories. First, classical theory as adopted by Aristotle views law as something that can be understood through the structure of form and matter (substance). In this context, legal norms are analyzed as forms that reflect the nature or essence of the law itself, so that understanding the law becomes a deep ontological effort. Second, the ideality approach as formulated by Plato emphasizes that ideal law exists in a perfect world of ideas. In this view, law in reality (such as statutes or agreements) is a manifestation of the idea. The discrepancy between ideal law and real law creates conflict in legal practice (Rubi et al., 2024). Third, the modern approach critiques Plato's idealism, emphasizing the importance of concrete human experience. In this perspective, legal justice is not solely determined by abstract ideas, but must consider factual conditions, such as cases of theft committed due to urgent needs. Furthermore, the epistemological approach focuses on how we know or understand the law.

This approach is divided into three main theories. Rationalism relies on reason as the primary means of understanding the law. In practice, this approach is seen when judges face controversial cases for example, interfaith marriage, LGBT issues, or the death penalty and must judge rationally based on moral principles and human rights. On the other hand, empiricism emphasizes real experience as the basis for the formation and application of law. The law is understood through observation, field research, and empirical evidence, such as in the process of drafting laws or handling criminal cases. Meanwhile, criticism invites us to examine the law as a whole from various dimensions, from legality and justice to precedent, ethics, and accountability. An example is the criticism of the criminalization of citizens protesting environmental damage by mining companies, which shows how the law can be implemented without regard to substantive justice and siding with the people.

The ethical approach in the philosophy of law discusses the moral values that underlie the law. The two main theories that stand out are deontology and utilitarianism. Deontology, as taught by Immanuel Kant, emphasizes that legal actions must be based on moral obligations, not solely on results. In this context, obedience to the law is only valid if the law is substantively just. In contrast, utilitarianism measures the justice of the law based on the extent to which the law benefits as many people as possible. Utilitarian criticism is often directed at policies that harm the wider community for the benefit of a few, such as land acquisition for development or mining permits that damage the environment and ignore the welfare of the local community (Naeni, 2023).

Finally, the logical approach includes a systematic and reason-based way of thinking about law. This approach includes two main forms. Dialectics as a logical method involves the conflict between thesis and antithesis to produce a synthesis. For example, in the debate on the death penalty for corruptors, the thesis on severe punishment contradicts the antithesis that rejects the death penalty on the basis of human rights, then produces a synthesis in the form of a sanction of total impoverishment for corruptors. Meanwhile, the phenomenological approach seeks to understand the law from objective and subjective realities, including the legal culture of society. In this framework, law is understood not only as a normative text, but also as an expression of social will and the daily life experiences of society.

CONCLUSION

The philosophical approach to legal research includes three main concepts in philosophy, namely epistemology, ontology, and axiology, which form the basic framework for understanding the nature of law. Legal epistemology focuses on how we acquire and construct knowledge about law, including sources, methodologies, and the dynamics of legal interpretation that can change over time. Meanwhile, legal ontology discusses the existence and basic character of the law itself, both as a product of state authority (positive law) and as part of social and customary norms that

develop in society. This ontology also touches on the objective aspects of law, such as the reasons for its formation, enforcement patterns, and the purpose of law in society. Legal axiology, on the other hand, discusses the values contained in law such as justice, morality, and ethics, and how law should act to achieve higher social goals. In this context, legal metaphysics becomes a synthesis between ontology and axiology, by making justice the main principle that connects the nature of law with the ideal values to be achieved. Therefore, legal research using a philosophical approach requires a deep understanding of these three dimensions in order to reveal the relationship between the structure of legal norms, legal knowledge, and the underlying moral values. The scope of the philosophical approach in legal research continues to develop along with changing times. The metaphysical approach investigates the nature of law from an ontological perspective, such as the question of whether law was created by humans or has an independent existence. The epistemological approach examines the origins and validity of legal knowledge, while the ethical approach raises normative questions about justice and moral values. The logical approach emphasizes the importance of consistency and structure of legal arguments, while the hermeneutical approach highlights the importance of interpretation in understanding legal texts in certain social and historical contexts. Meanwhile, the critical approach offers a sharp reflection on power, ideology, and social structures hidden in legal construction. Figures such as Michel Foucault, Jürgen Habermas, and contemporary feminist and posthumanist thinkers have expanded the scope of this approach, even beyond the classical boundaries of legal philosophy. Unfortunately, the philosophical approach is often ignored in modern legal research practices due to the dominance of the normative-positive approach and pragmatic tendencies. As a result, understanding of law becomes shallow, loses critical power, and fails to reach the essence of value and justice as the core of the law itself. Therefore, reinforcing the philosophical approach in legal research is very important to restore law as a science that sides with truth, justice, and humanity.

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