

CRITICAL REFLECTIONS ON THE LEGAL SCIENCE

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Abstract

Generally, there are two opposing sides when discussing the epistemology of the law, namely realist and anti-realist. The point of difference between the two sides includes several topics responding to the basic topics related to the definition, scope, methodology and truth that want to be achieved by the science of law. This research aims are to answer some of the epistemological problems of jurisprudence and what philosophical assumptions based on and methodological implications for achieving truth in realist and anti-realist tensions. This article uses a conceptual review of the epistemic study of law. The result of this research is that the epistemology discourse of jurisprudence has been a topic of debate for a long time and stems from tensions between rationalism, empiricism, and pragmatism. Methodological differences also have logical consequences for the attainment of the truth that realists and anti-realists aim to address. Correspondence becomes the truth to be achieved by law according to the realist. In contrast to the belief of anti-realists who believe that the truth is not just a statement, but it becomes true if it fits and supports with other statements. Whereas pragmatic assumes the validity of the law is measured by its validity at its usefulness.

Keywords: Realist, Anti-realist, Epistemology, Truth, Methodology

INTRODUCTION

The discourse on the vulnerability of jurisprudence about its scholarship is an ongoing debate. The debate about the science of law can also be observed from the dialogue between Scholten and Langemeijer some time ago¹. Scholten argues that the scientific method in the field of legal science (*rechtswetenschappelijke method*) is characterized by demands that bear a scientific character of the type: in its processing of positive law (laws, judicial decisions, doctrines), legal scientists seek to achieve objectivity (taking all material -the given materials relevant to the review, study, discussion); seeking unity (avoiding direct conflict; seeking internal coherence) and seeking simplicity (with the formation of a sense as dense as possible). Although jurisprudence is also, in particular, an *ars* (art), a skill, it is not mistaken to bear that name.

Scholten's opinion above got a reaction from Langemeijer in his work titled *Inleiding Tot de Wijsbegeerte des Rechts*, he doubted the scientific nature of law. Langemeijer emphasizes the issue that jurisprudence operates with a variety of very different given materials (dogmatic deduction from the order of laws and regulations, exploring the driving forces that have influenced the history of the law, determining the tradition before the enactment of laws by law, it takes into account the practical impact of various decisions) and finally of the various

¹ Visser't Hooft, 2009, *Filosofie van de Rechtswetenschap*, translated by Arief Sidharta, Philosophy of Law, Laboratory of Law University of Parahyangan, Bandung, p. 24-26.

diverse materials given that the methods collected (compiled) must be drawn to the final conclusion with an assessment of good and bad.

Discourse on the subject of the science of law then emerged or found a new moment when Carel Stolker delivered a scientific oration in the framework of the 428th anniversary of Leiden University on 7 February 2003. The oration was titled, *Ja, geleerd zijn Jullie wel*. The oration contains several important points relating to doubts in the level of scientific knowledge of law related to juridical controversies, especially in providing different answers in wrongful birth and wrongful life arrest.²

Debate about legal epistemology has also occurred between Roscoe Pound (1870-1964) and Sir Frederick Pollock (1845-1937). The two figures represent the two traditions of thinking that have become a large current in legal thought, namely between pure legal theory and social legal theory. This debate is also packaged in a number of similar terms such as mechanical jurisprudence versus social legal science (socio-legal jurisprudence). Pound in his article entitled “Mechanical Jurisprudence” attacks the three scientific characters attached by Pollock to jurisprudence namely equality, certainty and justice. According to him, the proposed criteria put more emphasis on the internal structure of law, even though the scientific measure of law is on the achievement of the legal goal of justice. The character of scientific scholarship is useful in reducing the moral gap in humans. The fragile nature makes it easy to fall into the desire for power and corruption³.

Dissenting opinions about the nature of legal scholarship as outlined above can be interested in several basic topics related to the method and nature of science itself. Philosophy of law itself is considered to contain vulnerability as a science. Vulnerability of law as a science, according to Stolker, is caused by the overlapping of researchers with the object of research, the intertwining of scientific research with legal practice, and the normative character of law, which makes it more directed to ‘ought’ rather than ‘is’⁴.

In short, modern jurisprudence embodies two different thought traditions about the nature of law. First, adopt a scientific approach that assumes that all legal phenomena have universal characteristics that can be used in the analysis of all types of legal systems. Secondly, another form of reflection on jurisprudence views law as a complicated form of moral regulation that can only be analyzed from within a system of reflective moral and political practice. Instead of searching for neutral perspectives or criteria, this second form of theorization suggests that the nature and purpose of law are revealed by reflecting the dynamic nature of legal practice.

² The case began when a daughter, Kelly, was legally represented by her parents, several years ago demanding LUMC Leiden (Leiden University Teaching Hospital) before the court. He blamed the hospital for allowing him to be born into the world. He was born into a world with severe mental and physical disabilities. The incident according to his parents could have been prevented if before the child was born and during pregnancy the amniotic fluid was administered or the vlokken test was performed. Such tests will necessarily show that Kelly suffers from a special genetic disorder. If only Kelly’s parents knew about it early on, then surely they would have decided to have an abortion. To answer this problem various opinions about the application of wrongful life: 1. The child is entitled to get full compensation for the loss he experienced (due to his disability) (Cour de Cassation of France, The Hague High Court and a number of other writers); 2. The child not entitled to compensation (German Bundesgerichtshof and almost all American court decisions); 3. Parents are not the child who is entitled to compensation (The Hague District Court), 4. The child is entitled to compensation for the losses he suffers; must pay is the state is not a doctor (French law-maker); 5. The child is entitled to get two guilders and seventy-five cents (legal philosopher) Carel Stolker, 2011, ‘Ja, geleerd zijn Jullie wel, translated by Tristram Moeliono, Must be in Admit, You Are Indeed Educated: Regarding the Scientific Status of Legal Studies’, Scientific oration in the framework of the 428th anniversary of Leiden University on 7 February 2003, in *Tentang Keilmiahan Ilmu Hukum*, Faculty of Law, Parahyangan University, Bandung, p. 3

³ Roscoe Pound, 1908, *Mechanical Jurisprudence*, Columbia Law Review, Vol. 8, No. 8, Desember, p. 605-623.

⁴ *Ibid*, p. 13.

Reflections on legal scholarship will also be related to the method of legal science in finding the truth. The truth of jurisprudence is carried out in the adversary method which is carried out in the courtroom, not through scientific research⁵. The truth achieved by the method of contention will also change from time to time. In addition, the debate related to the vulnerability of the science of law is related to the position of law in the constitutive aspect of science.

This article limits the discussion to several points of reflection, namely how is the epistemology of jurisprudence and what philosophical assumptions are underlying? What are the methodological implications and the attainment of truth in the tension of the diversity of realist and anti-realist perspectives? To answer some of these questions, this paper uses philosophical reflection on the values of scientific reasoning and truth. This article positions itself as a conceptual study of epistemic law.

ANALYSIS AND DISCUSSION

Definition of Science

Before exploring further the scientific nature of the science of law, you should need to clarify what is meant by science? As a prelude, according to Liek Wilardjo, science is defined as all the knowledge gathered by humans through activities that go along the hypothetical-deductive-verification cycle. Tracks that are components of the cycle are scavenging (*induction*), elaboration (*deduction*), and verification or validation⁶.

Science has three foundations, namely the foundation of ontology, epistemology, and axiology. The foundation of ontology is often known as a study of everything that is objective and subjective that is often conceptualized as reality. The ins and outs of this reality are made by science as the object of claim to find out everything. These realities, both concrete and abstract, exist in the human empirical environment⁷. The basis of epistemology is often also called the theory of knowledge⁸ to discuss in-depth and critically all the processes that are seen in an attempt to obtain knowledge (*scientific methodology*), which includes what is science, the limits, and benchmarks of validity⁹. The final foundation, namely the axiological or teleological foundation of science, is a study of the goals or values to which knowledge is being achieved. Axiological or teleological foundation refers to the values held in determining the development, choosing and determining priorities of the research field, and applying and utilizing knowledge¹⁰.

These values can be divided into values that are internal (*constitutive*) or co-eternal (*contextual*)¹¹. Values that are internal (constitutive) are related to cognitive values which normatively need to be considered by the practitioners of science so that the rationality

⁵ Peter Ladefoged, 2011, *The law is Not Science: The Validity of Voice Identification*, in Widodo Dwi Putro, *Kritik Terhadap Paradigma Positivisme Hukum*, Genta Publishing, Jogjakarta, p. 111.

⁶ Liek Wilardjo, 2009. *Menerawang di Kala Senggang: Kumpulan Tulisan Liek Wilardjo*, Penerbit Teknik Elektro dan Program Pascasarjana Studi Pembangunan Universitas Kristen Satya Wacana, Salatiga, Cet. I., p. 23.

⁷ Liek Wilardjo, 2005. *Hipotetikalitas: Ketidakpastian dan Pilihan Etis*, dalam Integrasi Ilmu dan Agama: Interpretasi dan Aksi, Editor: Zainal Abidin Bagir, Jarot Wahyudi, Afnan Anshori, Mizan, Bandung, p. 112.

⁸ Konrad Kebung Beoang, 1997. *Plato: Jalan Menuju Pengetahuan Yang Benar*, Jogjakarta: Kanisius, p. 9.

⁹ Jujun Suriasumantri, 2006. *Tentang Hakikat Ilmu: Sebuah Pengantar Redaksi*, dalam buku, Ilmu dalam Perspektif: Sebuah Kumpulan Karangan tentang Hakekat Ilmu (edt: Jujun Suriasumantri) Cet. 16, Yayasan Obor Indonesia, Jakarta, p. 9.

¹⁰ Liek Wilardjo, 1990. *Realita dan Desiderata*, Duta Wacana University Press, Jogjakarta, hlm. 23. Lihat juga Liek Wilardjo, 1987. *Ilmu: Antara Sikap dan Pengetahuan*, Jurnal Prisma, No.3/Th. XVI, Maret.

¹¹ J. Sudarminta, 2009. *Epistemologi: Masihkah Kita Perlukan*, Jurnal Diskursus Vol. 8, No. 2, Oktober, p. 145-168.

of science is maintained. These values become a source of rules that determine whether a scientific method or certain work procedures in the practice of science activities means that the constitutive value is closely related to the methodological problems inherent in the value of honesty and truth.

Each epistemological tradition assumes that the truth of a knowledge can be obtained thanks to the method it uses¹². This methodology will determine the scientific truth obtained from the scientific research process¹³. A truth is not possible without the stages that must be passed to obtain scientific knowledge. The selection of the right method for doing scientific work is the key to accurately describing the object of a scientific study. The right method will then determine the quality of the intended scientific truth. The scientific truth in question is the compatibility between what is claimed as known with reality. Truth lies in the correspondence between subject and object, that is, what the subject knows and reality as it really is. In other words, there is a correspondence between the statements in the theory and objective reality in the world. Scientific activity is considered as an attempt to find the truth about this world. The scientific method is believed to guarantee the objectivity of the truth of the knowledge it produces because the steps taken in conducting research are believed to be logical, rational and coherent.

Scientists based on their profession are bound by the obligation to free themselves from, what Bacon calls, various forms of 'idols' or subjective and collective biases. They need to free themselves from the interests and values that are not constitutive attached to science itself¹⁴. In the process of research activities, scientists are required to maintain an objective attitude. Objectivity is a very high regard and inherent in the nature of science itself.

Objectivity which is claimed to be universal then becomes a hot debate in relation to the dichotomy of subject-objects in social science can be maintained because the results of knowledge are always subjective objective. This means that the knower's subject is actively constructing the object as it is known. Then the clear picture of the objectivity of science is challenged historically and sociologically that science as a human activity is essentially a science activity that cannot be separated from the historical, sociological, and cultural context of the community of the perpetrators. Moreover, in the discourse of modern science philosophy illustrates how the objectivity of scientific truths is often misused. Science projects that the perpetrators claim to be objective, universal and value-free are in fact subjective, local and full of values and even tend to support totalitarian and discriminatory policies¹⁵.

Conception of Legal Studies

*What is the law? It is a question that has beguiled and defined generations of theorists.*¹⁶ From Tamanaha's statement, the question of what is law is the side of the problem that found no agreement among intellectuals and legal theorists. The law is defined in

¹² Imam Wahyudi, 2004. *Refleksi Tentang Kebenaran Ilmu*, Jurnal Filsafat UGM, Desember, Jilid 38, Nomor 3, p. 255.

¹³ Sonny Keraf dan Mikhael Dua, 2002. *Ilmu Pengetahuan : Sebuah Tinjauan Epistemologis*, Kanisius, Yogyakarta, p. 66.

¹⁴ J. Sudarminta, 2008. *Objektivitas Kebenaran Ilmiah: Mungkinkah?*, Jurnal Diskursus, Vol. 7, No. 2, Oktober, p. 118.

¹⁵ F. Budi Hardiman, 2009. *Kritik Ideologi: Menyingkap Pertautan Pengetahuan dan Kepentingan Bersama Jürgen Habermas*, Kanisius, Jogjakarta also read F. Budi Hardiman, 2009. *Menuju masyarakat Komunikatif: Ilmu, masyarakat, Politik dan Posmodernisme Menurut Jürgen Habermas*, Kanisius, Jogjakarta.

¹⁶ Brian Z. Tamanaha, 2008. *Law*, Legal Studies Research Paper Series, paper #08-0095, January, p. 1.

various ways and explained according to the thinking of each jurist. Legal definitions will vary and are as many opinions from experts who put forward them. For example, ten legal experts argue that ten or more definitions of law will be born.

The variety of legal definitions can be summarized from the conception of law by several major philosophers until the 19th century (nineteenth) who wrote:

Law, as Plato said that law is a form of social control and an instrument for realizing a good life. Reasons to be realized in reality, the real reality of social structures. Aristotle said law was a rule of conduct, a contract, and an ideal reason, a policy rule, a tool of order. Cicero said the law was an agreement based on reason to achieve the common good that was made to care for the community. Bacon believes certainty is the main thing required by law. According to Hobbes law is an order from the holder of sovereignty. According to Spinoza the law is a plan of life. According to Leibniz, law is the character to maintain the structure of society. According to Locke law is a norm that exists for welfare. According to Hume, law is a body of precepts. According to Kant, law is a will of harmony which means universal rules for the benefit of independence. According to Fichte, law is a relation between human existence. According to Hegel the law is the realization of ideas about rights¹⁷.

Theorists in the nineteenth century who came from several different scientific disciplines discussed law as the subject of his study.

For Max Weber, law exists when a group of people who are ready to apply coercion to apply the norm; according to Bronislaw Malinowski, law is rules that are discovered and formed as important aspects of social life; for Eugene Ehrlich, those laws are rules that arise spontaneously from agreed actions originating from the order of social associations; for Roscoe Pound, law is social control within a political society organization; for Paul Bohannon, law is habits that are re-institutionalized by their enforcement for a purpose; for Donald Black, law is social control by the government; for Lon Fuller, law is the subjectivity of human behavior compiled by government into rules; for Hart, law consists of primary rules applied to social rules, and secondary rules by law enforcement followed to recognize, change, and apply to primary rules; for Niklas Luhmann, law is an aspect of a social system to facilitate expected behavior¹⁸.

With regard to variety and agreement between legal theorists about what is the law? Tamanaha grouped law in three important concepts and definitions which were categorized: first, law as social order; both laws are elements of state law; third, law is related to the term justice or truth (justice or right category)¹⁹.

Of the three categories of legal concepts is not an absolute is accepted as true. The different conceptions of law are inseparable from the nature of the law itself which is a product of reason and social activity. Is not it increasingly different between social activities with one another will give birth to a different law. At least, from the legal category will also emerge a new orientation, new theoretical formulations to understand the contemporary development of law, especially if it is associated with rapid changes in social society (increasing population and urbanization), political structure (more emergence of secular states), economy (domination from global capitalism), technology.

¹⁷ Huntington Cairns, 1949. *Legal Philosophy from Plato to Hegel*, John Hopkins Press, Baltimore, p. 556.

¹⁸ Brian Z. Tamanaha, 1995. *An Analytical Map of Social Scientific Approaches to the Concept of Law*, Oxford J. Leg. Stud, p. 15: 501-535.

¹⁹ Brian Tamanaha, *Law...op.cit*, p. 6-11.

Legal Science Methodology

Science, according to Patrick, is a painting or description that is complete and consistent about the facts of experience in terms as simple as possible or as little as possible²⁰. According to A.F. Chalmers, it is knowledge that has been proven true. Scientific theories are drawn in a strict manner from the facts of experience obtained through observation and experimentation. Scientific knowledge is trustworthy knowledge because it has been proven objectively true, science is a structure that is built on facts²¹. According to Archie J. Bahm, Knowledge is called scientific if it fulfills six components, namely: problem, attitude, method, activity, conclusion, and effects²². Whereas I.R. Poejawijatna, said that knowledge is called scientific, so it must be objective, methodic, universal, and consistent²³.

There are many methods (sources/theories) in talking about epistemology. A long-known debate between rationalism versus empiricism. Finally emerged the pragmatism flow. Although these three theories do not specifically discuss the philosophy of law, the three have influenced the basic epistemology of law. Each of the three epistemological theories leaves quite a strong imprint in a variety of legal theories and methodological thinking that are claimed to fit into the nature of legal science.

The three theories of epistemology, namely rationalism, empiricism, and pragmatism. In the discourse of developing jurisprudence, it developed into three main features/variants of law. Metamorphosed rationalism is known as legal formalism or legal positivism, which postulates the rationalization and synthesis of law. That law is supposed or idealized. Empiricism came to be known as legal realism which believed that the law was actually based on experience. The judge decides first based on facts not regulations. Legal pragmatism then emerged as a synthesis of the two previous schools. Legal pragmatism tries to combine pure legal reasoning with the idealization of law to form realistic social-legal theories (realistic socio-legal theory) as developed by Brian Z. Tamanaha²⁴.

Starting from such philosophical assumptions, the methodology of legal science is divided into two major streams, traditional (internal ways) and modern perspectives (external ways). The first methodology tends to approach the law in the way of black letter law logic. Legal doctrine can only be understood and explained by jurists or lawyers with a normative character. Law is seen as operating in a social, economic and political vacuum. The existing law in the form of laws and decisions on previous cases is the starting point.

Without denying the demystification effect produced by the approach or the elements of truth it contains, it is easy to show that the objectivity sought and the proposed explanation mutilate the actual legal phenomena. Externalities in the case proved to be misleading and reductionist. This normative dimension is undoubtedly the subject of rationalization and interpretation by lawyers themselves: a phenomenon of self-

²⁰ Jujun S. Suriasumantri, 1993. *Filsafat Ilmu, Sebuah Pengantar Populer*, Jakarta: Sinar Harapan, Jakarta, p. 59.

²¹ G.T.W. Patrick, 1958. *Introduction to philosophy*, London: tp., p. 375.

²² Archie J. Bahm, 1980. *What is Science?* dalam bukunya, *Axiology: The Science of Value*, World Book, Al-Bequerque, New Mexico, (14-49) atau reprinted, p. 1-36.

²³ A.G.M. Van Melsen, 1992. *Wetenschap en I eranwoordelijkheid, alih bahasa K. Bertens* dengan judul "Ilmu Pengetahuan dan Tanggung Jawab Kita", Gramedia, Jakarta, p. 65-67.

²⁴ Brian Z. Tamanaha, 1997. *Realistic Socio-Legal Theory: Pragmatism and a Social Theory of Law*, Clarendon Press, Oxford, p. 246.

interpretation that characterizes the object of all human and social sciences. No doubt, it is precisely from this self-interpretation that science, as understood from the perspective of external explanations, aspires to free itself. But in doing so aren't they forced to reduce the law to facts or at least to non-legal norms²⁵? The statement is the view of other theorists who reject the explanatory paradigm that supports understanding from an internal perspective

Externalization paves the way for internalization, objectivity for subjectivity. The *Raison d'être* of social phenomena lies in its internal understanding, which is clarified by means of representation, conventions, and rules that are common to reference groups. For legal studies, this means the kind of knowledge that, without the shared ambition of legal dogma ambitions, will embrace the paradigm (which sometimes takes the form of myths and dogmas, as we have seen) used in the practical discourse of lawyers. Here it is also easy to show the unsatisfactory nature of this position which removes the scientific viewpoint from real autonomy by giving legal principles not only the status of the object of study (legitimate), but also the validity criteria of the theory (which can hardly be called scientific) .

If someone rejects the position of an external observer and also someone who is in an internal position, should one conclude that it is impossible to have jurisprudence? Not if someone wants to follow the third position, namely from a 'moderate external point of view' or 'the point of view of an external observer who relies on the internal point of view of the *Juris*. In other words, this means that there is a dialectical interaction between the paradigm of explanation and interpretation. Although it seems clear that only an objective external point of view can lead to scientific explanatory theories, it is not at all contrary to this position to be adopted as an object of study.

'Internal understanding' or 'self-interpretation' used by lawyers. First, legal phenomena are described in the discourse by the authorities and legal subjects, which involve an understanding of the explicit and implicit conventions in the discourse. Then in the second phase, which is fully scientific, these discursive practices are explained (related causally or teleologically to certain types of environmental phenomena). This third phase leads to a comprehensive reinterpretation of the object of research. Therefore, the explanation makes it possible to develop from a naive and instinctive understanding to critical and constructive understanding²⁶.

Has this process reached the point where various approaches are no longer relevant to scientific matters? To make this statement means to ignore the latest developments in the epistemology of the natural sciences which have produced extensive revisions of the conventional sense of observation and explanation. Without going further into the matter, it will be limited to remind that the 'facts' learned by contemporary natural science are not taken from and observed in 'nature' by our external senses but are produced by complex and artificial experimental processes. Fully mediated by the techniques and theoretical languages that govern the experimental process. As a result, traditional criteria of control (verification) tend to give way to scientific statement criteria: theoretical interpretations are good when providing the most satisfying explanation of known phenomena and opening up a large number of perspectives about phenomena.

²⁵ Mark Van Hoecke and François Ost, 2010. *Epistemological Perspectives In Jurisprudence*, dalam *Legal Theory and the Legal Academy*. Ed. Maksymilian Del Mar. Vol. 3. Ashgate Publishing, Farnham UK, p. 13.

²⁶ *Ibid*, p.14.

So there is no deeper difference between natural and human sciences and even if specific differences remain, this is not so important that it cannot be said to be similar between the two approaches. What remains now is to determine the source of the explanatory hypothesis that is recommended for adoption by the recommended jurisprudence. Of course, this involves a critical perspective to see the interdisciplinary character of legal science.

Truth in the Legal Studies

A model of truth that results from a system of conflict in court, which often results in one party winning and one losing party. On the one hand, does the court reach the stage of truth in obtaining the results? Perhaps, with clear results, one would think that law does not require a theory of truth. However, Dennis Patterson acknowledged the importance of truth theory to law. In his new book, 'Law and Truth' Patterson argues that the main task of the science of law is to provide a philosophical explanation of what the legal propositions mean, true or false. Law and Truth involve centuries of philosophical debate about the idea of truth²⁷.

Before discussing the type of truth that is addressed by the science of law. First, it needs to be explained, what is meant by truth? The term 'truth' is said to have 'a complex structure and no simple formula that can fully capture its meaning'²⁸. Some truth theorists argue that: 'truth is a simple logical idea, which does not require' substantial 'theoretical explanations'²⁹. Furthermore, truth does not have 'a hidden structure awaiting discovery'³⁰ and that 'truth is fully captured by trifles early so that in reality nothing is more ordinary and not confusing than the concept of truth'³¹. This is an argument in terms of functionality and pragmatics, so 'truth' does not have to have a universal essence to function properly under certain conditions (discursive). So, while there may not be a universal definition of truth, good working out of that definition is possible³². There is even debate about how many theories of truth there are. But in general, there are 'two basic theories of truth' namely realism and anti-realism which refer to three substantive truth theories - correspondence, coherence, and pragmatics.

1. Theory of Realism / Correspondence

Legal truth in a realist perspective is achieved if a claim or statement is in accordance with reality. In short, the statement is true if it is in accordance with the facts, and false if it is not in accordance with the facts'. Correspondence theory 'is basically a proposition that when this or that happens, it actually happens and statements about it are true. For realists, the meaning of the sentence is given by the conditions that make it true. There are three main categories of realists: (a) naive realists; (B) critical realists, and (c) internal realists³³. They all use the theory of correspondence about truth, that is, they argue that the truth of any statement is based on successful references. Realists affirm bi-valence, that is, they argue that the statement is true or false depending on whether it is appropriate or not according to the circumstances that wish to be explained. This

²⁷ George A. Martinez, 1997, *On Law and Truth*, 72 Notre Dame L. Rev. 883. <http://scholarship.law.nd.edu/ndlr/vol72/iss3/6>, p. 883.

²⁸ Edo Pivcevic, 1997. *What is Truth?* (Edisi 1), Routledge, London, p. 19.

²⁹ *Ibid*, p. 22.

³⁰ Paul Horwich, 1990. *Truth* (2nd edition), Clarendon Press, New York, p. 2.

³¹ *ibid*, p. 21.

³² Joseph M Fernandez, 2009. *An Exploration of The Meaning Of Truth In Philosophy And Law*, 11 Undalr, p. 60

³³ *Ibid*, p. 63

theory of truth claims that the statement is true if it matches the circumstances it is trying to decipher.

The idea that truth is a kind of correspondence with facts, however, has never succeeded in satisfying anyone. It is further suggested that many philosophers think that traditional attempts to explain ideas about facts and correspondence 'produce nothing but a poor pseudo metaphysical explanation because the central concepts they use have absolutely no explanatory value'. Another difficulty with correspondence theory is that it is typically and naturally related to metaphysical realism - the view that there are objective realities whose existence and structure are independent of our language and thinking.

For correspondence theory, truth is not a matter of whether a statement is justified or rational - objective truth and depends only on the way the world is. So the criticism is that in the realism of classical correspondence we can never determine whether statements or beliefs are true because we cannot compare them with facts to see if they are in accordance with them. Statements and beliefs, as is usually argued, can be compared with other statements or beliefs to see whether they are in harmony with one another, but we can never compare or oppose statements or beliefs with facts or with reality. There is, as it is often said, no way to get out of our language or outside our circle of belief and explore the facts themselves. This epistemological objection is the main reason many legal philosophers abandoned classical correspondence theory and began offering alternative substantive theories that promised to be more loyal to our epistemic situation in the world.

2. Theory of Anti-realism / Coherence

In contrast to realism, anti-realism rejects correspondence and instead states that statements are true because they blend with other true statements. Coherence is when the elements are consistent with each other and when it shows the whole as a particular system. In that case, the whole system and every element is correct. Coherence theory is a theory that measures truth with their "compatibility" in a given system. Anti-realists do not dispute the realist assumption that truth is a matter of conditions - where they part with the company whether the conditions of truth might be 'transcendent recognized'. Anti-realists reject all attempts to make language a reflection of reality, and instead maintain that truth is basically the result of social construction. They reject bivalence and instead state that truth claims are internal to the community in which this truth is expressed, that is, truth depends on what is agreed upon in the community and it depends on the rules of language play, not on objective research.

Many philosophers who rejected classical correspondence theory, epistemic theories' began to develop, claiming that the truth of a statement does not consist in external relations with features of reality but in having positive epistemic status in conceptual schemes or inexperience. These theories argue that the truth of judgment consists of being a member of a comprehensive and harmonious comprehensive belief system. The basic essence of the coherence theory of truth is the conception that beliefs, judgments, or whatever are considered as bearers of truth are 'right or wrong according to whether they are compatible or not united, with other bodies of belief (or whatever) it's true. A related term when discussing coherence is verification which simply, supports the view that the meaning of a word or combination of words is determined by a set of rules that

govern its use. Coherence theory is typically a theory of truth shared by idealists - those who defend that reality, at least as far as we can realize, is an inherent mental trait³⁴.

3. Pragmatic Truth

Pragmatism, emphasizing practice, in holding proof of the truth of a matter can be seen from its practical actions or in terms of usefulness. According to this flow think it is devoted to action. This results in that actions become criteria of thought and usefulness. In other words, the result of that action becomes a truth.

Pragmatic truth theory asserts that there is a close relationship between the concept of truth and human experience and practice. A pragmatic approach to truth is to ask what difference makes a belief true. Pragmatic approaches truth from an epistemic point of view, which incorporates the basic elements of coherence. Pragmatic truth theory is based on the conception of pragmatic meaning, which states that all meanings are based on practice, with all the different meanings involving several differences in practice, that is, truth is a problem that is in accordance with practice. True ideas are ideas that we can assimilate, validate, strengthen and verify. False ideas are things that we cannot have. That's the practical difference that makes us have true ideas; therefore, that is the meaning of truth, because only that is known as truth.

One criticism of the pragmatic theory is that pragmatics suffer from a fundamental weakness namely confusing the criteria of truth with the nature of truth. It is suggested that not because pragmatists are 'too ignorant' to distinguish between criteria and essence - because they are well aware of the alleged difference - the objection is that the difference cannot last in the long run. Differences in meaning, say critics, must make a difference in real practice.

CONCLUSIONS

The epistemology discourse of legal science has been a topic of debate for quite a long time, both in various scientific forums and in several places in the world. The base of this tension is the legacy of the philosophy of science that underlies it, namely the debate between rationalism versus empiricism. And pragmatism which is an alternative view that emerged later in the two major epistemic theories. The difference in the point of view of these theories, if traced back to their crossings, creates tension on several aspects of legal science. Includes differences in the definition and scope of understanding of law and methodology. In the aspect of the definition, there are two poles of discourse about the use of the term jurisprudence which must be applied to the jurisprudence diction or legal science. In the methodological domain, this tension continues with the emergence of two approaches to law, a perspective from internal / realist or external / anti-realist. The internal perspective sees law as a normative building that idealizes law as it should. Authoritatively interpreted and understood only by lawyers and jurists. On the other hand, the external perspective of law is understood as a building that is not always strict. It can be approached with a variety of approaches. The law is understood as true, they are called anti-realist. Methodological differences also have logical consequences for the attainment of the truth that realists and anti-realists aim to address. Correspondence becomes the truth to be achieved by law according to the realist. The truth is the compatibility between statements and facts. In contrast to the belief of anti-realists who believe that the truth is not just a statement, but it becomes true if it fits and supports

³⁴ Joseph M Fernandez, 2009, *An Exploration Of The Meaning Of Truth In Philosophy And Law*, 11 *Undalr*, p. 62

with other statements. The sharpness of the difference between the legal truth according to the realist and anti-realist try to be broken down by the pragmatic truth theory which states the truth is in action. The validity of the law is measured by its validity on the value of use when it is in the realm of action.

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