

A New Paradigm in Indonesian Legal Research from Positivistic to Participatory

Anthony F Susanto, Hesti Septianita and Rosa Tedjabuwana

Abstract

Debates around research method have taken us so far into what is called as clash of paradigm. Despite the circumstances, the positivist paradigm is still dominant and thus created a paradigmatic gap between old values and contemporary changes and progress. This is why a research cannot accommodate variations in reality. The paradigmatic bias of science and methods of legal research arising from the transplantation of Western law (modern law) to local law and practices, and the emergence / sparking of all injustice practices that arise in various legal systems, since there is no legal system that is practically free from the scandal on abuse of power, consequently, those who are far from power will be excluded from access to justice, and are always marginalized. Through the study of hermeneutics and philosophy of law, it can be explained that legal research is undergoing a shift from the dogmatic nature to become participatory, the reality of the truth changes and jumps, so there is no absolute truth in this study. Through a participatory transformative paradigm, legal research will be able to play a role in the context of marginalized societies. Through collaborative legal research, the value of legal alignment towards the community will be more pronounced in living conditions today, especially in Indonesia that experiencing a crisis of values, crisis, moral and severe identity crisis.