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Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object

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Abstract

Legal research is either normative or empirical. The results of normative law research are prescriptive in nature: the norms provide a prescription as to how one should behave in accordance with the norms. Normative legal research involves the study of the law as an object and removes any non-legal material from the scope of this research. In contrast, empirical legal research focuses on the application of laws in society. This research paper analyses this dichotomy between normative and empirical research and assesses its relevance and usefulness in legal research.

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Keywords: research; normative research; empirical legal research;law; study

1.Introduction

The practice of law is a dichotomy in conducting legal research as research in the study of normative and sociological research in the study. Normative legal research in the study is based on the understanding that science is the science that is legal prescriptive and applied, jurisprudence is always related to what should be or what it should be, methods and procedures of research in natural sciences and social sciences cannot be applied in legal studies. On the other hand, there are research studies that examine the law in law as a legal phenomenon, this study has the objective to study (assess) the law of the state of society. There are sociological studies in this realm Sociological Jurisprudence, Socio Legal Studies that look at factors to assess the importance of the social reality of law, but research in this study remains a legal research. Such legal study intends to explain, criticize and then construct a new

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provision or construct theory. The research in this study uses social theories in order to explain the reality of society which is an important factor in assessing the law. Urgency of this research is the dichotomy legal research that occurred during the time one study in a normative perspective is always right and the other studies in a sociological perspective is not considered a legal research that will result in a blurring of the purpose of the law to provide benefits to life. Specific purpose of this study was to find a proper method in order to assess and understand the law. The findings were targeted in this study is in stage I will find a good rationale dogmatic aspects of the law, legal theory, philosophy of law as well as from the aspect of social theories of the kind of research that exist in assessing the law as an object of study.

2. The Type of Legal Researches in Studying Law .

Research or in English is called the research is a quest. Through the research, people are searching something new, such as the truth or true knowledge, which can be used to answer a question or to solve a problem (Soetandyo Wignyosoebroto, 2002). Research is used to get true answer or a correct answer to a problem, so we need a proper understanding of research methods. Understanding of correct and accurate research methods will enable to control the research process from the beginning to the extent of drawing conclusions, so the search for the true answer research purposes will be able to be objective. Legal research models that exist today are distinguished by normative legal research and legal research or empirical sociology. Distinction from the standpoint of the research objectives of the law itself. Normative legal research includes: The study of the principles of the law, the systematic study of law, research on the level of synchronization law, the legal history research, law of comparative research. While the sociological or empirical legal research consists of: the study of legal identification (unwritten) and the study of the effectiveness of the law. The normative legal research often leaves a positive normative level to reach the level of doctrine (or teaching of law). While empirical research often find symbolic domains is behind names that include it. Mention of doctrinal research and non-doctrinal research will in fact constitute a social research that will be felt more appropriate legal. Doctrinal research and non-doctrinal research is another name of normative research and empirical research in the study of law that had been there. Soetandyo Wignjosoebroto (2002) distinguishes the study of law is based on the law in the concrete abstract concept consisting of: Legal science that examines the law in the most abstract concept is as good of an idea or value (on good ethical and aesthetically beauty) is divine, and that is because it is very normative, manifests as a pre-established teleological God "s order is final, which is manifested in the form of an orderly universe, which also became the object of study of the natural sciences nature (natural science) is called and more identified with the name of legal philosophy, Legal science that examines the law in a more concrete concept as the principles of justice as developed by the flow of natural law believe the norms that are recognized as a universal higher order or Grund norm, the science of law is referred to as positive jurisprudence, which is reviewing the law in the concept as a prescription authoritative positive, and is presented as a legal statute or what Austin called the command of the sovereign, Jurisprudence is said as judicial study that examines the behavior or the court of law in the concept as decisions of the judge (the judge made laws, laws in concreto) who will assess how far judges make decisions based on the provisions of the law , Legal science says law is influenced by social factors, which spawned new flows were very critical of the legal assessment pure legisme wing. They are called by the sociological jurisprudence, the functional jurisprudence, and lately the critical legal studies and feminist jurisprudence, Legal science studies law as it is and the workings of society, which in the United States known as the law and society and that in the UK is commonly known by the name of law in the society. The description above can be assessed that all division are sourced from legal research distinction normative or doctrinal and empirical legal research or non-doctrinal. Jurisprudence has characteristics that are prescriptive science and applied. This means that the characteristics of the science of law is always related to what should or what should it. As science is studying the law prescriptive legal purposes, the values of justice, the validity of the rule of law, legal concepts and legal norms. As an applied science of jurisprudence, it is set the standard procedure, provisions and the signs in implementing the rule of law. This means studying law must learn its norms. Legal norms are something that is essential in the science of law. The scientific method called logico-hipotico verificative applies only to the descriptive nature of science is in order to explain the causal relationship between the two terms, while the characteristics of the science of law is prescriptive Thus, methods and procedures of research in natural sciences and social sciences cannot be applied in the science of law (Peter Mahmud Marzuki, 2005). This study did not think the law as an autonomous reality,