Localism in perceiving the problem of adat people in forest area: A critical thinking

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Abstract. Law as a branch of science does not escape development. This is in line with developments in other branches of science, especially social science. Developments in legal science include many things such as themes, writing, methods, to methodologies. One of the developments of legal science that has attracted quite a lot of interest from legal philosophers is the development of historical methodologies. There have been many debates by legal experts regarding historical methodology. In this paper, we will present the development of the legal-historical methodology, we can find three major schools of historical-legal methodology, namely narratives, structuralism, and structures. The legal-historical approach can be functioned through the historical method through several approaches to legal research objects. Thus, this approach tries to restore the role of humans as legal-historical study is.

1. Introduction
Science actually develops, in line with what humans live in life. They continue to learn and learn from everything that happens. History as a branch of science cannot be separated from development. Developments in the science of history include many things such as studies, writing, methods, to methodology[1]. Each long journey of change has led historians to conduct various studies.

One of the developments of the science of history that is of concern to many historians is the development of historical methodology. There have been many discourses conducted by historians regarding the methodology of history. Historians continue to debate methodology not without reason. The debate basically has one goal, namely to make the science of history closer to the truth as it is. The roots of the debate closer to the study of history-law itself can be traced through its methodology, it is necessary to look at the history of the development of historical methodology.

In the historical development of historical methodology, we can find three major schools of historical methodology, namely narrativity, structuralist, and structures. Narrative or narrative presentation was developed by FR Ankersmit [1], who followed the opinion of Johan Gustav Droysen, that stories have the ability to string events together in a holistic form narratives is an early form of critical history that was pioneered in the late 19th century. One of the most famous motors of narratives is Leopold Von Ranke. Ranke recommends that historians write down what actually happened, wie est eigentlich gewesen [2]. Therefore, narratives emphasizes its focus on events, especially political events.

[1] In the science of history, it must be clearly distinguished between 'method' and 'methodology'. The method emphasizes historical research activities, while the methodology is related to historical writing activities and the emphasis is on explanation.
Here history is expected to be written in chronological order through the questions of what, who, when, and where. Historians are only expected to attach facts, both hard facts and soft facts, to reveal events that happened in the past without having to provide a detailed analysis of each of these facts. Narratives also place characters as determining factors in historical events so that most narrativity works are dominated by stories of great characters or people. Thus, narrativity only presents history as a story of great people in the past. So, it is not surprising if someone says that history written with a narrativity methodology is only a *l'histoire historicsant*, an exciting story[3].

Because of its characteristics, narratives do not satisfy historians in revealing the past. For this reason, there are criticisms of the narratives approach. A critic of narratives, the American historian Harvey Robinson, says that the way he uses it is narrativity only to reveal the surface, but not to reveal what is beneath reality, and cannot understand human behavior [2]. Meanwhile, another American historian, Carl L. Becker, viewed that objective history as Ranke suggested, could not have been written because of the psychology that influenced the writer. Criticism also comes from several French historians who are members of the *Annales* school. This group sharply criticized traditional historians who always put events and characters as the main focus. Through their journal, *Annales d'histoire economique et sociale*, they propose a new approach that no longer makes events and characters the main focus in historical writing. They want a history that is more human and broader than just the history of figures and politics. This approach became known as structuralism.

Followers of historical structuralism don't really attach importance to characters—though they don't negate them. For them, structure plays a role in change. Structure is considered to play a role in determining one's actions. Character is not the only determinant factor in change. So do not be surprised if in structuralist works, we will rarely find the names of the characters. This approach also emphasizes that change occurs because of the inclusion of foreign elements in the structure. Structuralism also emphasizes analysis rather than description. Therefore, the chronology of an event does not get too important attention in this approach.

Changes in structure are the focus of the study in this approach. Changes in the structure are trying to be analyzed. The structure contains complexities such as religion, economy, culture, ideology, and so on, so writing history with this approach requires the help of other sciences, especially sociology, anthropology, and economics as analytical tools. The influence of this approach then reached Indonesia. It was Sartono Kartodirjo who developed this approach in Indonesia. Sartono views this approach as being able to reveal various sides in Indonesian history that are not revealed, such as national identity. He proposes history writing with a multidimensional approach, namely marrying the workings of social science with historical methodology [4].

Like narratives, structuralism cannot be separated from criticism. Structuralism was shaken by a new approach that emerged in the 1980s. This new approach itself emerged as a reaction to post-modernism which attacked the science of history. Structuralism tries to overcome post-modernism's criticism of historical science which concerns the ability of historical science to obtain and reveal truth and the past. This new approach also tries to overcome the dichotomy between events and social structures as objects of historical research. Thus, this approach tries to restore the role of humans or actors (*human agency*) in change. Because, in this approach, humans are more influenced by the mind or ego than the structure that surrounds them. This approach has come to be known as structuralism.

2. Legal thinking in Indonesian historiography

Historiography (writing of history) in Indonesia, at least in the last few decades, has been marked by several important developments, both quantitatively and qualitatively. Quantitatively, we are witnessing the emergence of more and more historical works, both written by Indonesian and foreign historians [5].

In the perspective of new trends and developments in Indonesian historiography is the publication of several major historical works that can be used as a basis as historiography which has a tendency to be included in legal studies which will certainly act as studies in the future. One of the most recently published historiographies is the publication of the Indonesian edition by Denys Lombard, Nusa Java:
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Cross Culture, 3 Volumes (Le Carrefour Javanais: Essai d'histoire globale, 1990)[6]. This work is undoubtedly one of the few works of great interest and importance in Indonesia. Nusa Java has also represented and strengthened the momentum for the emergence of a relatively new historiographical style for historical studies in Indonesia. Javanese society is a fact in itself in the research in this book.

Another important work that seems to need to be mentioned is not only in its approach to revealing facts and realities that have been covered up, but also in the history of rebellion and public upheaval. The work is the masterpiece of Anthony Reid, Southeast Asia in the Age of Commerce 1450-1680. This work was published in two volumes; the first volume of The Lands below the Winds (1988)[7]; and the second volume, Expansion and Crisis (1993) [8].

In terms of the scope of the discussion, social history, such as the work of Reid or Lombard, is clearly very broad and rich. They write global history or more popularly called total history (total history) which is often also referred to as "New History" (Marwick, 1985: 64) [9]. In this approach not many historians use total history. Most continue to use a conventional historical approach which is basically based on political history. But total history is the history of all aspects of people's lives, not only in the areas that are considered the most important, such as politics in particular. Here total history is also identical with social history, all aspects of people's lives in their historical development, starting from geography, social stratification, demography, aesthetics, economy and trade, bureaucracy, law, the role of women and so on.

Opportunities for the legal-history study approach can also be manifested through total history (or social history) in this case, various classical figures other than Lombard, such as Lucien Febvre, Marc Bloch, Fernand Braudel, and Emmanuel Le Roy Ladurie have conducted historical studies of this new school (new history). In the understanding of total history, as stated by Bloch, history is a "science" that aims to reveal hidden and deep structural conditions, revealing historical mechanisms contained in legal, economic, geographical and cultural structures [10].

There are several things that become important in studying the history of law. Among other things, showing that there are changes and developments in legal science that occur not only due to differences in the conditions of a region or country but also from time to time the law in a place experiences changes and developments.

The history of law can help us to understand the norms or legal provisions that apply at the present time, providing an overview of contextuality with the surrounding circumstances. Legal history can provide an understanding of culture and legal institutions so that it is very useful to serve as a guide for jurists in law enforcement[10]. It can also put the law in accordance with its development from time to time and also be recognized as a historical phenomenon (putting the law in accordance with its historical development) [11].

History is a study of information about all aspects of social life (multidimensional approach) that grows and develops from time to time. This means that history examines society in a totality while the history of law is only from a certain aspect, namely the legal aspect. The study of legal history can play a role in the view of legal idealism[3] considered as the embodiment of an absolute idea which in essence tends to be a priori and ahistorical [12]. Although these ideas can be described in an orderly manner, it is very difficult to see the relationship between one idea and another. The historical approach is important.

In the view of materialism, law is considered a product or reality of society. Law is not an embodiment of ideas, like justice and ratio. This view is very close to the historical approach and contributes greatly to the formation of dynamic law.

3. Learn from change agents
The legal-history approach will be thick if the study is closely related to the study of society (social approach). I will give two examples from two historiographies that may be able to describe a study that focuses on agents of change (human agency), first, namely the history of the elite (history from above), about elite figures (Tjokro) in societal change and second, from the history of the structure of

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society, about (*history from below*), based on the stories of the champions who played a role in the upheaval of the three regions in Tegal, Brebes and Pekalongan.

There are several important notes that must be made regarding the recent development of legal pluralism thought. It is significant to show the relationship between events at a wider scale (macro) and events at the local level (micro), the relationship between countries and individuals as suggested by Sally Falk Moore. "... links local and large-scale matters, the individual and the state, hints at the wide networks and persistent advantages of an elite, and the importance of the division of knowledge [13]. In this case, how do social, political and legal events at the macro (national) level, including those outlined through state policies, have an impact on local communities.

Talking about the relationship between events on a broad scale (national) and events at the micro (local) level, it is related to the existence of a society that is seen as composed of various *semi-autonomous social fields* (SASF)[14]. How do the rules or policies originating from the state (especially in the field of regulating resource issues) impact the SASFs of the surrounding communities. In this case, it can be explained how the individual responds to legal events at the national, international level, and based on his experience or what he knows about the legal field at the macro level, what he does when he himself is dealing with legal problems.

In looking at social phenomena and society, the difference between individualism and holism is: individualism sees society as a collection of autonomous individuals, while holism views society as a whole as a unique and autonomous entity that is completely different from its members.

This difference in perspective has implications for how they approach the object of study being studied. In individualism, because of the phenomenon that is deemed valid for consideration is the behavior and decisions of individuals, then there is no *regularity* or recurrence that is stable and can be observed. Thus, it is impossible for the individualist approach to apply the scientific method normally used in the natural sciences to social phenomena, where observations are made to reveal *general laws*.

This is different from the holism approach where the object of study, namely society as a unit, is considered more sterile than individual *subjectivism* and therefore (assumed) as observable *regularity*. As a consequence, in *holism* there is a kind of scientific optimism that we can find a law that can explain and predict social phenomena, just as the laws in astronomy can predict when a solar eclipse will occur.

This kind of "scientific" claim was made by, for example, Karl Marx and Friedrich Engels when they formulated their version of socialism as "scientific socialism", to distinguish it from traditional socialism which they called "utopian socialism".

On this occasion, I will not discuss whether the claims of holism about the discovery of laws in social phenomena can be justified or not. Instead, I will assume that both individualism and holism are valid scientific approaches. Then, I will discuss the practical consequences of these two approaches on our perception of people's lives and how we should act as social beings. From there, I will draw the conclusion that the individualism approach is a more conducive approach in creating *progress* for society than the holism approach.

The most striking consequence of applying the holism method in analyzing social phenomena is a matter of scale. Because the holism method takes the whole community as a study sample, the theoretical explanations and ethical formulations that follow are always on a broad scale level. This is why Marxism, which adopts a holism approach, demands radical changes at the structural level. In Marxism, true social *progress* is a matter of transforming social structures and relations from exploitative to cooperative ones. Meanwhile, the *progress* that occurs at the micro and local levels, however emancipatory, is only a reactionary *progress*.

The high standards that Marxism holds regarding *progress* are largely influenced by Marxism's claims to the laws of historical evolution. Marxism claims that its study of social phenomena has led them to a revelation of "the laws of historical motion". Through the discovery of the law (that history is driven by class antagonism), Marxism can then formulate predictions about the direction of the movement of history in the future (that history will lead to a classless society).
Holism's tendency to formulate large-scale theories and predictions differs 360 degrees from individualism. In individualism, large-scale explanations and predictions are rather impossible to do. Of course, this is because individualism focuses on micro-scale phenomena, namely individual actions, and individualism does not pretend that there are laws to reveal about the evolution or historical movement of society.

In addition, the perception of individualism about progress is also of course very different from holism. If in holism progress can only be called progress when it concerns the transformation or revolution of social structures, then in individualism progress does not always have to take the form of social progress on a large scale. Again, this is a consequence of the methodological limitations of individualism which view "society" only as an aggregate of individual actions. Libertarian thinkers such as Friedrich Hayek, for example, argue that "civilization" is the unplanned result of micro-scale actions.

If progress must be structural, then how does holism explain the methods or methods that must be used to realize that progress? In Marxism, where social classes are regarded as the main constituents of social phenomena and society, progress is achieved through revolutionary movements on the part of the oppressed social classes to change the status quo. Meanwhile, in individualism, progress is achieved through what Karl Popper calls the piecemeal approach. Piecemeal approach is when we make improvements little by little, step by step, and part by part. In Indonesian, the word piecemeal itself is indeed interpreted as "a little bit". The main and most important characteristic of the piecemeal approach is the trial-and-error process, or the process of trial and error and learning from mistakes. Social media users have unique expressions to describe the piecemeal approach process: "bump, collide, collide… formed".

However, if social media users use the piecemeal concept to describe the process of personal self-development, the piecemeal approach we discuss in this paper includes the development process or the progress of social institutions, such as technology, economics, law, science, and even religion. So, in addition to describing the development process on a personal scale, the piecemeal approach also applies to an institutional scale and an ensemble scale.

Piecemeal development on an institutional scale is progress or progress that occurs in certain social units or entities that are pursued teleologically by a certain person or group of people. An example is the evolution of mobile phone design which has been driven by manufacturer innovation and market tastes. In addition, amendments to the state constitution can also be categorized as piecemeal progress on an institutional scale.

Meanwhile, piecemeal development on an ensemble scale is progress or progress that occurs in certain social units or entities thanks to the efforts made by large numbers of people. So, in an ensemble scale, there are a large number of people or groups who are trying to solve the same problem individually. So, if the development of institutional piecemeal is seen from the perspective of one particular individual or group, then the development of ensemble piecemeal is seen from many individuals or groups.

An example of the piecemeal development process on an ensemble scale is the technological inventions that mushroomed in the golden period of innovation in the late 19th and early 20th centuries, one of which was the airplane. Today, we know that the first airplane was invented by the Wright Brothers. However, if we read the history of the development of aviation technology, we will see that before the Wright Brothers, there were many other engineers and adventurers who worked to create flying machines like the Wright Brothers. The difference is that the engineers and adventurers failed in their efforts, while the Wright Brothers succeeded.

4. Piecemeal approach
What makes the piecemeal approach in the method of individualism in creating social progress better than the holistic approach? The main reason is this: in the piecemeal or individual approach, the risk of failure of a social experiment is localized to the risk of failure of the individual or group that performs the experiment alone. Whereas in the holism approach, the risk of failure of social experimentation
(revolution) becomes very massive because it involves all elements of society, even including elements of society who do not agree with the experimentation. The reason why the risk of a holistic approach becomes so massive is because this approach seeks progress or progress at the level of the social structure rather than pursuing a more modest target of progress that targets only certain sectors in the social structure. There is a very clear risk asymmetry between holistic experimentation and piecemeal/individual experimentation. In other terms, we can say this: the failure of piecemeal/individual experimentation will not bring about a social disaster as great as the failure of holistic experimentation. However, on the other hand, the success of piecemeal/individual experimentation is usually a huge advantage for mankind, while the success of holistic experimentation usually ends at the attribution of certain interest groups (party members, government officials, or revolutionary heroes).

For example, imagine a physicist trying to invent a perpetual motion machine, that is, a machine that can move in perpetual motion without the need for an energy source (in other words, this machine is trying to violate the first or second law of thermodynamics). If this attempt fails, the failure will only be an individual failure of the physicist, without bringing significant harm to the surrounding community. However, if the experiment is successful, it will not only benefit the physicist (who will be credited with finding a source of eternal energy), but humanity as a whole.

On the other hand, in holistic experimentation, the logic of the profit/loss asymmetry is reversed. To carry out holistic experimentation, social scientists (revolutionaries) need to implement radical changes to the lives of many people. Unlike piecemeal experimentation, holistic experimentation requires broad community participation. Therefore, the failure of experimentation will be a very massive social disaster. As a result, the efforts made to pursue and realize the ideal society concept offered by holism have become an expensive gamble and touch ethical sentiments: is risking the lives of many people to realize an ideal society justifiable?

We do not need such ethical questions in piecemeal/individual experimentation because the risk of failure of the experiment is borne entirely by the experimenter himself. Therefore, the concept of accountability in social experimentation becomes important. We must be able to trace every experimentation failure to the parties most responsible for the failure in a clear and accountable manner.

This is also the reason why in libertarianism, which adopts a piecemeal/individual approach, the concept of private property becomes important. Through private property, any individual or group wishing to undertake social experimentation or investment (e.g. wanting to create a perpetual motion machine), they are forced to risk their own property or wealth.

Through private property institutions, accountability for failed experimentation or investment becomes clearer. We can clearly point out that the efforts to create a perpetual motion engine carried out by party A and company B failed miserably, and the losses that accompanied the failure were entirely the responsibility of party A and company B, not society as a whole.

Furthermore, through the failure of party A and company B, other parties who also want to create a perpetual motion engine can learn from the mistakes of party A and company B, and from there they can make progress by not doing what party A has done and company B.

It is this process of accountability and learning from mistakes that is absent from the holism approach. There is no room for partial error in holistic experimentation because from the outset the target of change or progress is society as a structure.

Besides, we can't really be accountable on a holistic scale. So abstract, every failure of holistic experimentation cannot really be traced to a certain exact and specific factor or cause. On the contrary, in holism there is always room to create some kind of theoretical apology. For example, if the predictions of Marxism about the collapse of capitalism do not come true, or the proletarian revolution does not lead to a classless world order, Marxists can always explain it by other theories about false consciousness or that the historical movement has not yet reached its climax.

This closedness of Marxism from the process of falsification is the reason why Karl Popper categorizes Marxism as pseudoscience along with astrology and psychoanalysis.
5. The importance of scalability

The difference between piecemeal and holism approaches is what I think is the most appropriate perceptual framework for reading and analyzing major issues such as equality. My thesis is as follows: if you want to create equality, do it on a local and individual scale, not on a holistic scale.

At this point, we must inject the principle of localism into the principle of libertarianism or socialism that we adhere to. Now the question is, what is localism? Localism is an ethical principle that emphasizes the importance for us to pay attention to the problem of scalability in the implementation of universal ethical values such as libertarianism or socialism.

Then, what is the scalability problem? The scalability problem is a problem which states that what is true on a small scale / size, cannot apply on a large scale / size, and vice versa. To understand the problem of scalability, consider the following examples of scale progressions of social units and their accompanying changes in ideological principles:

1. At the household scale, the principles of communism such as the abolition of private property rights and the ethos of "equally equal taste" are not only feasible, but may become principles that can better ensure the sustainability of the household as a social unit. Although not impossible, it will be very difficult for a household to survive (as a unit) if a husband and wife separate their individual rights strictly.

2. Stepping up to a slightly larger scale level, namely clan or kinship (eg relatives, friends, neighbors, clans, or small hamlet residents). At this level, the principles of distributive justice in the style of socialism can still be applied, but it is already a bit difficult to fully "equally feel the same". We, for example, can and need to provide material assistance to brothers/sisters or close relatives who are in the midst of misfortune. However, at this level we cannot necessarily apply the communal principle in which private property rights are completely ignored.

3. At the next level of scale, namely the scale of local communities (eg city or province), the separation of private property rights has begun to be institutionalized. Efforts to apply the principle of distributive justice require the coercion of the state or certain authorities.

4. The next level, the largest and most abstract, is the country, regional, or even global scale. At this level each individual becomes an entity that is so abstract and anonymous that any attempt to organize people's lives based on a single formulation can become very intrusive. At this level, applying the principle of laissez-faire a la libertarianism is the safest choice.

Problems related to the discourse of justice and political-economic ideology begin when we apply the values of socialism or libertarianism at all levels of the scale above in an indiscriminate way. Or even worse: applying it in reverse, namely libertarianism at a narrow level and imposing communism at the level of a large society.

As we can see in the example of scale progression above, the narrower the scale of the social unit, the more likely the principles of socialism are applied. On the other hand, the larger and more complex the social unit, the more intrusive the principle of distributive justice in the style of socialism will be. This is because applying standards of distributive justice on a large societal scale is a form of coercion.

There are two reasons. First, on a large scale, reaching a "consensus" on social justice is not an easy task because each person's needs and preferences can be very complex and different. Second, the larger the size of the community, the greater the number of people's needs and preferences that must be accommodated, so that the greater the need for the role and power of the central authority to take the rights of group A to fulfill justice for group B.

Socialism is a bad idea not because socialists want justice, but because they want justice at the wrong place or scale. In essence, justice is an individual act. I can act fairly with other individuals. But the problem becomes different when I delegate justice to state institutions to be applied to society at large.

At this point, we can conclude that the dichotomy between the ideologies of socialism and libertarianism is actually irrelevant. In the context of this scalability problem, I can say that I am a
Marxist and a pro-free market libertarian at the same time without any contradiction, as long as I apply the two at different scales.

In the end, the most fundamental conflict is not between the ideologies of socialism and libertarianism, but between people who are aware of the problem of scale (we call them “localists”) and those who ignore the problem of scale (we call this group “holists”).

However, if that’s the case, then is there still a reason to be a libertarian? Of course, there is. There is one characteristic of libertarianism that makes it superior to collectivism in the style of socialism and Marxism, namely loyalty to the principle of non-intervention or non-aggression principle (NAP). The principle of non-intervention is an ethical position that states that the greatest “sin” that a person can commit against another person is to commit aggression, where aggression is defined as an intrusion or violation of the rights and autonomy of another person. This autonomous area may include private property, property, privacy, or life in general. In this way, the principle of non-intervention or NAP teaches us to take care of ourselves first before interfering in the lives of others.

This kind of teaching is, of course, more compatible with the principle of localism, which recognizes the importance of scale in applying ethical/political principles in social life (first, doing justice to a small scope before implementing social justice). This is very different from socialism, where in principle socialism wants to implement justice on a large scale, so that the political mission it carries is a matter of how to change the structure of society. So, it is certain that collectivist ideologies such as socialism and Marxism automatically violate the two principles I proposed above, namely the principle of localism and the principle of non-intervention (NAP).

6. Conclusion
The legal-historical approach can be functioned through the historical method through several approaches to legal research objects. Thus, this approach tries to restore the role of humans or actors (human agency) in legal changes that will determine the path of human life in the future. Legal pluralism through historical studies before making local legal products will be an illustration of how interesting the role of humans as a legal-historical study is.

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