Scientific Research in Law between Thought and Ethics

- ***Dr. Ali Latreche***
- ***Pr. Zebiri Ramdane***

Faculty of Law and Political Science /Adrar- University - Algeria

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Abstract:

Scientific research in the field of legal studies intersects with many other sciences, such as commerce, medicine, economics, media, politics, etc. These areas are governed by legal rules such as: commercial law, medical law, economic relations law, media law, political party law, electoral law, which negates the existence of any area not regulated by law. Therefore, the researcher must realize that the quality of their legal research lies in the quality of their knowledge of the subject matter that intersects with it.

Researchers must also realize that the validity of previous research results is not absolute, because the belief in their relativity is what broadens the intellectual scope of the researcher. Nor should researchers sanctify other researchers, because this harms the nature and quality of their scientific research, so they only mention what they learned from their knowledge for the sake of ethics.

The desired objectives of this research are for the researcher to realize the importance of the scientific pen when analyzing and understanding any problem in the field of legal sciences, because the pen is a tool to stimulate the mind in the field of understanding the philosophy of before and after the existence of legal rules from many angles, This is necessary for judges, regardless of their specializations, when making their interpretations, and it is necessary for researchers, regardless of their legal specialization, because There is no absolute understanding of any problem addressed by the law, because the difference lies in the angle of rational understanding. Which means no sanctification of others' thoughts? As for the methods that I relied on to clarify the problem of the mind and the pen in the field of legal philosophy are analytical and descriptive.

Keywords: *Scientific Thought; Quality; Research Methodology; Research Ethics.*

Introduction:

God created human beings, put two greatest values at their disposal and honored them with the prostration of the angels. These values are the mind and the pen. As for the mind, although scholars differed in determining its location in the human body between the mind or the heart or in common links between them, it is ultimately what distinguishes between the foolish, the heedless, and the insane between the ignorant rational person and the illiterate rational person, and between the searching rational person and the knowledgeable rational person.

The first three categories are about the absence of mind or its deficiency that the difference between the mind of the ignorant and the mind of the illiterate lies in the fact that the first is the mind that harmed its owner, while the mind of the illiterate is the one that did not harness the power of the pen. On the one hand, this is meant to show the power of mind in research, contemplation and reflection and to leave the fingerprints of that for others, on the other hand. The rational and knowledgeable person is aware of the great power that exists in the pen, so he began to discuss it and to challenge his mind in an internal dialogue for every research he undertakes. As for the rational researcher, the strength of his research varies between the degree of his certainty in the strength of the mind and the pen.

In scientific reality, we find researchers who sanctify others, while in return dwarfing the powers of their own mind and pen. So, the scientific results they reach are mostly nothing more than mere scientific rumination and copying of the sacred ideas of others. In this case, the researcher has a certain belief in the relativity of the correctness of their ideas and deliberation and an absolute belief in the correctness of the ideas of those they sanctify. Also, we may find examples of robotic researchers who do not set goals for their research to develop science and humanity and may be satisfied with achieving narrow interests for certain legal positions, and we may also find a percentage of them who follow the path of plagiarism.

When focusing on scientific research within the scope of law, we find research from the same previous projections in the quality gradation pyramid. What are the reasons behind this? Do we attribute this to personal or objective conditions that must be met before and during the preparation of scientific research?

The importance of this study lies in mentioning the intellectual standards for the quality of scientific research in the legal field from the perspective of reconsidering the power of the mind and the pen, while mentioning some of the obstacles to their activity.

The methods followed in this research are:

- Descriptive approach.
- Analytical approach.

Through the descriptive approach, I bring the image closer to the reader, especially since the research idea revolves around an intangible mental orbit, and the analytical approach is the backbone of this research, because closed or complex ideas about the importance of the scientific pen in the field of the relativity of thought can only be simplified by scientific analysis.

Finally, I followed the dual academic methodology.

- Chapter One: Personal Conditions for Preparing Legal Scientific Research
- Chapter Two: Objective Conditions for Preparing Legal Scientific Research

1. **Chapter One: Personal Conditions for Preparing Legal Scientific Research**

Through the topic of this research, I will highlight the most important general intellectual, private intellectual and ethical personal conditions requirements that must be available in the researcher for the quality of preparing legal scientific research through the following sections:

1.1 General personal intellectual conditions.

1.2 Personal intellectual conditions.

1.3 Personal ethical conditions.

1.1 General personal intellectual conditions

It is better for the researcher, who seeks to present serious scientific research with distinguished content to establish a fertile intellectual ground for it, and this fertility must be based on the actual establishment of general intellectual conditions, and through this requirement we will shed light on its most important branches, which are:

1.1.1 Freeing the researcher's mind from the prisons of others' thoughts.

1.1.2 Expanding the researcher's thinking by freeing them from their illusory conditionality.

1.1.3 Freedom from the researcher's intellectual aura towards the research topic.

1.1.1 Freeing the researcher's mind from the prisons of others' thoughts

The problem of scientific research is that dark scientific gap separating previous scientific knowledge and the scientific knowledge that we seek and the, latter needs to be highlighted intensively by the researcher. We often find that the researcher has previous scientific ideas, but they are not of the type of scientific research knowledge, but rather they are sacred ideas stemming from the sanctification of people and from the sanctification of scientists as if they were completely perfect.

These researchers may be right in part of their research, but in parallel with that they may deviate from the truth in many angles because they start from a certain belief in the correctness of the research of the person, they sanctify and the sanctified is a human being with a limited

mind who may be right sometimes, and may deviate from the truth at other times.[1]

1.1.2 Expanding the researcher's thinking by freeing them from their illusory conditionality.

In order to understand the meaning of expanding the researcher's thought by liberating himself from his illusory conditionality, one of our honorable professors once presented to us a geometric shape of nine pints[2] and asked us to connect them together with a pen, with two conditions:

1. The pen must not be lifted from the beginning of the connection to the end.

2. The number of straight drawn lines must not exceed four.

All our attempts to achieve both geometric conditions failed,[3] but the professor showed us through a simple drawing that achieving the connection of the dots with the two conditions was possible if our drawing of the straight lines extends beyond the framework of the nine unconditional points within the two previous conditions. It was necessary to free our thinking from any other conditionality other than the two obligatory conditions set to solve the problem of the complete drawing.

We simply did not succeed in reaching a geometric solution, even though we acknowledge that it is impossible, because we imprisoned our thinking within the framework of the square, as if there is a condition that imposes this on us. Al l the professor did was to free us from this condition that we restricted ourselves with. He showed us the

[1] For more scientific ideas on this topic, refer to the author: Latreche Ali Issa Abd-el-Kader, Methods of Interpretation between Separation and Cloning in Sharia and Legislation, New University Publishing House, Tlemcen, Algeria, 2019.

[2] Alal Amin, Professor of Higher Education at the University of Tlemcen, Member of the Pedagogical Training Committee, The relationship between thought and mind 2017.

[3] Most attempts were to draw 5 lines without lifting the pen.

possibility of achieving the two conditions if our drawing of the lines extends outside the geometric framework.

We often look at research problems through a closed space designed by our thinking. We do not realize through it all the research problems that form the problem in their consistency. The more the percentage of liberation of our thinking from our subjective conditions for our research thinking increases, the more the angle of our scientific vision of the problem of our research increases. That is, the percentage of success, no matter how relative, is close to being achieved when we think in an open space, in which we move freely from one angle to another.[4]

1.1.3 Freedom from the researcher's intellectual aura towards the research topic

We mean by the intellectual aura in this section5 the psychological state of the researcher towards himself and towards others, which may negatively affect the research topic. It is that psychological impression that may give the research problem more than its real size or dwarf it, giving it less importance than its size. In both cases, the researcher is wrong.

[4] One of the simplest examples we cite for this branch is the problem of not regulating and organizing parallel markets for hard currency in some Arab countries. When we look at this problem from a broad scientific space that is not restricted by subjective conditions, we will see many scientific problems that surface, such as: 1. A social problem such as unemployment, 2. An economic problem such as not expanding the state's tax base to benefit from collecting parallel activities such as this activity. 3. The problem of legal loopholes in the Monetary and Credit Law and the Banking Law, 4. The problem of not regulating banks to contain this deviant segment in illegal transactions, 5. A political problem represented by the state's lack of will to transform such a reality from an illegal framework to a legitimate framework by submitting a draft law in this regard to Parliament as a legislative authority, 6. The problem of the spread of the crime of trading counterfeit currency, 7. The problem of containing the social segment in the fields of social security and retirement in various forms.

[5] We see the aura as a natural phenomenon in the large size of the sun or moon, which appears to us as such because of the external light that magnifies the natural size in our eyes and imagination, and not reality.

This is what happens to the teacher and professor who judges the level of his students and pupils through a single initial assessment, and uses that assessment as a methodology to simplify or deepen the ideas he teaches them, only to discover in the final annual exam that he was wrong.

1.2 Personal intellectual conditions

In fact, there are many special intellectual conditions that a scientific researcher in the field of law must possess, but we will suffice with mentioning the most important of them by shedding light on them in the following sections:

1.2.1 Knowledge of the spirit of the law and its philosophy.

1.2.2 Knowledge of the philosophy of law under study.

1.2.3 Being patient and persistent.

1.2.4 Being scientifically disciplined (not just cramming).

1.2.5 Scientific objectivity.

1.2.1 Knowledge of the spirit of the law and its philosophy

Those dealing with the field of law, including judges, lawyers, jurists and researchers, often believe that it, no longer needs the field of philosophy. However this thinking is nothing but a translation of the weakness of the connection between the thought of these people and reality to the point of not realizing the hidden relationship between the various situations and the various legal rules regulating them.[6] Law did not arise from vacuum, but rather existed to address unregulated situations and their organization requires intellectual creativity that

[6] Here we mean all types: social, economic, cultural, political, etc., and all of these situations are regulated by human thought through transforming the various relationships arising from them into general and abstract legal rules in order to achieve organization and justice.

understands and analyzes the philosophy of this situation in its natural state before formulating the legal rules regulating it.[7]

Formulating such rules would be merely sterile formulations at times and naive at many times, and the result would be bad laws that may need to be amended. Therefore, the researcher in the field of law must be equipped with the .science of the philosophy of law before embarking on research into the law itself The legislator needs this to formulate a correct law that expresses reality, and the regulatory authority needs this to formulate correct regulations that reflect the organization of reality. The judge needs this greatly when dealing with legal loopholes, at which point he needs to exert efforts before issuing his judicial sentences.

Those who most need to understand this connection between the philosophy of law and the law are the jurists and researchers to produce valuable scientific research and theories, where we find the legislator and the regulator and judges feed their thoughts from sources of jurisprudence and research before embarking on their duties, each according to his constitutional powers.

1.2.2 Knowledge of the philosophy of law under study

Andrei Marmor's[8] philosophical legal thought is based on the fact that the nature of law is a realistic matter, but the legal scope is broader to include psychological and spiritual interpretations, even what appears realistic may have real causes from several essential angles[9], on this

[7] For example, free economic zones existed as a reality in the field of international investments before they were codified, and their correct codification requires first understanding the philosophy of establishing such zones in economic reality. On this basis, the codification of these zones by some countries was bad due to a poor understanding of their philosophy.

[8] Andrei Marmor's, Philosophy of Law, Series Princeton foundations of contemporary philosophy, Princeton, New Jersey 08540, United States, 2014 p 85

[9] Immanuel Kant, trans. W. Hastie The Philosophy of Law: An Exposition of the Fundamental Principles of Jurisprudence as the Science of Right, (Edinburgh: Clark, 1887).

basis, societies differ in their view of the most appropriate legal rules to apply.

In some Islamic societies, we find that family law has legal rules derived from the Holy Qur'an, Where spirituality blends with realism; we may not find this in Islamic countries with a secular orientation, where the spiritual aspect is almost absent, In parallel, we may find some legal rules of non-Muslim peoples that have combined the protective and spiritual approaches. On this basis, there are no limits to the philosophy of law[10], which is reflected in the unlimitedness of the legal rules derived from the same philosophy; therefore, the researcher in legal thought must realize this relativity.

In order for a scientific researcher in a particular field of law to produce valuable scientific research, he must first link this law to the roots of its issuance and then to the roots of the reality connected to it.

As for the roots of its issuance, we mean all the preparatory work that precedes the issuance of the law under discussion in the official journal, whether [11] the latter is at the level of the legislative authority or at the level of the committees or at the,[12] monitoring the extent of the legitimacy and constitutionality of its rules level of the ministry concerned with the law and the ministerial council if the law in question is originally a draft law. The follow-up of this law extends even to the

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https://oll.libertyfund.org/titles/hastie-the-philosophy-of-law accessed 11/04/2024 11.20

[10] Kenneth Einar Himma, Philosophy of Law, https://iep.utm.edu/law-phil/ accessed 12/04/2024 10h.30

[11] For example: Is this law originally a draft or a proposal? Then review the study and details of the rules of the draft law or the proposed law by the specialized committee in Parliament, then the opinion of the rest of the committees informed about the constitutionality of its rules, whether their opinion is advisory or mandatory, in addition to reviewing its discussion and the percentage of votes on it.

[12] For example, in the Algerian legal system, ordinary laws are passed to the State Council to examine their legitimacy while organic laws are passed in this regard to the State Council, and the difference between them is clear as the first has an advisory opinion, while the second has a binding opinion.

level of the regulatory authority, if regulations are issued regarding it as subsidiary legislation.

As for the roots of its connection to reality, we mean by it the realistic philosophy that was transformed into a legal philosophy and then into a law. The researcher must connect with reality through analysis, statistics description, and history and Criticism, in order to reach convictions about the extent to which this law expresses this reality. These convictions are of a quality commensurate with the quality of the scientific researcher's thought.

1.2.3 Being patient and persistent

Patience has a great value in the Islamic faith, and God Almighty revealed in the Holy Quran many noble verses that immortalize the merits of this value, by which he raised the value of Man in this world and the hereafter. It was also immortalized by the hadiths of the Messenger Muhammad, may God bless him and grant him peace and the actions of the Companions, may God be pleased with them, and the followers. Among these we find the scholars and jurists through whom God raised the edifice of the Islamic nation to reach the whole universe.

The patience of the scholar and the researcher who is struggling with research, regardless of his field of research, has to endure a lot of unfulfilled needs of the soul in all types of these material and moral needs, not to mention patience with the harm of others in the research journey sometimes. Obtaining information is not always easy, and those who discourage, scientific determination and ambitions are present at the doors of scientific research spreading their negative energies. Therefore, perseverance in proceeding on this difficult path is not an easy matter, but reaping its fruits will remove the evil of all those difficulties[13]

[13] Its fruits are reaped primarily at the level of the researcher himself, and then secondarily at the level of others from the category to which the research is directed.

1.2.4 Being scientifically disciplined

In fact, discipline is a practical behavior that is more apparent than hidden. It is a transformation of behavior over time from the individual's internal psychological belief to the apparent public. The latter appears at the level of the individual's external behavior in his various external relationships with others and with all living and non-living elements in the environment in which he lives. As for discipline at the level of scientific research in the field of legal studies, it appears first from the angle of moving away from scientific padding, and it also appears through the ethics of dealing with others.

It is better for the researcher to stay away from scientific padding that does not fill or enrich the scientific poverty. Research is often characterized in this form when it is linked to conditions for obtaining scientific certificates and climbing the ladder of scientific degrees, so the goal of research is not research but rather reaching scientific facts between what was known and what we want to achieve. Therefore, we may find great scientific benefit in research whose pages can be counted on the fingers of one hand, which we do not find in large-sized research.

The second angle appears in the extent of the researcher's discipline in his ethical dealings with others from whom he obtains his need for knowledge, whether they are professors or natural representatives of public or private moral persons, national or international. This discipline appears primarily in the extreme respect for the times of their interviews. He does not delay appointments, and if they are late, he is patient and makes a lot of excuses for them. He also lowers the wing of humility to them when asking questions, listening to them, and engaging in dialogue with them in addition to the correct scientific reading of their body language[14].

[14] One should not insist on asking questions where they are not necessary, especially if the researcher notices a reservation on the part of the other person being interviewed regarding a certain question, or notices technical evasion on their part, as is scientifically translated by frowning and states of fatigue that may appear in others, so the course of the conversation is changed or a request is made to suffice with this amount until a later date if the other person is kind enough to do so. Also, kind, well-mannered, and humble words create a space of cooperation from the other person towards the researcher.

1.2.5 Scientific objectivity

It is very difficult to completely move away from subjectivity in scientific and human research and to be absolutely objective, if not impossible. What happens in some scientific research is a quasi-sanctification of the researcher's self, and this is where the danger lies. The greater the importance of subjectivity in scientific research, the more its scientific value is diminished. The value of scientific research is also diminished when the researcher sanctifies other researchers.

His thought is then imprisoned in the prison of their thought, and his thoughts are nothing more than blind imitation. In fact, the subject of subjectivity and objectivity has formed a major scientific attraction in philosophy and in various human and social sciences. However, what concerns us in all of this is the proportion of each of them in the researcher's scientific research. The scientific value of the research is equal to the proportion of objectivity in it, and naturally, this value decreases to the same extent as the value of the researcher's subjectivity in his research or of the others in his research increases due to sanctification.

1.3 Personal Ethical Conditions

The pens of researchers have also produced a great abundance of personal ethical conditions that a scientific researcher must possess in order to advance his research to the ranks of scientific research. We will shed light on five of the most important branches of these conditions:

1.3.1 Be scientifically honest in direct and complete quotation.
1.3.2 Scientific integrity in partial direct quotation.
1.3.3 Scientific integrity in indirect quotation. 1.3.4 Do not underestimate the research of others.
1.3.5 Not to spread ideas that undermines morals and values.

1.3.1 Be scientifically honest in direct and complete quotation

Often, the researcher quotes from others to achieve some goals, the most important of which are conducting comparative studies between the researcher’s thought and the thought of other researchers and thinkers. This helps the researcher to simplify some concepts, enrich the research, conduct comparative studies between thinkers and researchers

on the research topic that the researcher to address creating integration between the researcher's viewpoint and the viewpoint of other researchers, supporting the researcher's opinions, or refuting the opinions of others that contradict the researcher's opinion.

In all these cases, the researcher must adhere to academic integrity from the following perspectives:

- Correct and complete transmission of the words of others, as any word that may be omitted intentionally or unintentionally may distort the original meaning.
- Distinguishing the quoted words of others from the researcher's words by, indicating this explicitly or by placing these words between quotation marks and indicating author's name in the margin.
- The correct and accurate transfer of all information from the source or reference from which it was quoted, and the latter concerns four people: the researcher himself in terms of his academic integrity,
- then the reader to facilitate his path in referring to the sources and references from which the original researcher quoted, and it also concerns the arbitrator if this research is submitted for arbitration, and finally, it concerns the members of the discussion committee and the scientific committees and scientific councils of all kinds in the event that this research is submitted in order to obtain a scientific degree or for scientific habilitation.

1.3.2 Scientific integrity in partial direct quotation

The researcher may quote from others partially, meaning that he purifies the parts of the researcher's words that he needs, and for this process he uses his scientific reasoning with great scientific honesty, and under the following conditions:

- Partially quoted words are indicated by inverted commas "……"
- Indicate the excerpted part of the quoted speech with at least three consecutive dots …"
- The purpose of quotation must be scientifically legitimate, meaning that the researcher does not aim to tarnish the reputation of the quoted person, or to defend himself by

presenting false ideas about others, or to support his view and ideas based on the ideas of others after changing their meaning by quoting parts of them.

1.3.3 Scientific integrity in indirect quotation

Indirect quotation is one of the most important quotations that show the researcher's instinct and chivalry in his loyalty to scientific integrity. It is often difficult to prove the scientific theft of others' ideas when they are formulated in the researcher's language, especially when the quoted ideas are indirectly quoted from a foreign language, or through various electronic sources and references, or through various scientific dialogues and meetings attended by the researcher, such as study days, national and international scientific conferences, and various forms of scientific meetings.

1.3.4 Do not underestimate the research of others

When talking about not belittling or diminishing the importance of others' research, of course we are talking about the relationship of the scientific researcher with the environment with which he will communicate to obtain his need for scientific provisions related to his research. This communication may occur with others directly as natural or legal persons, or may occur with their scientific heritage, in its various forms. The researcher must not exclude anyone when listening dialogue or conversing. Also, he must not exclude any research from scientific review out of contempt or belittlement, as this is not part of the ethics of scientific research. There searcher may find in what his eyes belittled a credible scientific resource that he may not find in other research.[15] How many theories and research have been proven to be correct at one time and wrong at other times?

[15] Not all of the research that is pointed out is correct. Some of it may contain intentional and unintentional lies and errors. Therefore, the researcher must investigate what he reads as much as possible, and make comparisons with other research coming from parallel sources and tributaries

1.3.5 Not to spread ideas that undermines morals and values

Morality is not an end in itself[16], but a means to achieve nobler ends, so the researcher's publication of ideas that undermine morals and social and human values is considered a personal ethical condition, despite the margin of freedom that the researcher enjoys. We are not pointing this out of nowhere, as there are many legal studies that call for this demolition, and the reasons for undertaking them are numerous, including:

- Desire of appearance on the scientific and the social scenes, especially when his ideas raise an unfounded scientific debate.
- The desire to triumph for oneself, even if the researcher is certain that his ideas are wrong and pose a threat to humanity, society, or religion.
- The desire to support the political, economic and social ideas of others out of unjustified admiration.
- The desire to support the political, economic and social ideas of others in order to achieve personal interests.
- Spreading foreign Western ideas out of influence, without taking into account the extent to which they undermine religious and human values in society.[17]

2. Chapter Two: Objective Conditions for Preparing Legal Scientific Research

Scientific research has a form and content, and no matter how great the relationship between them, the content has the lion's share in the

[16] Philosophers who are pioneers of the utilitarian school view ethics on the basis that they achieve public benefit, as they achieve happiness and freedom and reduce social problems... etc. For more information about the equation of utilitarianism and ethics, see: William Haines, Consequentialism, The University of Hong Kong China, https://iep.utm.edu/consequentialism-utilitarianism/ accessed 13/01/2025 12.40

[17] Such research is not limited to individual research, but we also find it in joint research.

relationship that connects the researcher and the reader. Therefore, our focus on it is greater in terms of the degree of shedding light on its content in three sections:

2.1 Types of legal scientific research
2.2 Mastering the science of interpretive methods
2.3 Mastering the science of applied curricula

2.1 Types of legal scientific research

I have highlighted this section in terms of the importance expected from the research itself in serving society in general or the environment it targets in particular, and based on this importance we will distinguish between three types of scientific research:

2.1.1 Sterile legal scientific research
2.1.2 Legal scientific research based on discovering and filling legal loopholes
2.1.3 Legal scientific research based on the treatment of reality
2.1.4 Scientific research based on filling legal gaps and addressing reality

2.1.1 Sterile legal scientific research

These are superficial formal legal researches, as academics and research professors call them, piled up in universities and educational institutions, and do not take the researcher a long time to complete.[18] Whatever the legal subject of the research conducted in private or public, domestic or international, the researcher's goal in preparing it is not to search for a solution to the problem raised in the introduction.[19] Researcher's goal is to fulfill mandatory formal procedures required

[18] Mostly, these researches are prepared by students at different stages of their education, and this does not exclude .even professors sometimes

[19] The problem is the point of emptiness that exists between the researcher's previous knowledge and the subsequent knowledge that they aspire to. The greater the light beam that the researcher directs, the greater the value of the scientific research that he accomplishes.

by a certain party, such as his professor of directed work, or as a procedural condition for passing a stage of education to obtain a certificate, and sometimes such researches are scientific conditions for passing academic degrees.[20]

These researches are mostly sterile, a waste of time and a mockery of science, a feeling that does not only affect the reader, but also deceives the researcher himself.

2.1.2 Legal scientific research based on discovering and filling legal loopholes

Many academic researchers conduct their scientific research in the legal field through scientific analysis of various legal rules related to the subject of their research, whether international or national, basic or organic, regular or subsidiary legislation.[21]

By this analysis, we do not mean using the analytical method only, but all methods can be used according to the research need, and according to the research division plan.[22] Through this research, the researcher often reveals legal loopholes and sometimes points to the solutions that appear to him to close these loopholes.[23] This research is often judged

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" The teacher's staff and the employer's office will place the object of the project"

A. Lamoureux, research and methodology en sciences humaines, Montréal, Éditions Études vivantes.1995.p 110

[20] The latter is published in national and international peer-reviewed scientific journals, where many questions are raised about the credibility of arbitration at times.

[21] By subsidiary legislation we mean regulations, which are all legal rules issued by the regulatory authority, such as: presidential decrees issued by the President of the Republic, executive decrees issued by the Prime Minister, and ministerial decisions issued by various ministers, whether they are individual, according to the type and regional specialization of each ministerial sector, or collective.

[22] Whether these approaches are interpretive approaches such as: legislative interpretation, regulatory interpretation, judicial interpretation, jurisprudential interpretation, or applied approaches such as: the analytical approach, the historical approach, the descriptive approach, the statistical approach, the comparative approach.

[23] These legal loopholes may be due to one of the following reasons:

by its seriousness, and is only criticized for its lack of connection to the incident targeted by the research, as the researcher is satisfied with revealing the legal loopholes in general and pointing to solutions to close them sometimes.[24]

2.1.3 Legal scientific research based on the treatment of reality

Some of the incidents in the environment in which we live are only discussed by the pens of the press, and people rarely gather to discuss and debate them, despite the fact that they constitute an obsession for everyone.[25]

When scientific research connects with such fields, it will connect with reality to convey the correct image of the subject being treated and to the various scientific problems it raises, for the simple and complex problems that raise scientific issues. This research develops scientific research and helps different people with different authorities to deal with reality more scientifically.

- Legal rules that the legislator did not mention or refer to at all.
- There are legal rules that exist but are incomplete, as they do not contain all the elements that should be contained.
- Legal rules exist but are vague, and they need to be removed from the ambiguity and confusion.
- Legal rules exist but are generalized, they need to be detailed.
- Legal rules that are contradictory in themselves or contradict other legal rules, it is a case that requires removing the contradiction. Sometimes even legal rules that appear to be clear may need to be highlighted.

[24] We mean by it all types of incidents: social, political, economic, cultural, military, judicial... etc.

[25] Examples of these include: the black market in dealing with hard currency, the black market in the field of trade, black professions parallel to the original profession, licensing the sale of alcoholic beverages in a conservative society, destroying agricultural crops to maintain their high price in a society whose religion is Islam, selling consciences in parliamentary elections for the upper house, the impact of verbal violence between the president and the subordinate on the performance of the institution... etc. in the world of economics, politics, culture, sports, society and many others.

2.1.4 Scientific research based on filling legal gaps and addressing reality

In the second part of this section, we have highlighted scientific research based on discovering and filling legal loopholes. We have also addressed the subject of legal scientific research based on treating reality in the third part of the section, and we have concluded that both are important in the added value of scientific research conducted by a researcher specializing in the field of law to reach the level of scientific quality.[26]However, focusing on one without the other reduces the scientific value of such research. So, it is not distinct and unique from the rest of the human and social specializations, nor fruitful in its results except by combining the two qualities together, i.e. the realistic study based on discovering and filling legal loopholes.

2.2 Mastering the science of interpretive methods

The researcher must realize the importance of the jurisprudential interpretation of jurists[27] in the field of law in the event that the legal rule is not explicitly stated, or if the explicitly stated rule is incomplete, ambiguous, or contradictory to the rules of other texts. It's often the source on which the diligent judge bases his judicial interpretations, and from which the legislative and regulatory authorities deduce the entirety of the legislative and regulatory interpretations issued in the official journal.

But the researcher in legal studies is more required to preserve scientific reading accompanied by analytical, descriptive, comparative, inductive and deductive scribbles. The methods of interpretation are the backbone of analyzing the research problem of legal loopholes into research problems and from there the researcher can develop the appropriate methodological plan to fill the legal loopholes, so his

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[26] Syria Desh, Quality of Scientific Research, Towards Building a Strategy for Transforming Students into Researchers, Complete Proceedings of the Scientific Conference of Beni Suef University, Egypt, 8/11/2016

https://www.bsu.edu.eg/Backend/Uploads/PDF/Conference/001 accessed 14/01/2025 10.30

[27] Ali.Latreche, Legal methodology in drafting and commenting on laws and judicial decisions, Center for Arab Studies, Egypt, 2020, p.p 58-72

analysis is not merely a superficial formal analysis, and his interpretive induction is not merely a superficial induction.[28]

The researcher must also be aware of the procedures and results of each interpretation in the field of filling gaps and in terms of the mechanisms and time of application. The procedures and results of legislative interpretation differ from regulatory interpretation and also differ from judicial interpretation [29] and administrative interpretation.[30] As for the jurisprudential interpretation or the researcher's interpretation, it does not have procedures that limit its freedom, and therefore we often find it to be of higher quality.

2.3 Mastering the science of applied curricula.

Most students, researchers and professionals specializing in law are aware of ,the types of research methods in legal sciences, and they list them: analytical descriptive, historical, statistical, inductive, deductive, survey and comparative . Most of them use the latter to solve various problems, issues and research problems that they encounter in exams, research and pleadings...etc. Yet, few of them are proficient in using these methods.[31]

Whenever someone uses the comparative approach, he says, "I compared so-and-so," and he may not realize that what he did was an approximation and not a comparison. He may also not realize the

[28] Research problem.

[29] A judge cannot exercise his discretion through judicial interpretations unless he is trying to resolve a judicial dispute, because if he exerts his discretion through an interpretation without any judicial dispute, his work becomes a type of research or jurisprudential interpretation.

[30] One of the stages of resolving labor disputes in administrative institutions between workers' representatives and management representatives is for the custodial authority of the same administration to present the dispute to the public service administration if the latter is related to existing differences regarding the interpretation of legislative or regulatory legal rules. This type of interpretation is called administrative interpretation.

[31] Such as consultants, lawyers, judicial officers and notaries.

impact of reality on the essence of the legal rule. For example, someone who lacks a deep understanding of economic relations in their economic depth will not be able to understand and compare the legal rule in the law of economic relations well.

The quality of understanding and analysis does, not always lie in keeping up with others' understanding and analysis. For example the researcher may reach the results of his research into the Chinese or British consumer law that its rules are of excellent quality, but despite that, they are not suitable for Algerian society, due to the profound differences in the social and cultural dimensions between Algerians, on the one hand, and Chinese and British on the other hand.[32]

Through the inductive approach adopted by the researcher in legal sciences, the researcher must realize that the minister's induction of reality to formulate a legal draft law regulating this reality differs from the induction of the same law if it were in the form of a draft law from members of parliament. The difference also extends to the induction of the same minister of the same reality when he issues regulatory legal rules in the form of a ministerial decision in the official journal.

The same minister knows that his draft law will be passed to parliament for study and then voting, and members of parliament may ask questions in person to the minister, and they may scrutinize some details and request their amendment in their capacity as members of the legislative authority. The minister realizes all these steps and procedures when inducting the disorganized reality for which he is responsible in order to organize it according to explanatory and mandatory legal rules for the draft law. However, in return, the margin of freedom in induction is wide with regard to the same minister issuing legal rules in the form of a ministerial decision in the official journal and the margin of freedom has been expanded due to the absence of the same supervisory procedures of the legislative authority on the

[32] For more information on the criteria for evaluating the quality of scientific research, see the article: Abdullah Nour El-Din, Laouj Zawawi, Criteria for evaluating the quality of scientific research from the perspective of the academic. community: an applied study, Journal of Economic Sciences, Issue 1, Volume 18, pp. 1-22

regulations, as they are subsidiary legislation that are not passed by parliament.

If we keep the same previous example in adopting the inductive method, we will find that the judge has the widest freedom in relying on it, as he has complete freedom to induct reality when he encounters disputes that require judicial interpretations.[33] As for the jurist and researcher in legal studies, the scope of freedom for him is almost absolute. If he does not understand the depth of the inductive method before using it, his inductions will not be of quality, because reality is a living image of a phenomenon.

The quality of induction lies in the quality of reading this image and then transforming the results of this visual intellectual reading into creativity in the form of a harmony of words and sentences that are precise for a legal research or study. How many times do we find no link between the image and its induction? This is what we, sometimes, find in superficial or sterile research and in judicial rulings as well.

Conclusion:

The content of the problematic question raised in the introduction was about the paradoxes between scientific research in the scope of law in terms of its quality, and the results of the research were that these paradoxes are intellectual and moral.

The general personal intellectual conditions are represented in liberating the researcher's thought from the prisons of the thought of others, expanding the researcher's thought by liberating himself from his imaginary conditionality and from the researcher's intellectual aura towards the research topic.

[33] The wording of the ruling for the same judicial interpretation based on induction differs from one court to another due to the difference in the inductive judge. We may also find that the same judge issued a different ruling in a judicial interpretation for the same dispute due to new convictions with a new inductive view of greater depth.

The special intellectual conditions are mainly:

- Knowledge of the spirit of the law and its philosophy.
- Knowledge of the philosophy of law that is the subject of research.
- Patience and perseverance.
- Scientific discipline and scientific objectivity.

Personal ethical conditions lie in maintaining scientific integrity in direct, partial or indirect quotation. Researchers should not underestimate the research of others; disseminate ideas to demolish ethics and values through the desire of appearing on scientific and social scenes, or to support the political, economic and social ideas of unwarranted admiration or for special interests.

The interpretive approaches in legal sciences are: legislative interpretation, regulatory interpretation, judicial interpretation, administrative interpretation and jurisprudential interpretation. As for the applied approaches, they are: analytical, descriptive, historical, comparative, inductive and deductive, statistical and survey The use of the latter is simple and is within the reach of most researchers, but the quality of its mastery is a goal that only a few have achieved due to its relationship to the quality of the researcher's thought and his certainty in unleashing the energy of his mind through the power of using reading coupled with the frequent and quality use of the pen.