

## Epistemology of Legal Studies: Research Method Characteristics of Theoretical Law Bearers in Indonesia

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### Abstract

*Doctorate students of legal studies programs in Indonesia use various research methods. This paper aims to analyze research methods patterns used by doctorate students of legal studies in six Indonesian universities. The authors analyzed dissertations from the Doctorate Program of Legal Studies in the following universities: Universitas Indonesia (Depok, West Java), Universitas Padjajaran (Bandung, West Java Province), Universitas Sumatera Utara (Medan, North Sumatra Province), Universitas Airlangga (Surabaya, East Java Province), Universitas Diponegoro (Semarang, Central Java Province), and Universitas Hasanuddin (Makassar, South Sulawesi Province). This philosophical method research used secondary data obtained using the literature review method in the form of dissertations from six universities that establish legal studies doctorate programs. Results showed that there are three patterns of epistemology used by doctorate program students of legal studies in Indonesia, namely those that are based on the doctrinal approach, those based on the non-doctrinal approach, and those based on the combined approach between the doctrinal and the non-doctrinal approaches. In this research, some dissertations with the epistemological pattern were also found that are based on theoretical assumptions sourced from the teachings of the positivistic legal philosophy school of thought as taught by Austin and Kelsen.*

**Keywords:** *Epistemology, Legal Studies, Research Method, Dissertations, Indonesia.*

### Introduction

There is not one single research method that is solely used by all legal bearers (Sidharta, 1999, 2020), especially among doctorate students of legal studies programs in Indonesia. The varied usage of research methods is on one hand influenced by: (1) the epistemological basis of the paradigm (Wardiono, 2020) that is used in arranging the employed theoretical framework (or conceptual framework, thought framework, theoretical orientation, perspective, and approach) (Ahimsa-Putra, 2009, 2011); (2) as an epistemological basis, the concepts of each research method refer to the teachings of philosophers from various legal philosophy schools of thought, such as the natural law, positivistic law, historical law, utilitarian law, sociological jurisprudence as well as pragmatic legal realism (Sidharta, 2013); (3) the theories used include the legal theories in the positive law theory and the empirical legal theory (Dimiyati, 2010), or what Dewa Gede Atmadja and I Nyoman Putu Budiarta named the legal theory in the normative legal studies and the legal theory in the empirical legal studies (Atmadja & Budiarta, 2018).

On the other hand, research activities based on certain methodologies as a mainstream choice of a certain group of law bearers are either consciously or unconsciously inserted and mixed with cultural, sociological, and political interests. This is what makes a research method grow and develop uniquely according to the thought dialectics that exist in each group.

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There has not been much research on the research methodologies referred to or used by law bearers. The analysis conducted by Ahmad Zuhdi Muhdlo in his article entitled "The Methodological Development of Legal Research" states that in the doctrine on research methods in law up to the conclusion, legal research has developed like so, following the developing perspective on the law, i.e., from the normative or doctrinal legal research that then shifts into the sociological-empirical legal research, which then becomes the socio-legal research (Muhdlo, 2012).

Noor Muhammad Aziz used the empirical-judicial analysis in his article entitled "The Urgency of Legal Research and Analysis in the Formulation of Legal Regulations". It was found that legal research is very beneficial in supporting certain Academic Papers on the Draft Law, especially to obtain the raw material from all aspects, including the juridical, philosophical, as well as juridical aspects. The complete and accurate raw materials extracted from these research papers were then expressed in the form of articles in a bill (Aziz, 2012).

Depri Liber Sonata in an article entitled "Normative and Empirical Legal Research Method: Special Characteristics of the Legal Research Method" concluded that legal studies must be acknowledged as having a special and unique research method, consisting of normative/doctrinal legal research, either from the perspective of the common law system (including the statute approach, case approach, historical approach, comparative approach, dan conceptual approach) or from the perspective of its forms (research of legal principles, synchronization of constitutional regulations, etc.) (Sonata, 2014).

Imam Mahdi in an article entitled, "Legal Research and Its Development: Special Analysis of the Normative Law" states that legal studies are an independent and specified discipline (*sui generis*). It is not part of humanities studies, social studies, or scientific studies. Legal studies already have an established place in the branches of the tree of knowledge. Normative legal research is an icon of true legal research that has its own characteristics. It is associated with the analysis of legal norms and principles (Mahdi, 2016).

Laurensius Arliman Simbolon in an article entitled "The Role of Legal Research Methodology in the Development of Legal Studies in Indonesia" concluded that legal research is a branch of knowledge associated with the paradigm that happens in knowledge in general. The analysis of approaches in legal research holistically depends on the concerning legal research issues and objectives: (a) if the research problem or objective is part of the ideal legal element or the *ius constituendum* and *ius constitutum* legal concepts, the research approach is normative juridical-deductive logical, (b) if the legal concept or element is categorized into social behavioral patterns or social meaning, the research approach is empirical/sociological-inductive logical. A method carried out to know the development of the legal research methodology is the browsing of the thought flow of the legal research methodology, which can be differentiated into two basic things, i.e. the jurisprudential model and the sociological model (Simbolon, 2018).

Kornelius Benuf and Muhamad Azhar in their article entitled "Legal Research Methodology as an Instrument to Unravel Contemporary Legal Problems" stated that there are three types of the legal research method, namely the normative, empirical, and socio-legal research methods (Benuf & Azhar, 2020). David Tan in his article entitled "Legal Research Method: Uncovering and Discussing Methodologies in Establishing Legal Research" concluded that the legal research method is a discrete method. This method is more than legal scholarship or literary review of law (Tan, 2021). Based on the description above, this paper's research problem is: What is the pattern of research methods used by doctorate students of legal studies in various universities in Indonesia?

## Research Method

This research which was based on the philosophical method used secondary data in the form of dissertations from universities that establish legal studies doctorate programs in Indonesia. The authors analyzed dissertations from the Doctorate Program of Legal Studies in the following universities: Universitas Indonesia (Depok, West Java), Universitas Padjajaran (Bandung, West Java Province), Universitas Sumatera Utara (Medan, North Sumatra Province), Universitas Airlangga (Surabaya, East Java

Province), Universitas Diponegoro (Semarang, Central Java Province), and Universitas Hasanuddin (Makassar, South Sulawesi Province).

The secondary data were obtained using the literature review method. The data were then processed and analyzed using the descriptive, interpretative, and hermeneutical methods of analysis. Then, the data analysis ended with the heuristic method of analysis. It resulted in the finding of the epistemological pattern used by doctorate students of legal studies in Indonesia.

## Results and Discussion

To further understand the epistemological pattern used by legal studies students, in this part of the paper, the authors described the research methods used by doctorate students of legal studies in their dissertations. The exemplars were dissertations from the following six Universities in Indonesia: Universitas Indonesia, Universitas Padjajaran, Universitas Sumatera Utara, Universitas Airlangga, Universitas Diponegoro, and Universitas Hasanuddin.

### The Epistemological Aspect of Legal Studies Doctorate Program Dissertations from Universitas Indonesia

Based on the results of the literature review carried out in the Universitas Indonesia library, the following data were obtained:

**Table 1.** The Epistemological Aspects of Dissertations from Universitas Indonesia's Legal Studies Doctorate Program

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociological-Juridical				Normative	Qualitative	Quantitative
		Legal principle/conceptual approach	Systematics	Synchronization/S statute Approach	In-concrete law/Case Approach	Comparison	Historical	Qualitative	Quantitative	Primary	Secondary			
1	The Transplantation of Trust in the Indonesian Legal System: A Study on the Law on Capital Market	√		√		√						√		
2	Zakat (Almsgiving) and the State: A Study on the Prospect of Zakat in Increasing the	√			√	√		√		√	√	√	√	

	People's Welfare with the Issuing of Law No. 38 of 1999 on Zakat Management												
3	Wakaf (ENDOWMENT) and the efforts to Handle Poverty: Analysis of the Islamic Law and the Indonesian Legal Regulations: A Case Study of Management in Bandung Regency				√	√	√	√		√	√	√	√
4	The Existence of Regional Autonomy in the Unitary State of the Republic of Indonesia	√	√	√		√	√				√	√	
5	Legal Convergence and Information Technology in the Formation of the Law on Electronic Information and Transaction	√	√	√	√	√		√		√	√	√	√
6	Criminal Actions on Banking in Indonesia and the Concerning Issues	√	√							√	√	√	
7	Alternative Sanctions as the Focus of Rehabilitating Delinquent Juveniles: Suggestions to Renew the					√		√		√	√	√	√

	Indonesian Criminal Law												
8	Implementation of the Agreement on Transport of Inter-Island Sea Transportation Passengers in Indonesia			√			√		√	√	√	√	
9	"Per Se Illegal" and "Rule of Reason" Approaches in the Law No. 5 of 1999 on the Prohibition of Practices of Monopoly and Unhealthy Business Competition			√		√				√	√		
10	The <i>Malameng</i> Act (Discrete Immorality) According to the Customary Law: A Study on the Courtly Perspective and the Bugis People in South Sulawesi			√	√			√	√	√	√	√	
11	Legal state: A Study on its Principles, Perceived from the Aspect of Islamic law, its Implementation during the Madinah State Period and the Current Era	√		√		√				√	√		

\*) The presented data were processed from the dissertations of Legal Studies doctorate program students of Universitas Indonesia, sourced from <https://lontar.ui.ac.id/hasilcari?query=disertasi>, <https://lib.ui.ac.id/daftikol2?id=50>; <https://lib.ui.ac.id/daftikol2?id=127>, and <http://pdrh.law.ui.ac.id/opac/fh/template.jsp?inner=daftartipekoleksi.jsp?id=2>

Based on the results of the literature review carried out in the Universitas Sumatera Utara library, the following data were obtained:

**Table 2.** The Epistemological Aspects of Dissertations from Universitas Sumatera Utara's Legal Studies Doctorate Program

No	Title	Approach								Data		Data Analysis			
		Normative-Juridical						Sociologic al-Juridical				No rma tive Qu alita tive	Qu alita tive	Qua ntita tive	
		Leg al prin ciple/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	Histo rical	Qu alita tive	Qu anti tati ve	Pr i mar y	Sec ond ary				
1	The Spread of the Governmental Share Ownership in State-Owned Business Enterprises to Create a Healthy and Efficient Company	√			√	√					√	√			
2	The Control Over the Management of Customary Forests by the Mukim	√			√				√	√	√	√	√		

No	Title	Approach							Data		Data Analysis			
		Normative-Juridical					Sociologic al-Juridical				Pr i m a r y	Sec o n d a r y	No r m a t i v e Q u a l i t a t i v e	Qu a l i t a t i v e
		Leg al pr in c i p l e/ c o n c e p t u a l a p p r o a c h	Syst e m a t i c s	Syn c h r o n i z a t i o n/ S t a t e A p p r o a c h	In- c o n c r e t o l a w/ C a s e A p p r o a c h	C o m p a r i s o n	H i s t o r i c a l	Q u a l i t a t i v e	Q u a n t i t a t i v e					
	Indigenous People in Aceh Province													
3	Implementation of the Corporate Social Responsibility (CSR), to Society Around Perkebunan Nusantara IV Ltd.: A Study on the Plantation Unit of Kebun Dolok Ilir in Simalungun Regency			√					√	√	√	√	√	

No	Title	Approach							Data		Data Analysis				
		Normative-Juridical					Sociologic al-Juridical				Pr i m a r y	Sec o n d a r y	No r m a t i v e Q u a l i t a t i v e	Q u a l i t a t i v e	Q u a n t i t a t i v e
		Leg al pr in c i p l e/ c o n c e p t u a l a p p r o a c h	Syst e m a t i c s	Syn c h r o n i z a t i o n/ S t a t e A p p r o a c h	In- c o n c r e t o l a w/ C a s e A p p r o a c h	C o m p a r i s o n	H i s t o r i c a l	Q u a l i t a t i v e	Q u a n t i t a t i v e						
4	Effectiveness of Banking Laws with Research at the Medan Metro Area								√		√	√	√	√	
5	Legal Needs of Officials in Waiting for the State Administrative Court Decision in Medan			√							√	√	√	√	√
6	The Resolution of Compensation Dispute on the Transportation of Goods by Sea			√							√	√	√	√	√



No	Title	Approach							Data		Data Analysis			
		Normative-Juridical					Sociologic al-Juridical				Pr i m a r y	Sec o n d a r y	No r m a t i v e Q u a l i t a t i v e	Q u a l i t a t i v e
		Leg al p r i n c i p l e/ c o n c e p t u a l a p p r o a c h	Syst e m a t i c s	Syn c h r o n i z a t i o n/ S t a t e A p p r o a c h	In- c o n c r e t o l a w/ C a s e A p p r o a c h	C o m p a r i s o n	H i s t o r i c a l	Q u a l i t a t i v e	Q u a n t i t a t i v e					
	(A Study in Belawan Port)													
7	The Juridical Analysis on Children's Rights and its Application: Research in Binai City, Medan City, and Deli Serdang Regency			√					√	√	√	√		√
8	The Development of the Diversi on and Restorative Justice Concepts in the			√					√	√	√	√	√	√

No	Title	Approach							Data		Data Analysis			
		Normative-Juridical					Sociologic al-Juridical				Pr i m a r y	Sec o n d a r y	No r m a t i v e Q u a l i t a t i v e	Q u a l i t a t i v e
		Leg al p r i n c i p l e/ c o n c e p t u a l a p p r o a c h	Syst e m a t i c s	Syn c h r o n i z a t i o n/ S t a t e A p p r o a c h	In- c o n c r e t o l a w/ C a s e A p p r o a c h	C o m p a r i s o n	H i s t o r i c a l	Q u a l i t a t i v e	Q u a n t i t a t i v e					
	Indonesian Juvenile Justice System : A Study in Medan City													
9	Median as a Method to Resolve the Dispute on Work Termination in Companies in North Sumatra			√						√	√	√		√
10	Legal Protection Towards Creditors in Applying the Peace Agreement	√		√					Not mentioned	√	√		√	

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Pr i m a r y	Sec o n d a r y	No r m a t i v e Q u a l i t a t i v e
		Leg al p r i n c i p l e/ c o n c e p t u a l a p p r o a c h	Syst e m a t i c s	Syn c h r o n i z a t i o n/ S t a t e A p p r o a c h	In- c o n c r e t o l a w/ C a s e A p p r o a c h	C o m p a r i s o n	H i s t o r i c a l	Q u a l i t a t i v e	Q u a n t i t a t i v e					
	Bankru p t c y													

\*) The presented data were processed from the dissertations of Legal Studies doctorate program students of Universitas Sumatera Utara, sourced from <https://repositori.usu.ac.id/handle/123456789/1079>

*The Epistemological Aspects of Legal Studies Doctorate Program Dissertations from Universitas Airlangga*

Based on the results of the literature review carried out in the Universitas Airlangga library, the following data were obtained:

**Table 3.** The Epistemological Aspects of Dissertations from Universitas Airlangga's Legal Studies Doctorate Program

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qu alita tive	Qu ant itat ive
		Leg al prin ciple/c onc epl ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	Hi st oric al	Qu ali tative	Qu anti tative	Pr i mar y	Sec ond ary			
1	Legal Principles in the Protection of Trade Secrets	√			√	√					√	√		
2	Political Renewal of the Agrarian Law and the Resolution of Land Disputes in Indonesia	√			√	√					√	√		
3	Policies of the International Bank For Reconstruction and Development (IBRD) and International Monetary Fund (Imf) Especially Concerning Requirements in Providing Aid/Loans to	√	√	√				√			√	√		

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qu alita tive	Qu ant itat ive
		Leg al prin ciple/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute App roa ch	In- concr eto law/ Case Appr oach	Co mp aris on	Hi st or ic al	Qu ali tative	Qu anti tative	Pr i mar y	Sec ond ary			
	Indonesia and the Implications Towards Laws in the Economic Sector													
4	Certificate Revocation by the Court and Legal Implications towards the Land Tenure Certificate and Rights			√	√						√	√		
5	The Governmental Policies in Resolving Tax Disputes as Facilities to Achieve Justice			√	√	√					√	√		
6	Deconstructing the Administrative Penal Law in the Law on Mineral and Coal	√		√	√				Not me ntio ned		√	Snow ball techn ique		

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qu alita tive	Qu ant itati ve
		Leg al prin ciple/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	Hi st oric al	Qu ali tative	Qu anti tati ve	Pr i mar y	Sec ond ary			
	Mining in Indonesia													
7	Limiting Ownership and Rights of Agricultural Land Tenure for the Agricultural Sector in the National Land Tenure Law: Perspective of the Islamic Law	√		√		√					√		√	
8	Maladministration in Granting Mining Permits that Implies in Criminal Actions	√			√						√		√	
9	Legal Protection Towards Indonesian Female Labor Abroad	√		√		√					√		Nor mative/ pre script ive	
10	The Principle of the Best	√		√	√	√					√		Dedu ctive	

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qu alita tive	Qu ant itati ve
		Leg al prin ciple/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	Hi st or ic al	Qu ali tative	Qu anti tati ve	Pr i m ar y	Sec ond ary			
	Interest of the Child in the Legal Protection of Illegitimate Children													
11	Diversions as an Alternative for Resolving Juvenile Criminal Cases in the Perspective of the Benefit Principle	√			√	√					√	Dedu ctive		

\*) The presented data were processed from the dissertations of Legal Studies doctorate program students of Universitas Airlangga sourced from the Universitas Airlangga central library

*The Epistemological Aspects of Legal Studies Doctorate Program Dissertations from Universitas Diponegoro*

Based on the results of the literature review carried out in the Universitas Diponegoro library, the following data were obtained:

**Table 4.** The Epistemological Aspects of Dissertations from Universitas Diponegoro's Legal Studies Doctorate Program

No	Title	Approach								Data		Data Analysis			
		Normative-Juridical						Sociologic al-Juridical				Nor mativ e Quali tative	Qu alita tive	Qu ant itat ive	
		Leg al prin ciple/ conc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu alita tive	Qu anti tati ve	Pr i mar y	Sec ond ary				
1	Developing the Paradigm of Non-Legitimacy Dispute Resolution to Create an Alternative Business/Intellectual Rights Dispute Resolution	√	√		√	√			√		√	√	√	√	
2	The Reorientation of Land as Investment Objects	√			√				√		√	√		√	√
3	Legislation in the Perspective of Democracy: Analysis of the Political and Legal Interactions in the Process of Forming Regional Regulations in East Java		√								√	√		√	√



No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qu alita tive	Qu ant itati ve
		Leg al prin ciple/ conc epta ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu ali tative	Qu anti tative	Pr i mar y	Sec ond ary			
4	Implementation of the Pre-Emptive Police Force Concept in the Effort to Handle Crimes in the Entertainment Business Sector, A Study of the Legal Territory of the Great Metropolitan Jakarta Regional Police Force		√					√		√	√	√	√	
5	Social Justice-Based Legal Political Reconstruction on the State's Rights for Control over Water Resources: A Study of		√	√				√		√	√	√	√	

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qu alita tive	Qu ant itati ve
		Leg al prin ciple/c onc epta ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu alita tive	Qu anti tati ve	Pr i mar y	Sec ond ary			
	the Privatization of Water Resource Management													
6	Penal Legal Policies in the Reproductive Technology Sector: Cloning	√	√								√	√		
7	The Law on Assessment Service Business from the Perspective of Good Corporate Governance		√			√	√				√	√		
8	The Correctional System: The Shift in the Paradigm of Inmate Rehabilitation in the Criminal Justice		√								√	√	√	√

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mativ e Quali tative	Qu alita tive	Qu ant itat ive
		Leg al prin cipl e/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu alita tive	Qu anti tati ve	Pr i m ar y	Sec ond ary			
	System in Indonesia													
9	Criminal Policies in the Biodiversity Conservation Sector	√							√	√	√	√		√
10	Legal Development on Spatial Organization in the Context of the Sustainable City Concept: Legal Study of the Spatial Planning in Surabaya City	√			√				√		√	√	√	√
11	State Administrative Legal Development through Juridical Empowerment of the State Administrative Court													√

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mativ e Quali tative	Qu alita tive	Qu ant itat ive
		Leg al prin ciple/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu alita tive	Qu anti tati ve	Pr i m ar y	Sec ond ary			
1 2	Legal Renewal towards the Formulati on of the Presumpti on of Innocence Principle in the Indonesia n Context (A Study on Norms and Values)	√							Not me ntio ned		√		√	
1 3	Restorativ e Reconstru ction in Handling the Disertion Criminal Act Under the Military Criminal Court	√							Not me ntio ned		√		√	
1 4	Reconstru ction of the Progressiv e Law- Based Health Service Bureaucra cy Legal	√									√		√	

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qu alita tive	Qu anti tative
		Leg al prin ciple/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu ali tative	Qu anti tative	Pr i m ar y	Sec ond ary			
	Culture: A Study of the Legal Culture of Health Service Bureaucracy of Mothers and Children in Community Health Centers and Regional Public Hospitals in Sambas Regency, West Borneo													
15	Concretization of the Pancasila Legal Ideal in Applying the Regional Governmental Authorities through the Formation of Regional				√						√		√	

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mativ e Quali tative	Qu alita tive	Qu ant itat ive
		Leg al prin cipl e/c onc ept ual app roa ch	Syst emat ics	Syn chr oni zati on/ Stat ute App roa ch	In- concr eto law/ Case App roa ch	Co mp aris on	H ist oric al	Qu alita tive	Qu anti tati ve	Pr i m ar y	Sec ond ar y			
	Regulation s on the Managem ent of Coal and Mineral Mines in South Sulawesi Province													
16	Reconstru ction of Customer s' Responses in the Funding of Sharia Banks in the Socio-Legal Perspectiv e: A Study on the Customer s' Responses Towards <i>Mudharaba</i> Funding in Mandiri Sharia Banks in Semarang City				√						√		√	
17	Reconstru ction of the Indonesia n Criminal		√			√	√		√	√	√		√	

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qu alita tive	Qu ant itati ve
		Leg al prin ciple/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu ali tative	Qu anti tati ve	Pr i mar y	Sec ond ary			
	Justice System in the Perspective of Judicial Power													
18	Rearranging the Law in Establishing Telecommunication Business in Indonesia							Only the "socio-legal approach" was mentioned		√	√	√		
19	The Problematic Criminal Legal System and Its Implications towards the Enforcement of the Law Against Corruption		√							√	√	√		

\*) The presented data were processed from the dissertations of Legal Studies doctorate program students of Universitas sourced from <http://eprints.undip.ac.id/view/divisions/sch=5Flaw/> and the Universitas Diponegoro Central Library

*The Epistemological Aspects of Legal Studies Doctorate Program Dissertations from Universitas Hasanuddin*

Based on the results of the literature review carried out in the Universitas Hasanuddin library, the following data were obtained:

**Table 5.** The Epistemological Aspects of Dissertations from Universitas Hasanuddin's Legal Studies Doctorate Program

No	Title	Approach								Data		Data Analysis			
		Normative-Juridical						Sociological-Juridical				Normative Qualitative	Qualitative	Quantitative	
		Legal principle/conceptual approach	Systematics	Synchronization/Statute Approach	In-concrete law/Case Approach	Comparison	Historical	Qualitative	Quantitative	Primary	Secondary				
1	The Shift of Status from Authoritarian to Regional Autonomy and its Implementation towards the Governmental Establishment in			√					√		√	√	√	√	



No	Title	Approach							Data		Data Analysis			
		Normative-Juridical					Sociological-Juridical				Normative Qualitative	Qualitative	Quantitative	
		Legal principle/conceptual approach	Systematics	Synchronization/Statute Approach	In-concret law/Case Approach	Comparison	Historical	Qualitative	Quantitative	Primary				Secondary
	Batam City													
2	The Law Enforcement towards Notary's Responsibility on the Implementation of the Task on Public Services		√						√	√	√			√
3	Position and Functions of Policy Regulations in the Permit Sector in Establishing the Government			√					√	√	√	√		√
4	The Law on Land Procurement for Public Interests	√		√	√				√		√	√	√	√
5	The Effectiveness of the Authority Establishment in the	√							√	√	√	√		√

No	Title	Approach								Data		Data Analysis			
		Normative-Juridical						Sociological-Juridical				Normative Qualitative	Qualitative	Quantitative	
		Legal principle/conceptual approach	Systematics	Synchronization/Statute Approach	In-concretolaw/Case Approach	Comparison	Historical	Qualitative	Quantitative	Primary	Secondary				
	Regional Governmental System in South Sulawesi														
6	Law Enforcement on Tourism Businesses			√					√		√	√	√		√
7	The Role of General Appropriateness Principles of the Government in Creating a Clean Government	√	√	√	√							√	√		
8	The Law on Land Procurement from the Perspective of the Human Rights			√							√	√	√		√
9	The Essence of Zakat (almsgiving) and the Authorities in	√		√					√		√	√	√	√	

No	Title	Approach							Data		Data Analysis		
		Normative-Juridical					Sociological-Juridical		Primary	Secondary	Normative Qualitative	Qualitative	Quantitative
		Legal principle/conceptual approach	Systematics	Synchronization/Statute Approach	In-concret law/Case Approach	Comparison	Historical	Qualitative					
	Enforcing its Management Laws in South Sulawesi												
10	The Regulatory Essence on the Establishment of Autonomy-Based Higher Education Implementation							Not mentioned	√	√		√	
11	The Role of Banking Mediation Institutions in Resolving Non-Litigation Disputes	√		√	√			√	√	√	√	√	
12	Juridical Problems on the Authority of the Regional Government in the Permit Sector of the Natural	√		√				Not mentioned		√	√		

No	Title	Approach								Data		Data Analysis			
		Normative-Juridical						Sociological-Juridical				Normative Qualitative	Qualitative	Quantitative	
		Legal principle/conceptual approach	Systematics	Synchronization/Statute Approach	In-concreteto law/Case Approach	Comparison	Historical	Qualitative	Quantitative	Primary	Secondary				
	Resource Management in the Marine Territory														
13	Corporate Criminal Liability in Recovering State Financial Losses due to the Crime of Corruption	√		√	√				√			√	Normative/Prescriptive Analysis		
14	Reformulation of Criminal Justice of Children Conflictin g with the Law as a Form of Legal Protection											√		√	

\*) The presented data were processed from the dissertations of Legal Studies doctorate program students of Universitas Hassanudin sourced from the Universitas Hassanudin Central Library

*The Epistemological Aspect of Legal Studies Doctorate Program Dissertations from Universitas Padjajaran*

Based on the results of the literature review carried out in the Universitas Padjajaran library, the following data were obtained:

**Table 6.** The Epistemological Aspect of Dissertations from Universitas Padjajaran's Legal Studies Doctorate Program

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociological-Juridical				Normative Qualitative	Qualitative	Normative-Juridical
		Legal principle/conceptual approach	Systematics	Synchronization/Statute Approach	In-concrete law/Case Approach	Comparison	Historical	Qualitative	Quantitative	Primary	Secondary			
1	Land Tenure Rights of Foreign Citizens and the Legal Agencies Associated with the Use of Nominee as a Form of Legal Smuggling			√		√	√			√	√	√		
2	Reflections on Funding and the Scientific Characteristic of	√									√	√		

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qua litati ve	No rmati ve- Jur idical
		Leg al prin ciple/c onc epta ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute App roa ch	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu ali tati ve	Qu anti tati ve	Pr i m ary	Sec ond ary			
	Legal Studies as a Basis for Developing the Indonesian National Legal Studies													
3	Analysis of the Role of the Attorney in Eradicating the Crime of Corruption: A Study on the Integral Approach of Criminal Policies in Eradicating the Crime of Corruption at the Legal Territory of the Lampung High Attorney		√							√	√	√	√	

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qua litati ve	No rmati ve- Jur idical
		Leg al prin ciple/c onc ept ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu ali tati ve	Qu anti tati ve	Pr i m ary	Sec ond ary			
4	Existence of the Constitutional Court in the Indonesian Administrative Structure: An Analysis of the Aspect of its Roles and Authorities					√	√			√	√	√	√	
5	The Relationship between the Central and the Regional Governments Based on the Decentralization Principles According to the 1945 Constitution	√	√	√						√	√	√	√	

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qua litati ve	No rmati ve- Jur idical
		Leg al prin ciple/c onc epta ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu ali tati ve	Qu anti tati ve	Pr i m ary	Sec ond ary			
6	Authorities and Responsibilities of Autonomous Regions in the Environmental Protection : A Case Study of the Management of Hazardous Materials and Waste in Jakarta Special Capital Region Province, West Java Province, and East Java Province				√					√	√	√	√	√
7	Existence of the Constitution and the Decision of the People's Deliberative Assembly in the	√	√	√						√	√	√	√	



No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qua litati ve	No rmati ve- Jur idical
		Leg al prin ciple/c onc epta ual app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap pro ach	In- concr eto law/ Case Ap pro ach	Co mp aris on	H ist oric al	Qu ali tati ve	Qu anti tati ve	Pr i m ary	Sec ond ary			
	Constitutional System and the Indonesian Administrative Mechanism 1960-2000													
8	The Development of the Indonesian National Law in the Regional and International Scope: The Role of Indonesian and English Languages in their Packaging (With Special Referral to Article 46 Sub-(B) of the UN Convention on Marine Law III Year 1)	√	√	√		√	√				√	√		

No	Title	Approach								Data		Data Analysis		
		Normative-Juridical						Sociologic al-Juridical				Nor mative Quali tative	Qua litati ve	No rmati ve- Jur idical
		Leg al prin ciple/c onc epta l app roa ch	Syst ema tics	Syn chr oni zati on/ Stat ute Ap proa ch	In- concr eto law/ Case Appr oach	Co mp aris on	H ist oric al	Qu ali tati ve	Qu anti tati ve	Pr i mar y	Sec ond ary			
9	The Oil and Gas Contract Between the Government and Investors in Relation to the Principle of Legal Justice and Certainty in the Indonesian Legal Agreement	√			√	√	√				√	√		
10	International Trade Dispute Resolution in Gatt and WTO and Its Implications for Indonesia	√			√	√	√			√	√	√		

\*) The presented data were processed from the dissertations of Legal Studies doctorate program students of Universitas sourced from the Universitas Padjajaran Central Library.

Based on the results of the research described above, it can be known that the research method in the dissertations of Legal Studies Doctorate Programs in 6 universities in Indonesia are generally divided into two large groups, i.e., (1) those that solely use the method of the doctrinal approach that are either normative (which uses legal concepts as a constitutional regulation) or philosophical (which uses legal concepts as the principle of natural truth and justice) (Wignjosoebroto, 2002, 2010) and (2) those that simultaneously use two methods, namely the doctrinal and the non-doctrinal approaches (especially those with the qualitative

characteristic, that is based on the legal concept as a manifestation of social behaviors' symbolic meanings) (Wignjosoebroto, 2002, 2010).

In the dissertations that use the doctrinal approach, specially for dissertations that are solely based on the legal concept of constitutional regulations, the focus of the research is directed to the internal aspects of law, as they aim to analyze:

The synchronization of various constitutional regulations that became the object of research, which are present in synchronization-type research (Soekanto, 1986; Soekanto & Mamudji, 1990) or in research that uses the statute approach (Marzuki, 2019);

The suitability of legal documents with the existing norms, which are present in research with the type of in-concerto legal findings (Soekanto, 1986; Soekanto & Mamudji, 1990) or in research that use the case approach (Marzuki, 2019);

The differences and similarities of laws and legal institutions in Indonesia and in other countries, which are present in legal comparison type of research (Soekanto, 1986; Soekanto & Mamudji, 1990) or in research that uses the comparison approach (Marzuki, 2019);

The development of the law or that of legal institutions during a certain period, in research that is based on legal history (Soekanto, 1986; Soekanto & Mamudji, 1990) or in research that has a historical approach type (Marzuki, 2019);

Researches that are based on the various doctrinal approaches above emphasize the use of secondary data in the form of primary, secondary, and tertiary legal materials according to the analyzed object. All of these secondary data are collected using the library research method (Soekanto, 1986; Soekanto & Mamudji, 1990).

It's just that in several dissertations made by doctorate program participants, the data of the dissertations were made using the normative doctrinal approach that was added with or supported by primary data to see the empirical reality of the analyzed object. Because of that, in these dissertations, primary data collection was carried out using the questionnaire method or using interview guidelines towards chosen respondents (Soekanto, 1986). For such dissertations, the processed data were then analyzed using deductive logic through the syllogism process. But some were followed up with analyses based on inductive logic, that were either qualitative or quantitative.

The use of primary data in the research using the doctrinal approach is not a method that is commonly used. As a consequence of the usage of the legal concept that is based on the positivistic law school of thought, the focus of legal research with the doctrinal approach should only be limited to the internal aspects of the law. This is a consequence of the application of the positivistic school of thought, as stated by John Austin, which perceives that the law is an autonomous institution that does not have a relationship with non-legal factors. This is also similar to what Hans Kelsen said in his Pure Theory of Law which states that the law must be cleansed from non-juridical elements (politics, morality, history, ethics, and justice) (Dimiyati & Wardiono, 2014; Wardiono et al., 2019; Wardiono & Dimiyati, 2014).

Based on the opinions of Austin and Kelsen above, it can be known that the legal analysis with the doctrinal approach should only be based on the use of secondary data (normative reality). Even if they use primary data, the substance is not seeing the empirical reality aspects from the analyzed objects, but primary data that contain an explanation of the substance of the secondary data.

For dissertations that use the doctrinal approach:

Specially for dissertations with synchronization-type research (Soekanto, 1986; Soekanto & Mamudji, 1990) or research types that use the statue approach (Marzuki, 2019), after the secondary data that are collected using the library research method are processed, they are then analyzed using the deductive thought logics.

This is carried out by placing constitutional regulations of a higher hierarchy as the major premise. Then, the constitutional regulations with a lower hierarchy are used as the minor premise. Next, after discussing the minor premise with the major premise, the researchers will conclude whether or not the lower regulations (the minor premise) are synchronized with the higher regulations (the major premise). This discussion is based on the *stufenbau theorie* of Hans Kelsen (Dimiyati & Wardiono, 2004; Soekanto, 1986; Soekanto & Mamudji, 1990).

Specially for dissertations with the in-concerto legal findings type of research (Soekanto, 1986; Soekanto & Mamudji, 1990) or in research that uses the case approach (Marzuki, 2019), after the secondary data are collected and processed, they are analyzed using the deductive thought logics by placing constitutional regulations as the major premise. Then, secondary data in the form of legal documents containing legal events, legal actions, and certain legal relationships are the minor premise. Next, after discussing the minor premise using the major premise, the researchers will conclude whether or not the contents of the secondary data (or the legal documents/minor premise) suit the applicable constitutional regulations (major premise). This discussion is carried out by using some categories as the basis according to the analyzed object. In general, the basis of the categorization used is the basic definition of the legal system, which encompasses the legal society, legal subjects, rights and responsibilities, legal events, legal relationships, legal objects, and legal impacts (Soekanto, 1986; Soekanto & Mamudji, 1990).

Specially for dissertations with the legal comparison type of research (Soekanto, 1986; Soekanto & Mamudji, 1990) or research that use the comparison approach (Marzuki, 2019), the model of analysis starts off with research with the legal inventorying type. Then, the researchers try to find a categorical basis that will become the basis for comparing legal norms from the various countries compared. These categorical bases may come from doctrines, but they may also refer to classifications originating from non-legal theories. After finding the similarities and differences between the compared legal norms, some of the dissertations then tried to explain the factors that caused the occurrence of these similarities and differences (Soekanto, 1986; Soekanto & Mamudji, 1990).

Specially for dissertations with the legal history type of research (Soekanto, 1986; Soekanto & Mamudji, 1990) or research that use the legal history approach (Marzuki, 2019), the same as the research with the legal comparison type, the analysis model starts with research with the legal inventorying type. Then, the researchers strive to find categorical bases that will become the foundation to see the development of norms that regulate a certain legal institution. These categorical bases may originate from doctrines. Some may also refer to classifications originating from non-legal theories. After finding the developmental dynamics of legal norms that become the research objects, some dissertations then try to explain the factors that cause these similarities and differences to occur (Soekanto, 1986; Soekanto & Mamudji, 1990).

For dissertations that use the non-doctrinal approach:

They are in general differentiated into two groups, namely the research that uses the quantitative approach and those which use the qualitative non-doctrinal approach (Wignjosoebroto, 2002).

The analyses carried out by the non-doctrinal approach use inductive logic by putting a basis on the thought framework that refers to legal theories (which may be legal sociology, legal anthropology, or legal psychology theories).

Quantitative research with the non-doctrinal approach tends to refer to the use of legal sociology theories that are categorized in the social fact or the social behavioral paradigms.

Qualitative research with the non-doctrinal approach tends to refer to the use of legal sociology theories that are categorized into the paradigm of social definition (Ritzer, 1975, 1980).

The main data used in dissertations that use the non-doctrinal approach are primary data that are supported by secondary data. Primary data are collected through the methods/techniques of conducting interviews,

spreading questionnaires, and undergoing observation, while secondary data are obtained through the literary study method/technique (Soekanto, 1986).

The obtained data are then processed. They are then analyzed through the following stages:

The data are analyzed using qualitative or quantitative methods of analysis. This method is carried out through the following stages: first, the data are displayed and reduced. After that, they are processed and arranged into certain units. Next, the data are categorized to show the important categories, how these categories are interrelated, as well as their characteristics. This activity is accompanied by the making of codes. The categorized data are then analyzed using the comparative method of analysis.

The last stage of data analysis is examining the data's validity to check the data's liability and accuracy. This is carried out using two methods: *first*, by using the data triangulation technique, especially the triangulation of sources, which is carried out by: (a) comparing the data resulting from observation and those resulted from interviews; (b) comparing what people said in public and what they privately said; (c) comparing the situation and perspective with various opinions that have different social stratifications; (d) comparing the results of interviews with the contents of a related document; and *second*, peer examination through analytical discussions.

After all of those analytical stages have been carried out, the last stage is interpreting the data, where the existing theories are applied to the data. Thus, there is a dialog between theories on one side and data on the other side.

Through this method, apart from providing the possibility to find several dimensions as the bases to support, extend, or reject existing theories, they also allow the finding of various empirical facts that are relevant to societal reality.

For dissertations that simultaneously use the doctrinal and the non-doctrinal approaches:

They usually start with analyses based on the doctrinal approach. Then, they continue with the non-doctrinal approach. The stages and requirements employed in the doctrinal approach-based stage are relatively the same as those employed in research that only uses the *an-sich* doctrinal approach. The results of the first stage analysis then become the basis of the assumption to carry out analysis based on the non-doctrinal approach.

Analyses that use the non-doctrinal approach use inductive logic by placing a foundation on a thought framework that refers to legal theories (which may be legal sociology, legal anthropology, or legal psychology theories).

Quantitative research with the non-doctrinal approach tends to refer to the use of legal sociology theories that are categorized in the social fact or the social behavioral paradigms.

Qualitative research with the non-doctrinal approach tends to refer to the use of legal sociology theories that are categorized into the paradigm of social definition (Ritzer, 1975, 1980).

Dissertations that use these two approaches are based on primary and secondary data. Primary data are collected through interviews, questionnaires, and observation, while secondary data are obtained through literary study (Soekanto 1986).

The obtained data are then processed and analyzed according to the following stages:

Following the approach employed, namely the doctrinal approach, the first stage in these dissertations is generally the application of analysis using the qualitative normative method of analysis as employed in dissertations with the *an-sich* doctrinal method.

Then, in the second stage which is based on the non-doctrinal approach, the analysis is carried out using the qualitative or quantitative method of analysis, which is carried out through the following stages: first, the data are processed and arranged into certain units after previously displaying and reducing the data. Then, the data are categorized to show the important categories, how these categories are interrelated, as well as their characteristics. This activity is accompanied by the making of codes. The categorized data are then analyzed using the comparative method of analysis.

The last stage of data analysis is examining the data's validity to check the data's liability and accuracy. This is carried out using two methods: *first*, by using the data triangulation technique, especially the triangulation of sources, which is carried out by: (a) comparing the data resulting from observation and those resulted from interviews; (b) comparing what people said in public and what they privately said; (c) comparing the situation and perspective with various opinions that have different social stratifications; (d) comparing the results of interviews with the contents of a related document; and *second*, peer examination through analytical discussions.

After all of those analytical stages have been carried out, the last stage is interpreting the data, where the existing theories are applied to the data. Thus, there is a dialog between theories on one side and data on the other side.

Through this method, apart from providing the possibility to find several dimensions as the bases to support, extend, or reject existing theories, they also allow the finding of various empirical facts that are relevant to societal reality.

## Conclusion

Based on the results of the research and discussion above, it can be concluded that the epistemological pattern used by doctorate program students of legal studies in Indonesia are as follows:

There are three patterns of epistemology used by doctorate program students of legal studies in Indonesia, namely those that are based on the doctrinal approach, those based on the non-doctrinal approach, and those based on the combined approach between the doctrinal and the non-doctrinal approaches.

For dissertations that are based on the doctrinal approach:

They are based on secondary data (which may include primary, secondary, and tertiary legal materials),

The data are collected using the library research method,

The analysis is carried out using deductive logic through the syllogism process.

For dissertations based on the non-doctrinal approach:

They are based on primary data,

The primary data are collected using the methods of in-depth interviews, questionnaires, or observation (either carried out independently or simultaneously),

The analysis is carried out using inductive logic, which may be qualitative or quantitative.

For dissertations that used the combination of the doctrinal and the non-doctrinal approaches:

They place a foundation on primary data as the main data that is then supported by secondary data,

The primary data are collected using the methods of in-depth interviews, questionnaires, or observation (either carried out independently or simultaneously), while the secondary data are collected using the library research method,

In the first stage, the analysis is carried out using deductive logic through the syllogism process. This is employed to analyze secondary data. Then, it is followed up by the second stage of analysis which is based on inductive logic which may be qualitative or quantitative. This is employed to analyze primary data.

In this research, some dissertations with the epistemological pattern were found. Even though they were based on the doctrinal approach, but:

They are not only based on secondary data (which may include primary, secondary, and tertiary legal materials) but they are based on primary data (empirical reality).

The collection of secondary data is carried out using the library research method, while the primary data are collected using the questionnaire method and guided interviews with chosen respondents.

The analysis is carried out using deductive logic through the syllogism process. But some research was continued with analyses based on inductive logic, which may be qualitative or quantitative.

The epistemological pattern that is based on the doctrinal approach is based on theoretical assumptions sourced from the teachings of the positivistic legal philosophy school of thought as taught by John Austin and Hans Kelsen.

The epistemological pattern that is based on the combined approach between the doctrinal and the non-doctrinal approaches is basically not based on theoretical assumptions in one of the acknowledged legal philosophy schools of thought, but they typically grow and develop according to the special characteristics in Indonesia.

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