

THE PATTERNS OF APPLYING LEGAL THEORY IN THESIS WRITING OF STUDENTS OF ISLAMIC FAMILY LAW IN THE FACULTY OF SYARI'AH AND LAW AT UIN SUMATERA UTARA

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Abstrak: Penelitian ini bertujuan untuk mengetahui bagaimana pola penerapan teori hukum dalam penulisan skripsi mahasiswa Prodi Hukum Keluarga Islam (HKI) Fakultas Syari'ah dan Hukum UIN Sumatera Utara, menganalisis faktor-faktor yang mempengaruhi polarisasi penerapan teori hukum pada penulisan skripsi mahasiswa dan untuk menjelaskan solusi yang dapat dilakukan dalam mengatasi ketidakseragaman dan ketidaksiapan mahasiswa dalam menggunakan kerangka teori dan teori hukum dalam penulisan skripsi. Penelitian ini merupakan penelitian kualitatif dengan menggunakan metode analisis isi. Hasil penelitian menunjukkan bahwa terdapat enam polarisasi penulisan skripsi mahasiswa. *Pertama*, skripsi tidak menggunakan kerangka teori yang berisikan teori-teori hukum. *Kedua*, skripsi menggunakan kerangka teori, namun tidak berisikan teori-teori hukum. *Ketiga*, skripsi menggunakan kerangka teori dan menjelaskan teori-teori hukum yang akan digunakan sebagai pisau analisisnya, tetapi tidak menggunakannya pada analisis. *Keempat*, skripsi menggunakan kerangka teori dan menjelaskan teori hukum di dalamnya, tetapi teori hukum yang digunakan sebagai analisis berbeda dengan teori hukum pada kerangka teori. *Kelima*, skripsi tidak menggunakan teori hukum pada kerangka teori, namun analisis menggunakan teori hukum. *Keenam*, skripsi yang menggunakan kerangka teori dan teori hukum yang digunakan pada kerangka teori, kemudian menerapkan teori hukum tersebut dalam menganalisis hasil penelitiannya. Faktor yang mempengaruhi polarisasi penerapan teori hukum pada penulisan skripsi mahasiswa yaitu; faktor materi pengajaran, faktor dosen pengajar, faktor dosen pembimbing, dan faktor keseriusan mahasiswa. Adapun solusi yang dapat dilakukan dalam mengatasi ketidakseragaman dan ketidaksiapan mahasiswa dalam menggunakan kerangka teori dan teori hukum dalam penulisan skripsi antara lain; perlu keterlibatan Fakultas dan Prodi untuk mengambil kebijakan, keseragaman materi pembelajaran mata kuliah Metodologi Penelitian, peran pembimbing skripsi dan peran mahasiswa. Melihat persoalan di atas, maka keterlibatan Fakultas dan pengelola Prodi untuk segera mengambil kebijakan dalam mengatasi model penulisan skripsi yang baik dan memenuhi kriteria penulisan yang ilmiah adalah sangat penting dan urgen.

Kata Kunci: *Teori Hukum, Kerangka Teori, Skripsi, Program Studi Hukum Keluarga Islam*

Abstract: This study aims to see the pattern of application of legal theory in thesis writing of students of the Islamic Family Law Study Program (HKI) in the Faculty of Shari'ah and Law at UIN Sumatra Utara, to analyze the factors that influence the polarization of the application of legal theory in student thesis writing, and to explain solutions in overcoming uniformity and unpreparedness of students in using the theoretical framework and legal theory in writing a thesis. This research is qualitative research using content analysis. Data collection techniques were carried out using documentation methods, Focus Group Discussions (FGD), and interviews. The results indicate that there are six polarizations in the application of legal theory to a student thesis. First, the thesis does not use a theoretical framework that contains legal theories. Second, the thesis uses a theoretical framework but does not contain legal theories. Third, the thesis uses the theoretical framework and explains the legal theories that will be used as its analysis tool, but does not use it on analysis. Fourth, the thesis uses a theoretical framework and explains the legal theory in it, but the legal theory used as an analysis is different from the legal theory in the theoretical framework. Fifth, the thesis does not use legal theory in the theoretical framework, but the analysis uses legal theory. Sixth, a thesis that uses the theoretical framework and legal theory used in the theoretical framework then applies the legal theory in analyzing the results of his research. Factors that influence the polarization of the application of legal theory in student thesis writing are; factors of teaching materials and teaching lecturers, factors of supervisors, and factors of student seriousness. The proposed solutions in overcoming the non-uniformity and unpreparedness of students in using the theoretical framework and legal theory in thesis writing include; it is necessary to involve the Faculty and Study Program to take policies, uniformity of learning materials for Research Methodology courses, the role of the thesis supervisor and the role of students.

Keywords: *Legal Theory, Theoretical Framework, Thesis, HKI Study Program*

A. Introduction

The proper application of legal theory is very important in legal research or in writing scientific papers in the field of law, including a thesis which is a student's final project at a university. In various legal literature, the term legal theory has a variety of names in its usage. Friedman and Gijssels use the term *legal theory* or *rechtstheorie*. Paton and Posner use the term *jurisprudence*. Hans Kelsen uses the term *legal philosophy*.¹ In other words, legal theory is also called the *theory of law*.² The terms *legal theory*, *jurisprudence*, and *legal philosophy* are often used interchangeably. Referring to the opinion of Jan Gijssel-Mark van Hocke, in Dutch, the term *Rechtstheorie* is also used, and it means a method for obtaining legal knowledge.³

1 Irwansyah, *Penelitian Hukum: Pilihan Metode Dan Praktik Penulisan Artikel*, 4th ed. (Yogyakarta: Mirra Buana Media, 2021), 298.

2 Salim HS and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Disertasi Dan Tesis (Buku Kedua)*, 3rd ed. (Depok: Rajawali Pers, 2017), 5.

3 I Dewa Gede Atmadja and I Nyoman Putu Budhiarta, *Teori-Teori Hukum* (Malang: Setara Press, 2018), 5.

Legal theory is defined as a science, which is in an interdisciplinary and external perspective, it critically analyzes various aspects of legal phenomena. This understanding is interpreted concerning the scope and function of legal theory. Therefore, legal theory guides legal researchers to obtain a complete understanding and clarity of views on legal issues through legal materials and juridical activities in social reality.⁴

The use of legal theory in legal research for all categories of research, both normative research, and empirical research, shows how essential legal theory is in scientific development. This theory serves to make legal research a solid foundation of thought and theory in providing solutions to every legal problem. The need to use legal theory in research is at least due to two things, namely legal theory as a test tool and as an analytical tool in legal research.

For any research, what needs to be done first is to develop and formulate a theoretical basis to prepare answers to research problems. Theoretical foundations are theories that are selected according to their urgency and relevance to the research topic. The use of theory as a test tool means that the selected theory is to be tested in a study. To properly formulate the use of theory as a test tool, the formulation of the problem research has reflected the theories to be tested in legal research.⁵ Testing the accuracy of the theory as a theoretical basis in research, based on things including mentioning the name of the theory, such as the theory of legal effectiveness, and other legal theories.⁶

Then, based on the theoretical basis, the results of the research are then processed and analyzed based on the selected legal theory. The use of legal theory as an analytical tool in legal research is included in a separate chapter, namely in the discussion section of research results to analyze legal materials or data obtained from research results to examine research problems that have been formulated. The legal theory used must be following its urgency and relevance to the formulation of the problem, and its theoretical basis is used as a reference or basis in providing judgments or arguments against materials or data obtained from research.

There are at least two important reasons why legal academics are very important to understand the legal theory. First, as a methodology to gain a better understanding of legal materials, by applying theories related to legal practice: including making laws, implementing justice, and managing government. Second, it makes it easier for legal academics to solve legal problems: including the ability to prove concrete events, formulate legal problems and solve these problems, which in turn can make a decision (*decision making*).⁷

4 Bernard Arief Sidharta, *Refleksi Tentang Struktur Ilmu Hukum*, 3rd ed. (Bandung: CV. Mandar Maju, 2009), 122.

5 Irwansyah, *Penelitian Hukum: Pilihan Metode Dan Praktik Penulisan Artikel*, 306.

6 Ibid., 307.

7 Sudikno Mertokusumo, *Teori Hukum* (Yogyakarta: Cahaya Atma Pustaka, 2012), 9.

Students who are studying law at the Syari'ah and Law Faculty at both State Islamic Universities (PTIN) and Private Islamic Universities (PTIS) need to understand the legal theory. A good understanding of legal theory will greatly help students in writing a thesis as a final project at a university, including the Islamic Family Law (HKI) Program of the Faculty of Sharia and Law at UIN North Sumatra, which is one of the study programs that require a thesis as a final project.

Written work in the form of a thesis is considered very important as a medium of scientific transfer for students who want to complete their legal studies. Through scientific writing, scientific ideas can be conveyed to a wider audience. A good understanding of legal theory is certainly needed by students because based on these legal theories it will be easier for them to analyze the results of research related to Islamic family law. The students need to have the ability to research legal research by mastering legal theory, as a process of finding legal rules and legal doctrines, to answer the legal issues they face; including how the law is then seen as a symptom that lives in society.

However, based on the researcher's observation, there are still students who write a thesis without referring to legal theory. At least, based on the researcher's initial search, from 2018-2021, 15 students did not include legal theory in their thesis. Of 15 theses, no one has written a discussion about the theoretical framework in chapter 1 of his thesis which explains the legal theories used. Then, in chapter 2 there is also no description of legal theories in the discussion of the literature review as described in the Guidebook for Writing Thesis of Islamic Family Law Study Program (FASIH UIN SU). This has an impact on the weakness of students in analyzing the findings of thesis research. On the other hand, in the analysis discussion in chapter 4, students only wrote 2 or 3-page descriptions. If they use legal theories, the results of their thesis research can be analyzed more sharply and broadly.

In contrast to the 15 findings above, the researcher also found that some students already included the title of the discussion on legal theory in their thesis. This description of legal theory is usually explained in the title of the theoretical basis or theoretical framework for writing a thesis.

Saudah Murtafiah wrote a thesis entitled *Penetapan Dispensasi Nikah di Bawah Umur. Penetapan Dispensasi Nikah di Bawah Umur (Studi Putusan Nomor 36/Pdt.P/2020/PA Medan dan Putusan Nomor 37/Pdt.P/2019/PA Simalungun)*". In this thesis, there is an explanation of the theoretical basis used in the thesis. However, the researcher could see that the description written by the author only consists of 1 page and does not describe the legal theories that matched the title of the thesis. On a theoretical basis, the author only

explains the provisions of Article 7 of Law No. 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning marriage.⁸

Then, Ahmad Baihaqi wrote a thesis entitled *Mahar Pernikahan Berupa Hapalan Al-Qur'an Menurut Mazhab Syafi'i (Syafi'i (Studi Kasus Guru-guru Tahfiz di Yayasan Islamic Centre Sumatera Utara)*. This thesis has also included a theoretical framework in the thesis.⁹ However, within the theoretical framework, the thesis writer only explains the concept of dowry, the understanding, and views of scholars about dowry, not other legal theories that can be used in analyzing research findings such as the theory of legal effectiveness¹⁰, legal awareness, *maqashid al-syariah*,¹¹ and 'urf.

Some other students, some use legal theories, and the theories are not just written without being used. For example, Halimatusyakdiah wrote a thesis entitled *Tradisi Keharusan Isteri Keluar Dari Rumah Pada Masa Iddah Talak Raj'i Perspektif Kompilasi Hukum Islam Islam (Studi Kasus Desa Simangambat Kecamatan Tambangan Kabupaten Mandailing Natal*. In the theoretical framework, the author has explained the legal theory about one of the sources of Islamic law, namely 'urf.¹² This 'urf theory is quite relevant to the title of the thesis because it examines a tradition that occurs in society.¹³

Siska Novita wrote a thesis entitled *Ketentuan Adil Dalam Poligami Menurut Perspektif Fikih Syafi'i (Studi Kasus di Desa Karang Gading Kecamatan Secanggang Kabupaten Langkat)*. In the theoretical framework, the researcher has described the legal theory of justice and

8 Saudah Murtafiah, "Penetapan Dispensasi Nikah Di Bawah Umur (Studi Putusan Nomor 36/Pdt.P/2020/PA Medan Dan Putusan Nomor 37/Pdt.P/2019/PA Simalungun)" (UIN Sumatera Utara, 2021).

9 Ahmad Baihaqi, "Mahar Pernikahan Berupa Hapalan Al-Qur'an Menurut Mazhab Syafi'i (Syafi'i (Studi Kasus Guru-Guru Tahfiz Di Yayasan Islamic Centre Sumatera Utara)" (UIN Sumatera Utara Medan, 2021).

10 The theory of legal effectiveness is a theory that examines and analyzes about successes, failures, and influencing factors in the implementation of the application of the law. Therefore, the focus of the study of the theory of legal effectiveness, includes; Success in the implementation of the law, Failure in its implementation, and Factors affecting it. See Salim HS and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis Dan Disertasi*, 5th ed. (Depok: Rajawali Pers, 2017), 308.

11 According to al-Syatibi, all the laws of syar>i>(commandments, prohibitions, choices) are derived from Allah Swt which is intended to provide protection and avoid hardship, as well as prevent emergencies for human life, which can be grouped into three levels. First, *al-dharuriyyat* (primary necessity and protection). Second, *al-hajjiyyat* (secondary necessities and protections). Third, *al-tahsiniyyat* (tertiary necessities and protections). Al-Syatibi, *Al-Muwafaqat Fi Ushul Al-Ahkam, Jilid 2*, 1st ed. (Al-Mamlakah Al-'Arabiyah Al-Su'udiyah: Dar Ibn Affan, 1997), 17.

12 In the term Usul Fiqh the definition of <Urf or customary custom is anything that has been accustomed by the community and carried out continuously, both in the form of words and deeds Mukhtar Yahya and Fatchurrahman, *Dasar-Dasar Pembinaan Hukum Fiqh Islam* (Bandung: Al Ma'arif, 1993), 109; in general, it is divided into two types; 1) 'urf shahih i.e. customs carried out by people who do not contradict the postulates of the syara', do not justify the illegitimate and do not cancel the obligatory. For example, customary customs in the payment of dowry, in cash or debt. 2) 'urf fasid i.e. the customary customs carried out by the people are contrary to the provisions of sharia because it leads to justifying the haram or canceling the obligatory. For example, the habits in the treaty contract are usuryM. Hasbullah Thaib, *Tajdid Reaktualisasi Elastisitas Hukum Islam* (Medan: USU Press, 2002), 33.

13 Halimatusyakdiah, "Tradisi Keharusan Isteri Keluar Dari Rumah Pada Masa Iddah Talak Raj'i Perspektif Kompilasi Hukum Islam Islam (Studi Kasus Desa Simangambat Kecamatan Tambangan Kabupaten Mandailing Natal)" (UIN Sumatera Utara, 2021).

the legal theory of *maslahah*.¹⁴ These two legal theories, according to the researcher, are sufficient enough to be analytical tools for the author in explaining the findings of his thesis.¹⁵

Referring to the phenomenon above, the researcher considers that the application of legal theory to the thesis of HKI Study Program student at the Sharia and Law Faculty of UIN North Sumatra has not been applied properly. The application of legal theory to a student thesis varies. The researcher considers that there is a polarization in the application of legal theory to the thesis of students. Some theses do not use theoretical frameworks and legal theories which of course will analyze the results of the thesis research weak and shallow. Some theses have used legal theory and used in analyzing research results, but have not been maximized. This condition will certainly have an impact on the quality of research results produced by students. Of course, it will indirectly reduce the value of the accreditation of the HKI Study Program later on from the aspect of the student thesis results produced.

This issue, according to the researcher, is very urgent to be investigated. Researchers will explore how the polarization of the application of legal theory in student writing in the HKI Study Program is, what factors influence the polarization of the use of legal theory in student thesis writing, and what solutions can be done in overcoming the inconsistency and unpreparedness of students in using theoretical and theoretical frameworks in thesis writing. Therefore, the researchers will try to carry out a further study entitled: "The Patterns of Applying Legal Theory In Thesis Writing Of Students of Islamic Family Law In The Faculty of Syari'ah And Law At UIN Sumatra Utara")

The study of theory in research has been carried out by some researchers, such as Ence Surahman et al., who wrote about *Kajian Teori Dalam Penelitian* (Theory Studies in Research). This paper concludes that one of the important stages to be considered in research is writing the required literature review. This paper aims to explain the concept of theoretical studies in research as well as technical procedures for a citation using several citation styles.¹⁶ Meanwhile, a lot of research on legal theory has also been carried out. Khoirur Rizal Lutfi wrote *Teori Hukum Alam dan Kepatuhan Negara Terhadap*

14 Theory of *maslahah* is very popularly used by researchers of Islamic law in Indonesia. Al-Gahazali was one of the figures who introduced this theory. Al-Gahazali divided al-*maslahah*'s theory into three types; 1) al-*Maslahah al Mu>tabarah* i.e. *maslahah* justified/shown by a particular *nash*/postulate. This kind of *maslahah* can be justified to be considered for the establishment of Islamic law. 2) al-*Maslahah al Mulghah* i.e. *Maslahah* which was annulled/aborted by a certain *nash*/postulate. This kind of Al-*Maslahah* cannot be taken into consideration in the establishment of Islamic law. 3) Al-*Maslahah al Mursalah* i.e. a *maslahah* in which there is no specific/particular proposition that justifies or rejects/aborts it. See Al-Ghazali, *Al-Mustashfa Min Ilmi Al-Ushul*, ed. Abdullah Mahmud Muhammad 'Umar (Libanon: Dar al Kutub al 'Ilmiyyah, 2008), 274-75.

15 Siska Novita, "Ketentuan Adil Dalam Poligami Menurut Perspektif Fikih Syafi'i (Studi Kasus Di Desa Karang Gading Kecamatan Secanggang Kabupaten Langkat)" (UIN Sumatera Utara Medan, 2022).

16 Ence Surahman et al., "Kajian Teori Dalam Penelitian," *JKTP: Jurnal Kajian Teknologi Pendidikan* 3, no. 1 (February 10, 2020): 49-58, doi:10.17977/UM038V3I12019P049.

Hukum Internasional (The Theory of Natural Law and State Compliance with International Law), which aims to present a theoretical view of natural law regarding the position of international law which should be viewed by the entire international community as a law that must be obeyed.¹⁷ Satria Sukananda wrote a thesis about *Pendekatan Teori Hukum Progresif Dalam Menjawab Permasalahan Kesenjangan Hukum (Legal Gaps) di Indonesia* (the Progressive Legal Theory Approach in Answering the Problem of Legal Gaps in Indonesia). The results of this study indicate that a progressive legal theory approach can answer the problem of legal gaps in a society that is always dynamic and in process, while positive law tends to crystallize as a product and is not properly able to answer the needs of the community.¹⁸

From the search for previous studies above, and along with the results of the researcher's reading, it can be seen that research on the application of legal theory in student thesis writing, especially in the Islamic Family Law Study Program at the Syari'ah and Law Faculty of UIN North Sumatra, has never been carried out. Thus, the originality of this research can be justified. However, several scientific papers are related to the problems that will be raised by the author which will later become the source of the necessary data.

B. Research Methods

This study follows a qualitative research design. Data collection techniques were carried out through document studies, in-depth interviews, and Focus Group Discussions (FGD). The document used is the student thesis of the HKI Study Program which has been uploaded to the North Sumatra UIN repository in the period 2018-2022. There are at least 128 theses, which will then be analyzed through the content analysis method. The data analysis technique used in conducting the study of the thesis of HKI Study Program students is content analysis. Through content analysis techniques, researchers will examine these documents in the form of categories of meaning. The intended category is to determine the thesis that uses and does not use legal theory, uses and does not use a theoretical framework, and uses legal theory and applies it within a theoretical and analytical framework. Interviews were conducted in an unstructured manner with the leaders of the HKI Study Program, HKI Lecturers, Research Methods Lecturers, and alumni using the snowball sampling technique. The research also uses the results of the FGD as one of the data collection techniques. The results of the presentations of

17 Khoirur Rizal Lutfi, "Teori Hukum Alam dan Kepatuhan Negara Terhadap Hukum Internasional," *Jurnal Yuridis* 1, no. 1 (August 25, 2017): 90–106, doi:10.35586/.V1I1.143.

18 Satria Sukananda, "Pendekatan Teori Hukum Progresif Dalam Menjawab Permasalahan Kesenjangan Hukum (Legal Gaps) Di Indonesia," *Jurnal Hukum Ekonomi Syariah*, Vol. 1, no. 2 (October 15, 2018): 135–58, doi:10.30595/JHES.V1I2.3924.

the speakers and the responses from the FGD participants will enrich the research data obtained.

C. Results And Discussion

A pattern of Application of Legal Theory in student thesis writing

Before identifying how the pattern of applying legal theory in writing the thesis of HKI students, in the Faculty of Sharia and Law at UIN Sumatra Utara, the researcher first conducted a search for student theses from 2018 to 2022. To facilitate the validation of thesis data, the researcher immediately downloaded the theses on the UINSU repository page, which consists of 128 thesis documents. This was done, with the consideration that the thesis that has been repaired after the Munaqasyah exam and is a requirement for obtaining a diploma is a thesis that has been uploaded to the UINSU repository page.¹⁹ The results of the thesis search, the researchers classified into six (6) patterns of the application of legal theory in thesis writing for HKI Study Program students.

The six patterns are as follows. First, some of the student's theses do not use a theoretical framework or framework of thought that contains the legal theories used, thus legal theory is not explained in the theoretical framework and the author's analysis. Second, some students' thesis uses a theoretical framework or framework of thought but does not explain the legal theories used. The theoretical framework only explains the concepts and explanations of terms as contained in the thesis title. The explanation tends to repeat as already explained in the background of the problem. Thus, the researcher did not find the use of legal theory both in the theoretical framework, as well as in the author's analysis.

Third, some of the student's theses use a theoretical framework and explain the legal theories that will be used as an analytical tool, but it turns out that the author does not use the legal theory in the analysis. Fourth, some of the theses use a theoretical framework and explain the legal theory in it, but the legal theory used as an analysis is different from the legal theory in the theoretical framework. Fifth, some of the theses do not use legal theory in the theoretical framework, but in the analysis, the author uses legal theory. Sixth, some students' thesis uses a theoretical framework and mentions the legal theory used in the theoretical framework, and applies the legal theory in analyzing the results of their research.

Regarding the number and percentage of these included in each of these patterns, it can be seen in the following table.

¹⁹ "Penelusuran Berdasarkan Tahun Dimana Divisinya Adalah 'Fakultas Syariah Dan Hukum Ahwal Syakhshiyah Skripsi' - Repository UIN Sumatera Utara," accessed October 29, 2022, <http://repository.uinsu.ac.id/view/divisions/SkripsiAhSy/>.

Table 1

Percentage of Pattern Application of Legal Theory Student Thesis

No	The pattern of Application of Legal Theory	Jumlah Skripsi	Persentase
1	There is no theoretical framework or framework of thought and does not use legal theory in the theoretical framework and analysis	52	40,62
2	Using a theoretical framework or framework of thought, but no legal theory is used in the theoretical framework and analysis	34	26,56
3	Using the theoretical framework and explaining the legal theory in it, but the legal theory is not used in the analysis	14	10,93
4	Using a theoretical framework and explaining the legal theory in it, but the legal theory used as an analysis is different from the legal theory in the theoretical framework	6	4,68
5	There is no legal theory that is explained in the theoretical framework, but in the analysis using a legal theory	7	5,46
6	Using a theoretical framework and explaining the legal theory in it, then applying it in analyzing research results	15	11,71
	TOTAL	128	100%

Source: Analysed Data

From the table above, it can be concluded that the percentage of the pattern of application of the legal theory of the thesis of the HKI Study Program students is as follows.

1. The first pattern, namely the thesis that there is no theoretical framework / theoretical basis, does not use legal theory in the theoretical and analytical framework, reaching 40.62% or 52 theses.
2. The second pattern, namely the thesis that uses a theoretical framework / theoretical basis, but no legal theory is used in the theoretical and analytical framework, reaching 26.56% or 34 theses.
3. The third pattern, namely the thesis uses a theoretical framework / theoretical basis and explains the legal theory in it, but the legal theory is not used in the analysis, reaching 10.93% or 14 theses.
4. The fourth pattern, namely the thesis that uses a theoretical framework and explains the legal theory in it, but the legal theory used as an analysis is different from the legal theory in the theoretical framework, reaching 4.68% or 6 theses.

5. The fifth pattern, namely the thesis that there is no legal theory explained in the theoretical framework, but in the analysis using legal theory, it reaches 5.46% or 7 theses.
6. The sixth pattern, a thesis that uses a theoretical framework and explains the legal theory in it, then applies it in analyzing research results, reaching 11.71% or 15%.

Regarding the first pattern, the researcher took one of the thesis, entitled *Praktik Penentuan Mahar Menggunakan Mayam Dalam Perkawinan Adat Aceh Ditinjau Dari Kompilasi Hukum Islam*” (Studi Kasus di Desa Serba Kecamatan Bandar Pusaka Kabupaten Aceh Tamiang. This thesis which was uploaded in 2019 does not use the theoretical framework/theoretical foundation in chapter I, but a description of the dowry provisions according to Islamic law is explained in chapter II. Then, in the title of the author’s analysis, the use of legal theory is also not found. This thesis could use the theory of ‘urf law, the theory of legal change, or maqashid al-syari’ah, so that the results of the research can be analyzed better.²⁰

The second example is the thesis entitled *Peran Istri Sebagai Pencari Nafkah Utama Di Kelurahan Pematang Pasir Kecamatan Teluk Nibung Kota Tanjungbalai (Analisis Pasal 80 Ayat 4 Kompilasi Hukum Islam*, which was uploaded in 2020. This thesis also does not include a theoretical framework/theoretical foundation, and no explanation of the legal theory to be used in the study was found, so the analysis did not use legal theory. Chapter II, it is explained theoretically the general description of marriage, the rights and obligations of husband and wife, livelihood, and household harmony. Actually, according to the title, the analysis of Article 80 paragraph 4 KHI, it would be even better if the author applied legal theories such as the theory of legal effectiveness, the theory of legal change, and other legal sociology theories.²¹

Regarding the second pattern, for example, the thesis entitled *Pemenuhan Nafkah Anak Dari Perkawinan Tidak Tercatat Beda Warga Negara Menurut Imam Syafi’i (Studi Kasus Kelurahan Tanjung Selamat, Kecamatan Padang Tuapang, Kabupaten Langkat*, which was uploaded in 2020. In the theoretical framework, the author only explains the meaning of “gono gini” property, the meaning of a legitimate child, and the provisions of origin according to the KHI, which are described in 1 page only.²²

20 Abdul Jamal Lubis, “Praktik Penentuan Mahar Menggunakan Mayam Dalam Perkawinan Adat Aceh Ditinjau Dari Kompilasi Hukum Islam (Studi Kasus Di Desa Serba Kecamatan Bandar Pusaka Kabupaten Aceh Tamiang)” (UIN Sumatera Utara Medan, 2019).

21 Fitri Adilla Risa, “Peran Istri Sebagai Pencari Nafkah Utama Di Kelurahan Pematang Pasir Kecamatan Teluk Nibung Kota Tanjungbalai (Analisis Pasal 80 Ayat 4 Kompilasi Hukum Islam)” (UIN Sumatera Utara Medan, 2020).

22 Pratiwi Nike, “Pemenuhan Nafkah Anak Dari Perkawinan Tidak Tercatat Beda Warga Negara Menurut Imam Syafi’i (Studi Kasus Kelurahan Tanjung Selamat, Kecamatan Padang Tuapang, Kabupaten Langkat)” (UIN Sumatera Utara, 2020).

Then, a thesis entitled *Hukum Melaksanakan Endeng-endeng Dalam Tradisi Walimah Urusy Menurut Fungsi Majelis Ulama Indonesia Kecamatan Dolok Kabupaten Padang Lawas Utara (Studi Kasus Masyarakat Desa Jambur Batu Kecamatan Dolok Kabupaten Padang Lawas Utara)*, which was uploaded in 2021. This thesis uses a framework of thought that contains an explanation of *walimatul ursy* according to the provisions of Islamic law, which is described in 1.5 pages. It seems that the two authors have not been able to understand what should be written in a theoretical framework/theoretical foundation in a thesis. Then, the two theses above do not apply legal theory in the framework of theory and analysis. There are many conventional legal theories and other Islamic legal theories that can be used to enrich the results of this thesis research.²³

Then, the third pattern, a thesis entitled *Persepsi Masyarakat Kecamatan Percut Sei Tuan Terhadap Perubahan Batas Usia Perkawinan Dalam Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tentang Perkawinan* was uploaded in 2020. In the theoretical framework, the author describes the theory of *maqashid al-syariah*, and *'urf*. However, when analyzing the results of the study, the authors did not use them. If the author uses these legal theories in his analysis, according to the researcher, the results of the analysis will be better. In the thesis, the author explains the results of the analysis in 3 pages only.²⁴

The second example, a thesis entitled *Kesadaran Hukum Penggunaan Kosmetika Yang Halal Di Kalangan Mahasiswi Fakultas Syariah dan Hukum (Studi Tentang Fatwa Mui Nomor 26 Tahun 2013 Tentang Standar Kehalalan Produk Kosmetika Dan Penggunaannya)* which was uploaded in 2021. In the theoretical framework, the author has explained very well about Soerjono Soekanto's theory of legal awareness²⁵ and Imam Ghazali's *maslahah* theory. However, unfortunately, these two legal theories are not used by the author in analyzing the results of his research. In the thesis, the author explains the results of the analysis in only 1.5 pages.²⁶

23 Mhd. Nipros Hanapi Rambe, "Hukum Melaksanakan Endeng-Endeng Dalam Tradisi Walimah Urusy Menurut Fungsi Majelis Ulama Indonesia Kecamatan Dolok Kabupaten Padang Lawas Utara (Studi Kasus Masyarakat Desa Jambur Batu Kecamatan Dolok Kabupaten Padang Lawas Utara)" (UIN Sumatera Utara, 2021).

24 Muhammad Fadli Prawiro, "Persepsi Masyarakat Kecamatan Percut Sei Tuan Terhadap Perubahan Batas Usia Perkawinan Dalam Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Undang-Undang Nomor 1 Tentang Perkawinan" (UIN Sumatera Utara, 2020.).

25 In his theory, Soerjono Soekanto emphasized that legal awareness is the result of contemplation of each individual to obey the laws that legally exist in society. Consciousness arises not because there is coercion, but develops according to the development of consciousness of the subjects of the law, namely each society. Therefore, legal consciousness puts more emphasis on value than the function of the law itself. See Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: PT RajaGrafindo, 2007), 8.

26 Nazliany Hasibuan, "Kesadaran Hukum Penggunaan Kosmetika Halal Di Kalangan Mahasiswi Fakultas Syariah Dan Hukum Uinsu (Studi Tentang Fatwa MUI Nomor 26 Tahun 2013 Tentang Standar Kehalalan Produk Kosmetika Dan Penggunaannya)" (UIN Sumatera Utara, 2021).

The fourth pattern as an example, is the thesis entitled *Pandangan Ulama Dan Masyarakat Kecamatan Singkil Kabupaten Aceh Singkil Tentang Adat Temetok Dalam Walimah Al-'Ursy* which was uploaded in 2019. In the theoretical framework, the author has explained well the theory of 'urf (custom) which is indeed appropriate to be applied according to the title of the thesis which discusses the *temetok* tradition. However, in the analysis, the author does not use this 'urf legal theory, the author uses a legal theory (Fiqh rule) which reads *al-masaqqah tajlib alt-taisyir* in his analysis.²⁷ If the theory of 'urf is added as an analytical tool, in the author's opinion, the results of the thesis analysis will be better.²⁸

The second example, is the thesis entitled *Penetapan Hak Hadhanah Akibat Perceraian Karena Fasakh (Analisis Putusan Pengadilan Agama Maumere Nomor 1/Pdt.G/2013/PA.MUR)* which was uploaded in 2019. In the theoretical framework, the author explains the theory of child rearing according to Sayyid Sabiq, but this theory does not appear in the author's analysis. The author uses the theory of *maqashid shari'ah* as a tool of analysis. This *maqashid shari'ah* theory is appropriate if it is used as a legal theory, it's just that the author should first describe this theory in a theoretical framework. Thus, it can be seen that there is consistency in the application of legal theory to the theoretical framework and analysis.²⁹

The fifth pattern, for example, is the thesis entitled *Perkembangan Hukum Waris Islam pada masyarakat suku karo muslim di Desa Kwala Musam Kec. Batang Serangan Kab. Langkat* which was uploaded in 2020. In the theoretical framework, the author only explains the meaning of inheritance in terms, of causes of inheritance and heirs, which is written in 1.5 pages. Therefore, there is no explanation of the legal theory that will be used. However, when analyzing the research results, the author applies the theory of legal pluralism by linking it with the terms strong legal pluralism and weak legal pluralism. According to the researcher, the author's analysis is quite good when using this theory.³⁰

The second example is a thesis entitled *Pandangan Ulama Sumatera Utara Terhadap Rekayasa Haid Yang Mempengaruhi Iddah* which was uploaded in 2020. Within the framework of thought, the author explains the meaning of *iddah*, and menstruation and

27 In simple terms, the rule (theory) of *al-masyaqqah tajlibu at-taisir* can be interpreted by that difficulty requires ease. *Al-masyaqqah* means fatigue, hardship and hardship, while *at-taisir* means ease. Eja Armaz Hardi, "KAIDAH AL-MASYAQQAH TAJLIBU AT-TAISIR DALAM EKONOMI ISLAM," *Nizham Journal of Islamic Studies* 6, no. 02 (2019): 99-110, <https://e-journal.metrouniv.ac.id/index.php/nizham/article/view/1312>.

28 Ricky Irbansyah, "Pandangan Ulama Dan Masyarakat Kecamatan Singkil Kabupaten Aceh Singkil Tentang Adat Temetok Dalam Walimah Al-'Ursy" (UIN Sumatera Utara Medan, 2019).

29 Ummi Halimah Lubis, "Penetapan Hak Hadhanah Akibat Perceraian Karena Fasakh (Analisis Putusan Pengadilan Agama Maumere Nomor 1/Pdt.G/2013/PA.MUR)" (UIN Sumatera Utara Medan, 2019).

30 Isri Mutmainnah, "Perkembangan Hukum Waris Islam Pada Masyarakat Suku Karo Muslim Di Desa Kwala Musam Kec. Batang Serangan Kab. Langkat" (UIN Sumatera Utara, 2020).

their arguments in the Qur'an. The author does not include a description of legal theory. However, in the analysis, the author uses the *maqashid shari'ah* theory.³¹

Finally, the sixth pattern, theses that fall into this category have better results because the writer of the thesis develops a theoretical framework that refers to legal theory and uses that theory as an analytical tool.

For example, the thesis entitled *Larangan Membatalkan Khitbah Dalam Tradisi Masyarakat Kelurahan Pangkalan Dodek Kecamatan Medang Deras Kabupaten Batubara: (Studi Analisis Berdasarkan Pendapat Mazhab Syafi'i)* which was uploaded in 2019. In the theoretical framework, the author explains the use of 'urf theory and customary law in his thesis, which according to the researcher is already relevant to the title of the thesis because it talks about the traditions of a society. This legal theory, then the author uses as an analytical tool in analyzing the results of his research. The results of the author's analysis look better if compared to the analysis of a thesis without using legal theory.³²

The second example is the thesis entitled *Penolakan Izin Poligami di Pengadilan Agama Lubuk Pakam Perspektif Maqashid Syari'ah (Telaah Putusan Nomor: 0007/Pdt.G/2019/PA.Lpk)* which was uploaded in 2020. In the theoretical framework, the author explains the theory of *Maqashid Shari'ah*, and it is used consistently when analyzing research results. According to the researcher, the results of this thesis analysis are relatively better and more comprehensive.³³

Up to this point, based on the perspective of legal science development theory, only the sixth pattern thesis meets the scientific standards in legal research. Therefore, the sixth pattern thesis as a scientific work can be used as a reference in the task of carrying out legal science as scientific teaching.

Factors Affecting Polarization of Application of Legal Theory

Based on the description above, it can be explained that the highest percentage of the pattern of application of student thesis legal theory is the first pattern with 40%. Then this number was followed by the second pattern with 27.69%, the third and sixth patterns with each reaching 11.53%, and the fifth pattern with 5.38%. The lowest application of legal theory is the fourth pattern with 3.84%. The next question is what exactly is the cause of the polarization of the application of Islamic legal theory in the thesis of this HKI Study Program student? Why is the highest percentage of theses that

31 Vira Syarfina, "Pandangan Ulama Sumatera Utara Terhadap Rekeyasa Haid Yang Mempengaruhi Iddah" (UIN Sumatera Utara, 2020).

32 Ahmad Tamami, "Larangan Membatalkan Khitbah Dalam Tradisi Masyarakat Kelurahan Pangkalan Dodek Kecamatan Medang Deras Kabupaten Batubara: (Studi Analisis Berdasarkan Pendapat Mazhab Syafi'i)" (UIN Sumatera Utara, 2019).

33 Dina Sakinah Siregar, "Penolakan Izin Poligami Di Pengadilan Agama Lubuk Pakam Perspektif Maqashid Syari'ah (Telaah Putusan Nomor: 0007/Pdt.G/2019/PA.Lpk)," (UIN Sumatera Utara Medan, 2020).

do not use the theoretical framework that should be part of research? Why do some of the theses not explain the legal theory in its theoretical framework? Then, why are some of these already able to apply legal theory within the theoretical framework and then use it as an analytical tool in analyzing the findings of thesis research? These questions, of course, require quite serious research and involve all elements involved in writing a thesis. The elements in question can be students (alumni) who have completed their thesis, thesis supervisors, lecturers, study programs, and lecturers who care for the Legal Methodology course.

BD (a pseudo name), an alumna of the HKI Study Program, stated that the reason he did not include a theoretical framework/theoretical framework based on legal theory was that he did not know at all. BD mentioned that during the research method lectures, the lectures only took place in a few meetings, not reaching 16 meetings. According to him, not to mention making a legal theory or theoretical framework in a thesis, to make a proposal he just imitated the theses of previous alumni. BD, which is included in the first pattern, also added that in addition to lectures on research methods that were not sufficient, the thesis supervisor also did not explain the theoretical framework during guidance.³⁴ RAH (a pseudo name), also provides a relatively similar explanation. Regarding the study of research methods, he also admitted that only a few lectures were carried out, so the research method subjects were not completely taught. RAH also added that even in the introduction to Law, the study only took place a few times.³⁵

AFZ (a pseudo name), who is the author of the thesis with the second pattern, explained that he did not understand at all legal theory, let alone research methods. He admitted that his thesis was finished because he was assisted by fellow students.³⁶ MF (a pseudo name), the author of the thesis on the third pattern, said that indeed during lectures only a few times Research Methodology lectures were carried out, but it was the thesis supervisor who taught to develop a theoretical framework. The reason MF did not use the theory in his analysis was that he did not understand it. For this analysis, the supervisor no longer pays attention because he has carried out the mentoring process for more than 18 months. Due to the long guidance process, MF was allowed to carry out the munaqasyah trial, with the promise to improve his thesis post-trial.³⁷

To get comprehensive information, the writer also interviewed the thesis researcher on the sixth pattern. As previously explained, the sixth pattern is the pattern that compiles the theoretical framework/theoretical foundation based on legal theory and uses the theory in analyzing the findings. AMS (a pseudo name) explained that in the lectures there was no explanation regarding the use of legal theory in thesis research.

34 BD, The writer of a thesis in The first pattern, Personal Interview, Medan, October 06, 2022.

35 RAH, The writer of a thesis in The first pattern, Personal Interview, Medan, October 06, 2022.

36 AFZ, The writer of a thesis in The second pattern, Personal Interview, Medan, October 06, 2022.

37 MF, The writer of a thesis in The third pattern, Personal Interview, Medan, September 29, 2022.

However, the thesis supervisor teaches AMS of course the usefulness of the legal theory. Under the guidance of the supervisor, AMS was finally able to compile and use legal theory within the theoretical framework/theoretical basis in the analysis discussion.³⁸

After conducting interviews with the thesis writers, one of the reasons they did not develop a theoretical framework / theoretical basis in writing the thesis was that they did not get maximum lessons from the lecturers. This inadequacy is because lecturers who teach courses rarely enter. Then, the author also confirmed further, by asking, “Did all the lecturers in charge of research methods courses not out their lectures well?” It turns out that there are lecturers who are active and responsible in teaching.

S (a pseudo name) is a lecturer who is considered active and always fulfills his responsibilities in teaching research methods at the HKI Study Program. According to S, the use of legal theory in research is very much needed in writing a thesis or a dissertation. When it was confirmed that the researcher did not use legal theory at all, S explained the credits and the lecture system. According to S, research methodology courses should be at least 4 (four) credits, but unfortunately at UIN SU’s HKI Study Program, only 2 (two) credits are given. According to him, there should also be non-credit thesis guidance courses.³⁹

MNHD (a pseudo name) also gives almost the same answer. That in any campus, research methods courses are mandatory subjects. According to him, there should be an introduction as a prerequisite, before entering into legal research methods. Regarding legal theory, according to him, any research needs a theory. For economic research, one must use economic theory. Likewise, legal research, of course, must use conventional legal theory or Islamic legal theory. Regarding some of the patterns that have been explained, MNHD said that when research methods are taught, it is only a theoretical understanding. Meanwhile, the one who guides the students at the practical level is the supervisor lecturer. MNHD also agrees that there are special courses for law-based thesis writing or Islamic law.⁴⁰

Meanwhile, among the thesis supervisors, there are also varying opinions regarding the application of legal theory to student thesis. IR and RM (pseudo names), when the FGD was held, gave their responses about the use of legal theory in thesis research. They gave relatively the same response, that because a legal theory has not been taught in the undergraduate program, it is irrelevant if undergraduate thesis students have to use legal theory. I’m worried that the thesis is like a Thesis, which is a research

38 AMS, The writer of a thesis in the sixth pattern, Personal Interview, Medan, October 04, 2022.

39 S, A lecture of research methodology module at HKI program at UIN SU, Personal Interview, Medan, September 27, 2022

40 MNHD A lecture on research method module in HKI program at UIN SU, Personal Interview, Medan, September 03, 2022.

assignment for the Strata 2 Program. In the Thesis, the application of legal theory is still understandable, because S2 students have received special courses on legal theory.⁴¹

AA (a pseudo name), who is also a thesis supervisor at the HKI Study Program, in FASIH UIN SU, explained that the theoretical framework/theoretical foundation did not have to be written down again. This is because, in Chapter II of thesis writing, students have contained normative legal provisions. The purpose of normative studies is in the form of provisions contained in the Qur'an, al-Sunnah, laws, or other statutory regulations. This provision is used as an analytical tool in Chapter IV of the student thesis.⁴² ZAP, provides information that is relatively the same as AA, that what is used as an analytical tool is the applicable (positive) legal rules or the rules in Islamic fiqh books. ZAP's reason is that if we use legal theory as an analytical tool, the students sometimes don't understand or find it difficult. Therefore, the theoretical basis used in solving research problems is only normative (material) rules in positive law or the study of Islamic fiqh.⁴³

RSS (a pseudo name) gives the same explanation as AA and ZAP, that his students are guided in using a theoretical framework, where the theoretical framework is the rules in positive law and the rules in the study of Islamic fiqh. According to him, the standard of writing that he usually guides is like that, and the results of the assessment on the munaqasyah exam are still passed, even though they do not use legal theory in a theoretical framework.⁴⁴ Meanwhile, HJ (a pseudo name), during the FGD, said that students were inconsistent in using the thesis writing guidelines issued by FSH UIN SU. This article is why many students do not use a theoretical framework in writing their thesis. An additional explanation from HJ, is that there is a kind of demand that students must finish immediately, so the thesis is always ignored.⁴⁵ This was also stated by S. According to him, many HKI Study Program students came for guidance only about a week before the graduation ceremony. With a pity factor considering that students say they can't afford to pay tuition anymore, in the end, the student's thesis is not checked optimally.⁴⁶

It is different from the opinion of a lecturer called I (a pseudo name). He explained that the legal theory itself is not explained in the guide for writing the thesis of FSH UIN SU. There is only a theoretical sub-framework, but it is not explained what the provisions of the theoretical framework are. Therefore, usually, when guiding a thesis, the theoretical framework written by students is only a study of legal rules or Islamic

41 IR and RM, A lecture in FASIH UIN SU, Response in FGD, Medan, September 01, 2022

42 AA, A lecture in HKI FSH Program at UIN SU, Personal Interview, Medan, October 04, 2022.

43 ZAP, A lecture in Thesis supervisor in HKI Study Program, Personal Interview, Medan, September 29, 2022

44 RSS, A lecture in Thesis supervisor in HKI Study Program, Personal Interview, Medan, October 04, 2022.

45 HJ, A lecture in Thesis supervisor in HKI Study Program, Response in FGD, , Medan, 01 September 2022

46 S, A lecture in Thesis supervisor in HKI Study Program, Personal Interview, Medan, September 29, 2022.

law. Even so, it is always passed every time a student takes the Munaqasyah exam, whether or not there is a theoretical basis.⁴⁷

To clarify this issue, the researcher has interviewed the Head of the IPR Study Program, Dr. Nurul Huda Prasetya. He argued that academically, research must have a theoretical framework in which there must be an explanation of at least one legal theory to be used. The legal theory that we mean is already mentioned in the *turas* books and explained systematically, such as the theory of *qiyas*, *'urf*, *masalah mursalah*, and *sad zariyah*. It's just that sometimes students don't say it is a legal theory, because they don't understand how these theories become a legal theories.⁴⁸

Researchers get an explanation from Dr. Heri Firmansyah, as Secretary of the HKI Study Program. Firmansyah said that in legal research, whether a thesis or whatever, there must be a theoretical framework. In addition to the theoretical framework/theoretical basis, "first the conceptual framework, such as the question of livelihood, must be explained in its entirety. After that conceptual framework, a theoretical framework was developed as a tool to solve problems in the thesis research findings," explained Heri.

The response from one of the FGD speaker, Dr, Nurasiyah, said that there must be a distinction between legal theory (legal theory) as a scientific discipline and legal theory which is the result of thought (legal proposition) as an analytical framework or analytical tool. It is possible that legal theory has not been taught to undergraduate students, but legal theory as a result of thought has been taught to students of the Faculty of Sharia and Law in general, and students of the IPR Study Program in particular. Fiqh, Ushul Fiqh, Qawaidh Fiqhiyyah, Qawaidh Ushul Fiqh, and Philosophy of Islamic Law courses have been taught to undergraduate students, who discuss all kinds of Islamic legal theories with various figures and scholars who developed these theories. Therefore, according to him, how is it possible that there is no need for a legal theory in a thesis, even though the subtitle on the theoretical framework is contained in a thesis? He further stated that there seems to be a misunderstanding regarding the placement of the word legal theory in general disciplines with legal theory in the discipline of Islamic law. What was stated by several lecturers referred to general or conventional legal theory, which was not studied in semester 1 of the Faculty of Sharia and Law? This is different from the theory of Islamic law which has been studied since semester 1.⁴⁹

Based on the results of the interview above, the researcher can classify that the factors that influence the polarization of the application of legal theory in the thesis

47 I, A lecturer in Thesis supervisor at HKI Study Program, Personal Interview, Medan, September 15, 2022.

48 Nurul Huda Prasetya, Head of the HKI Study Program, Personal Interview, September 08, 2022.

49 Nurasiyah, A Speaker in FGD, Personal Interview, Medan, September 01, 2022.

writing of HKI Study Program students are; factors of teaching materials and lecturers, factors of supervisors, and factors of the seriousness of students.

The first factor is teaching materials and lecturers. The variety of teaching materials (syllabus) for research method courses taught by supporting lecturers, and the small number of credits given (2 credits) is the cause of the student's lack of understanding in understanding what is meant by legal theory and how it is applied in thesis writing. This is compounded by the fact that there are still some lecturers who do not complete the number of meetings that have been set by the Faculty (16 meetings), and this is deeply felt by the students as explained by some alumni. Thus the learning process of research methods has not been maximally implemented. Then, this teaching activity is also related to the guidelines applied in writing the thesis of students of the HKI FSH at UIN SU Study Program. The lack of clarity, the description of the theoretical framework, and the importance of legal theory in the thesis is also a factor in students' lack of understanding of the use of legal theory in thesis writing. In addition, the non-enforcement of thesis guidance courses is also part of the teaching material factor which is considered to be still not maximally perceived by students so that they are more prepared to do legal research in the form of a thesis.

The second factor is the supervisor. There is an understanding among student thesis supervisors, that legal theory does not need to be applied in a thesis, moreover, the Legal Theory course is not taught in Strata 1 lectures. The understanding does not need a legal theory in this thesis, becomes a reference for students when they do thesis guidance. Therefore, students do not try to find out what legal theories are relevant to analyze the results of their research. Then, most of the supervisors also think that the theoretical framework is no longer needed because in chapter II of the thesis there is already a theoretical study containing legal provisions that are adapted to the topic of discussion. Then, this legal provision will later become the tool of analysis in chapter IV. The understanding of this supervisor, according to the researcher, is the reason why there are still many student theses that do not use the theoretical framework in chapter 1 of their thesis. The results showed that 52 theses did not use the theoretical framework and 34 theses used the theoretical framework but did not formulate the legal theories to be used. This figure is quite high, considering the importance of using a theoretical framework and legal theory in research.

The third factor is the seriousness of students. The seriousness of students in understanding what legal theory is a theoretical framework, its theoretical basis, and how to use legal theory in a theoretical and analytical framework is still considered weak. Some students do not question whether their thesis uses legal theory or not. Sometimes some students complete their thesis before paying tuition fees (UKT). Therefore, because of a lack of funds to pay for UKT, students urge the thesis supervisor to approve their thesis. However, it is true that some students have actually been able to include concepts

about Islamic legal theory, but do not mention clearly what theory is used in the thesis, so it is not used in the analysis. Then, some students have been able to apply legal theory in their thesis well. The results showed that about 15 of the 128 theses (11.71%) had been able to use the theoretical framework and explain the legal theory in it, then apply it in analyzing the results of their thesis research.

Solutions to Overcome Student Dissimilarity and Unpreparedness in Using Theory and Theory Frameworks in Writing Thesis

In dealing with the inconsistency and unpreparedness of students in using the theoretical framework and legal theory in writing their thesis, it requires the attention and cooperation of all parties involved in it, including; the Faculties and Study Programs, teaching lecturers, thesis supervisors, and students. To overcome the differences in the understanding of lecturers about the need or not need for legal theory in student thesis, it is necessary to have a common perception among lecturers, both teaching lecturers, and supervisors. Equalization of perceptions also needs to be carried out among study program managers as the party who ensures the acceptance and implementation of the procedures for writing this thesis.

As there are differences of opinion among lecturers and supervisors regarding the terms literature review, theoretical study, theoretical study, and theory, it is also necessary to have agreement on their use in thesis writing. The Faculty should facilitate the common perception between Study Program managers, Research Methodology lecturers, supervisors, and students regarding the position of theory in thesis writing, the use of the term theoretical studies, literature studies, theoretical frameworks, and theoretical studies. Therefore, the Faculties and Study Programs should compile and publish a standard and clear guidebook that can be referred to by supervisors and guidance students regarding the use of legal theory or theoretical frameworks for thesis writing.

The Research Methodology course is a course that teaches tools science, namely the science of writing scientific research reports in the form of a thesis. In addition, the Research Methodology course is a prerequisite course that is taught as many as 4 credits, namely Research methodology I with a study load of 2 credits, and Research methodology II (according to majors) with a study load of 2 credits. Research Methodology I usually contain introductory Methodology material that equips students with theoretical research methodologies. The teaching material introduces more definitions, kinds, and examples. while in the Research Methodology II course, usually the material contains more specific material according to the department, for example, Family Law Research Methodology or Siyasah Legal Research methodology, and others. In Research Methodology II, students are provided with knowledge, terms, and examples that are

specific to their majors as well as students are provided with practical experiences, such as interview practice, observation practice, and proposal-making practice.

Based on observations of the distribution of research methodology courses at the Faculty today, we see that there are Study Programs that only provide Research Methodology courses only once, namely 2 credits so methodology lecturers are confused about whether to provide theoretical material or practical material. Therefore, the Faculties and Study Programs need to also review the distribution of this Research Methodology course, and whether it is sufficient or not to equip students with knowledge about researching and writing thesis reports.

As a prerequisite course, a student will not be able to take the Research Methodology II course before passing the Research Methodology I course. Students cannot submit a thesis proposal if they have not passed the two prerequisite courses, namely, Research Methodology I and Research Methodology II.

The readiness of students to complete thesis assignments sometimes still causes them to be confused. This task becomes a burden so that even though they have received a research methodology course and will have a thesis supervisor, there are still many students who are not mentally and academically ready to submit proposals and write theses. This, according to one of the resource persons from students, is because the learning experience of research methodology has not provided them with experience in how to write research reports in the form of a thesis.

Interestingly, before this period, the Faculty of Sharia had Thesis Guidance courses for final-semester students. This course is a non-credit course, but students are required to take this course and must pass. This course directly puts into practice how to make proposals and write a thesis; dissect sample scripts and others. The advantage of this Thesis Guidance course is that students are ready to enter the world of scientific writing which is the final requirement for completing their studies. Unfortunately, this 'Thesis Guidance' course is no longer taught even for the past 15 years.

Especially now that thesis writing will be replaced with scientific journal writing that must be published in a nationally reputable journal (at least Sinta 6). Therefore, the urgency of students to understand the writing of scientific works in both theses and journals is very important and requires serious attention from the faculty and study programs so that we get quality alumni who are ready and compete at their level.

As a solution that can be proposed that the Faculty and Study Programs can facilitate a meeting and serious discussion between Faculty managers, Study Program managers, teaching methodology lecturers, supervisors, and students about the importance of having good scientific work based on standard guidelines. Maybe you can set aside a budget to create a workshop or workshop that discusses the syllabus, thesis guide, and course credits that are clear and steady, agreed upon by the teaching lecturers

of Research Methodology and thesis supervisors. It can also be discussed whether it is necessary to make special non-credit courses such as Thesis Guidance and Legal Writing, which are related to thesis writing or journal articles as the fulfillment of students' final assignments.

The uniformity of the syllabus and research methodology learning materials is also important as a solution for students' inability to use theory and understand the theoretical framework in thesis writing. The uniformity of this syllabus, of course, requires a joint review between the faculty management, study program managers, teaching lecturers, and supervisors. For this reason, it is also necessary to have the involvement and policies of the leaders of the Faculties and Study Programs to address this matter. The syllabus can be arranged together and needs emphasis on theoretical material and theoretical framework as material that should not be left out in classroom teaching. It also needs to be emphasized in teaching research methodology courses about the importance of using a theoretical framework or legal theory as an integral part of writing a law student thesis (shari'ah).

After the syllabus and teaching materials are uniform, the lecturer must ensure that classroom teaching must be following the established syllabus or is even more innovative. Lecturers also ensure that students can understand the systematic flow of research, especially the use of theoretical frameworks and legal theories in research and thesis writing. In addition, the lecturers also agreed to a consortium of courses. Lecturers should hold regular meetings to discuss the subjects being taught and what competencies should be given to students. Therefore, students have the same standard of subject achievement between one lecturer and another.

Supervisors must ensure that their students use a theoretical framework or legal theory in their research and thesis writing. This can start from the writing of the proposal so that students can understand this theoretical framework from the beginning of writing the thesis. The supervisor must also direct and understand the importance of the benefits and objectives of using a theoretical framework or legal theory in the thesis writing of his/her mentored students so that students take seriously that the theoretical and theoretical framework in writing a scientific paper is important.

The maximum ability of students in using theories or theoretical frameworks in writing scientific papers is inseparable from the role and hard work of the students themselves. No matter how good and no matter how serious the lecturers and supervisors give lessons and directions to students, if students are not serious and not serious, of course, it will all be in vain. Therefore, the seriousness and hard work of students is the main thing. Students need to follow the course teaching well and comprehensively. In addition, students must be active and cultivate a high curiosity about research

methodology courses and legal research methodologies as prerequisite courses for thesis submission.

When a student has got a supervisor and is conducting mentoring with his lecturer, the student must follow the direction of his supervisor. Students should also be happy to correct corrections from their supervisors as directed. Students also do not mind rereading lessons during guidance so that in writing they don't face obstacles that confuse students themselves. With this, students can also be expected to produce good science works.

C. Conclusion

From the results of the research that has been done above, the following conclusions can be drawn. There are six polarizations in the application of legal theory in thesis writing among HKI Study Program students, Faculty of Sharia and Law, UIN North Sumatra. The factors that influence the polarization of the application of legal theory in student thesis writing are; factors of teaching materials and lecturers, factors of supervisors, and factors the seriousness of students. Solutions that can be done in improving students' abilities in applying legal theory in writing a thesis can be seen from several aspects. The main thing is the involvement of the faculty and study programs to make policies in terms of equalizing perceptions between study program managers, lecturers, supervisors, and students. A standard and clear guidebook are needed that becomes a reference for students. To maximize students' abilities in thesis writing, additional courses such as Thesis Guidance courses are needed, as has been done before. In addition, there is also a need for uniformity in syllabus and learning materials for research methodology courses and Legal research methodologies, especially in emphasizing the use of theory or theoretical frameworks in research, including thesis. There needs to be an emphasis on the importance of using a theoretical framework or legal theory.

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