


DEPD: GUIDELINES FOR RESEARCH DEVELOPMENT IN THE AREA OF LAW

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ABSTRACT

The guidelines for the elaboration of research in the area of law (DEPD) emerged from the need to produce and present empirical research of quality and methodological rigor. The proposal in question is justified because it aims to provide academics and legal professionals with a protocol for the preparation and presentation of their studies that will help them to incorporate reliability, quality, precision and methodological transparency into their essays. For the elaboration of the DEPD, consultations were carried out in the literature specialized in scientific methodology. After obtaining the data, the DEPD was elaborated based on the proposal of items and sub-items that should be included from the initial structuring of the protocol to the consummation of the research. Nowadays it is noticeable that considerable studies that have been published among the most diverse areas of Law have a simply opinionated character. In addition, Science is not built on opinions, but on falsifiable hypotheses that are not to be confused with the first. Therefore, operating the DEPD proposed here will allow satisfying the need for standardization and incorporation of procedural transparency, trust and quality in the research produced in the area in question.

Keywords: Research methodology, Legal studies, Law research.

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INTRODUCTION

Analyzing the ideas of Davies (2020), it appears that the universe of research in the area of law is polarized into two competitive extremes. One group focuses on the development of empirical legal studies and the other on traditional doctrinal research. The aforementioned author was a 'screwdriver' critically tightening the two 'screws'. According to him, the first is the result of doctrinal lawyers who are usually in a comfortable state and of mutual citations, where one doctrinaire cites the other.

Empirical legal studies rose considerably, as they focused, beyond doctrine, on the factual reality (Ansems; Bos 2022). Its foundation consists of qualitative and/or quantitative evidence extracted from the real world relating it to the functioning of legislation, such as: the perception of how laws are applied in a specific case and how they affect the behavior of the addressees of the legal norm, the impact of decisions on social behavior, among many other circumstances that can be analyzed (Bell, 2016; Bhat, 2020; Wulf, 2016).

Because it presents considerable complexity, this type of study requires advanced methodological skills, which goes beyond simple doctrinal consultation. The *modus operandi* of the research in question occurs by various means, such as: case study, interview through a semi-structured form, observation and analysis of data systems in order to extract inferences extrinsic to the researcher (Webley, 2016; Milic, 2019; Kritzer, 2021).

Empirical legal studies are not necessarily interdisciplinary. On this subject, Siems (2009) pointed out, proposed four types of interdisciplinary research applicable to law, namely: basic interdisciplinary research, advanced interdisciplinary research type 1, 2 and 3. The application of the type of research should take into account the nature of the research problem and your own skills and preferences (for more information see box 1).

Chart 1: Taxonomy of interdisciplinary legal research

| RESEARCH NOMENCLATURE | CHARACTERIZATION OF THE RESEARCH |
|---|---|
| Basic interdisciplinary research | It originates from micro and macro legal issues. The first relates to specific circumstances such as a provision of a statute. The second investigates generic circumstances, for example, the meaning of words such as 'law', 'justice' and others. |
| Advanced interdisciplinary research: type 1 | They do not originate from the law itself. It aims to provide a relatively comprehensive overview of a specific topic. However, there are important obstacles in which the researcher has to acquire some knowledge about other academic fields and needs to be willing to engage in joint work with researchers from other disciplines. |
| Advanced interdisciplinary research: type 2 | The research profile consists of the deduction of hypotheses followed by a scientific methodology to reach a result. The central issue has a legal character. It is necessary for the researcher to understand how quantitative methods are applied to his data. Because this approach is more rigorous than doctrinal or qualitative research, it's easy to make mistakes. |
| Advanced interdisciplinary research: type 3 | It is similar to the previous research, however, there is divergence only in the scope of the research problem that is not based on legislation, but on generic issues applying methodological procedure in the collection of data. |

Note: for more information see Siems (2009).

However, regardless of the taxonomic category of legal research, its quality is questionable because it does not delve deeply into and make its procedures and factors clear, compromising its own results. It was from this that a critique emerged that, although limited, these essays are typically of low quality as they are methodologically weak (Davies, 2020).

Therefore, the present proposal emerged the need for the production and presentation of empirical research of quality and methodological rigor. The proposal in question is justified because it aims to provide academics and professionals with Guidelines for the Elaboration of Research in the Area of Law (hereinafter DEPD). The purpose of the DEPD is to help researchers incorporate reliability, quality, precision, and methodological transparency into their trials.

DEVELOPMENT OF THE LEGAL RESEARCH PROTOCOL

It is undeniable to recognize that there are numerous studies published in the most diverse areas of Law, some of which are self-configured as systematic reviews, case studies, descriptive and/or integrative analyses, but none of these are. In the world of facts, many authors write opinion articles that are based on some other studies, precedents and jurisprudence to strengthen the argumentative context and they are nothing more than that.

Therefore, the maximum purpose of the DEPD is not to provide the reader with a course in scientific methodology for those in a hurry. However, it is consummated in the structural and logical framework that, like a compass, guides, and a driving spring, drives the full organization, development and effective presentation of transparent, reliable and qualified research. The scope of the DEPD was structured based on the consultation of some studies related to scientific methodology, as summarized in Table 1.

Table 1: Summary of the studies consulted for the elaboration of the protocol in question.

| AUTHOR(S) | YEAR | TITLE | DENOUEMENT |
|---|------|--|---|
| Fontelles, M. J. et al. | 2009 | Methodology of scientific research: guidelines for the elaboration of a research protocol. | Understanding the different types of studies and their classifications, as well as the choice and combination that best applies to the question and objectives of the study are fundamental to achieving success in carrying out scientific research. |
| Mascarenhas, S. A. | 2018 | Scientific methodology. | To show how methodological procedures should be incorporated into daily life, valuing the most diverse professional activities. |
| Mezzaroba, O.; Monty, C. S. | 2009 | Manual of research methodology in law. | Enable the full mastery of the methodology for the elaboration of research in law, facilitating the beginner's understanding of the technique, while meeting the needs of those already graduated, |
| Monteiro, C. S.; Monteiro, C. S.; Mezzaroba | 2023 | Manual of research methodology in law. | It offers an overview of the scientific method and the stages of elaboration and presentation of research projects. |
| Page, M. F. Et Al | 2022 | The Prisma 2020 statement: updated guidelines for reporting systematic reviews. | Provide up-to-date guidance for systematic reviews, which reflect advances in methods for identifying, selecting, evaluating, and synthesizing studies. Authors should prepare a transparent, complete, and accurate account of why the review was done, what was done, and what they found. |
| Flick, U. | 2012 | Introduction to research methodology. | It aims to introduce the bases of social research, writing and the use of results. It is intended to provide a concise overview, outlining the most important approaches most likely to be used in social research projects and providing a wealth of practical information on how to proceed with a project. |
| Giolo, S. R | 2017 | Introduction to categorical data analysis with applications. | To present introductory texts on the application of statistical methods frequently used in the analysis of categorical data. |

STAGES OF RESEARCH DEVELOPMENT FOLLOWING THE DEPD

FIRST STAGE OF THE DEPD

The first stage of elaboration leaned towards the introductory and contextual items of the research, such as: title, abstract, keywords and introduction. Each of the items mentioned contains its particularities and sub-items that, if neglected, can compromise the

quality of the study. Table 2 shows the main sections and guidelines that characterize the first stage of the DEPD's preparation.

Table 2: Description of the first section of the guidelines for the elaboration of research in the area of law.

| PROTOCOL SECTION | ITEM | ENFORCEMENT GUIDANCE |
|----------------------------|--------|--|
| Study identification | 1 | |
| Title | First | It consists of the delimited identification of the research theme. |
| Summarization of the study | 2 | |
| Summary | Second | Present the summary of the study describing objectives, methodological synthesis, findings and conclusions. |
| Keywords | 2b | Point out a maximum of five words, which correspond to the essence of the research theme. |
| Study proloour | 3 | |
| Contextualization | Third | Provide a brief contextualization of the theme. This stage is based, making dialectical citations, on other studies concerning the proposed theme. |
| Research Problem | 3b | The research problem consists of an explicit question that will give rise to the process of elaboration of the protocol and, subsequently, the full development of the research. |
| Hypothesis | 3c | Offer a possible explanation, which will be tested, for the proposed problem. |
| Objectives | 3d | The author must specify the action that will respond to the research problem (general objective) and, if any, describe which micro actions will be developed to help the realization of the first one, which are called specific objectives. |
| Supporting | 3e | It consists of the phase of full presentation of the reasons for carrying out the study. It is at this stage that the importance of conducting the study is fully relevant. |

Item 1 is consummated in the delimitation of the theme. According to Mezzaroba and Monteiro (2009), this is the subject that will be addressed, it is a reference of what will be studied, above all, something in which the researcher already has pre-existing knowledge. Delimitation is nothing more than a thematic cut that goes through a limit that can be circumstantiated in space and/or time.

It is up to the reader to inform that in terms of the presentation of the completed study, item 2 of table 2 will be one of the first, however, in terms of elaboration, it should be the last elaborated. This premise is justified because it should contain information from all sections that will only be obtainable after the study is completed.

Item 3b must be explained in an interrogation statement. Analyzing the ideas of Fontelles et al. (2009) and Monteiro et al. (2023), it is understood that it is from the problematization of the theme that the investigation begins, which will have as its purpose the search for a logical and coherent answer to the proposed question.

Item 3c, according to Mascarenhas' (2018) conception, consists of a provisional theory, a descriptive attempt of the observed phenomena. Because it is provisional, the hypothesis must be tested and only after obtaining and analyzing the data will it be confirmed or falsified.

Items 3d and 3f are as important and necessary as the others already mentioned. The first consists of the exposition of what is intended to be clarified to the detriment of the research problem and the proposed justification. The second points to the clear, concise and convincing demonstration to the reader of why the study was carried out (Fontelles et al. 2009).

SECOND STAGE OF THE DEPD

The section in question stands out from the others, as it has the potential to benefit students, operators and researchers of law who aim to incorporate reliability and quality into their work. In line with Pages et al. (2022), the complete report of all items facilitates the replication and updating of the studies developed. The full adoption and execution of the items listed in table 3 will reflect in the exposure of more transparent, complete and accurate research.

Table 3: Description of the second section of the guidelines for the elaboration of research in the area of law.

| PROTOCOL SECTION | ITEM | ENFORCEMENT GUIDANCE |
|--|------|---|
| Methods | 4 | |
| Characterization of the research | 4th | Characterize the research profile taking into account the criteria of purpose, approach, objectives, technical procedures and development over time. |
| Data collection tool | 4b | In association with the research problem and the proposed objectives, it is necessary to point out which instruments will be used to obtain the characteristic data necessary for the design of the research. |
| Strategy for achieving data | 4c | This section should state which strategies were/will be used to find the cases judged in the databases previously presented. In this sense, it points to keywords, Boolean operators and other search filters. |
| Selection process and eligibility criteria | 4D | Specify and justify which inclusion and exclusion criteria were/will be used for the selection and eligibility of the res judicata, for example, time interval, specific judge, degree of jurisdiction, geographic space, among others. |
| Data analysis | 4e | After screening the judged cases, specify how they will be analyzed. This step is engendered from item 4. |
| Ethical considerations | 4f | Present the procedures that ensure ethical quality to the research, such as compliance with resolutions and the number of CEP approvals. In the case of research in which it does not apply or is optional, it is still recommended that a statement of ethical research bias be described in which |

| | | |
|--|--|---|
| | | no data that identifies third parties will be revealed or made available. |
|--|--|---|

More details in relation to item 4 can be seen in Fontelles et al. (2009) and Mascarenhas (2018). Briefly, the authors present several categories of research in terms of purpose (basic or applied research), nature (observational or experimental), approach (qualitative or quantitative), objectives (exploratory or explanatory), technical procedures (bibliographic, documentary, laboratory or field), and development over time (cross-sectional, longitudinal, prospective or retrospective research).

To satisfy items 4b and 4c, the author will need to make it clear whether the results for his research will be obtained in a physical or virtual environment. Regardless of the research environment, it is recommended that the author describe and make available the instruments and strategies used, such as: databases and their addresses, descriptors, Boolean operators, software, forms and others. The action in question is justified in order to make the procedure that resulted in the results transparent and replicable, to those who are interested. It is recommended that these be presented in illustrations, charts, and tables.

Item 4e is discussed in detail in the studies by Flick (2012), the author points out the biases of data analysis in a qualitative and quantitative panorama. For a characteristically qualitative data analysis, it is recommended to read Giolo (2017), as it presents the statistical methods frequently used in the analysis of categorical data.

Generally, item 4f is required when there is direct interaction between researcher and researcher, the latter being human beings. In this sense, it is required and recommended, when optional, the submission, appreciation and approval by the Research Ethics Committee (REC) linked to the researcher's institution or, in case of absence, by the Brazil Platform, which consists of an initiative that enables full monitoring from the process of submission, analysis and conclusion.

According to (Flick, 2012), for ethical research to be developed, it is necessary to observe and operate its guiding principles, such as: free informed consent and autonomy of will. The first consists of full information about the research procedures to the individuals who will be researched, which can be materialized through the Informed Consent Form signed and dated in two copies. The second points out that the respondents are voluntary participants in the research and have the right to accept, appeal or leave at any time.

THIRD STAGE OF THE DEPD

Unlike the previous section, which consists of describing in detail the methodological path that characterizes the study. The stage in question consists of the appropriate means of presenting the results obtained, the cross-sectional discussions with similar research and the conclusion as proposed in table 4.

Table 4: Description of the third section of the guidelines for the elaboration of research in the area of law.

| PROTOCOL SECTION | ITEM | ENFORCEMENT GUIDANCE |
|--|------|---|
| Result | 5 | |
| Summaries of the results obtained | 5th | Describe the results obtained during the development of the methodological process. Point out how many judged cases were found primarily in each database and how many were eligible and excluded according to the study criteria. It is recommended that this action be expressed in tab or flowchart. |
| | 5b | Taking into account the profile, objective and design of the study, it is recommended to briefly present the characteristics of the cases judged in order to contextualize |
| Discussion | 6 | To provide interpretation based on the results that dialogue with other studies related to the same theme. |
| | | Point out the main implications of the findings for legal practice, social application and future research. |
| Final considerations | 7 | |
| What was understood about the topic under study? | 7th | Point out in a single paragraph what was understood about the theme of the study developed. |
| Resumption of findings | 7b | Briefly provide an outcome of the main findings obtained from the study developed pointing to the advancement or inertia of knowledge. |
| What is added to the theme with the study? | 7c | Specify the relevance of the study to the general public and what it adds in terms of knowledge and implication for practice. |

In some specialized journals, items 5 and 6 are presented in a dissociated way, where in one section the results are presented and in another they are discussed. On the other hand, others already demand that they constitute a single section. The organization of the aforementioned table is not limited to any of the aforementioned scopes (it is at the discretion of the author of the research in submission), but has only the intention of providing the necessary elements that characterize each one of them, regardless of whether autonomous or compiled.

At this stage, the driving force that will highlight and drive the studies that follow the DEPD is to apply sub-items 7a and 7c in a clear and objective way. The presence of these in future studies is of consistent relevance, as they will reveal to the reader interested in the theme where we were, knew and had in terms of knowledge prior to the development of new research and where these will allow us to go, to know and have from its conclusions.

FINAL CONSIDERATIONS

Ultimately, it is recommended that the sub-items presented in the structural scope of the DEPD, with the exception of those listed in table 3, do not appear explicitly in the final product of the research as section titles and subtitles, but implicitly. Finally, the proposal in question should not be viewed as having an inflexible character in the development of its sections, but in addition, the DEPD is flexible and adapts to the type of research that will be carried out and the needs of the researcher, and may incorporate other items in the section that were not contemplated here.

Currently it is noticeable that considerable studies that have been published among the most diverse areas of Law have a simply opinionated character, especially the gray literature that grows exponentially on pseudoscientific platforms. In view of this, it should be noted that Science is not built on opinions, but on falsifiable hypotheses that are not to be confused with the first. Therefore, operating the DEPD proposed here will allow satisfying the need for methodological standardization and incorporation of transparency, trust and quality in the research produced in the area in question.

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