

## CHAPTER THREE

### RESEARCH METHODS

#### A. Type of Research

This type of research is normative or doctrinal research (library research). Normative legal research is the legal researches which use the law as foundation of norm. The norm system in question is related to principle, norm, and rule from legislation, verdict, treaties, and doctrine concerned annulment of an arbitration award.<sup>1</sup> First stage of normative research comprises a research with purposes to achieve objective law, by conducting research on legal issues. The second stage of normative legal research is aimed at obtaining subjective law (rights and obligations).<sup>2</sup> It also concerns with critical review of legislation and of decisional processes and their underlying policy.<sup>3</sup>

#### B. Research approach

##### 1) Statute Approach

Statue Approach means that the research uses the legislation or regulation as the basis for conducting the research.<sup>4</sup> In a normative legal research, statute approach is use to research the specific statutes<sup>5</sup> as main issue

---

<sup>1</sup> Mukti Fajar ND, Yulianto Achmad, 2013, *Dualisme Penelitian Hukum*, Yogyakarta, Pensil Komunika, p. 34.

<sup>2</sup> Hardijan Rusli, 2006, *Metode Penelitian Normatif*, Jakarta, Gramedia Pustaka Utama, p. 50.

<sup>3</sup> Dyah ochtorina Susanti & A'an Efendi, 2015, *Penelitian Hukum (Legal Research)*, Jakarta, Sinar Grafika, p. 10.

<sup>4</sup> Jony Ibrahim, 2006, *Teori dan Metodologi Penelitian Hukum Normatif*, Second Edition, Malang, Bayu Media, p. 302.

<sup>5</sup> Law No. 30 of 1999 on the Arbitration and Alternative Dispute Resolution

that would be analyzed in the normative legal research.<sup>6</sup> The objectives of this legal approach are to get the information from several aspects on the issue.<sup>7</sup> The legislation legal approach is conducted by understanding all legislation and regulation related to the issue.<sup>8</sup>

## 2) Case Approach

This approach is done by doing study on the cases related to the legal issues are facing. The use of the case approach in normative legal research is aimed to understand the implementation of legal norms which conducted in legal practice.<sup>9</sup>

### C. Type of data

The data on the normative legal research are taken from three sources namely:

#### 1. Primary Legal Materials

Primary legal materials are legal materials that consist of legislation jurisprudence or verdict and international treaty.<sup>10</sup> The primary legal materials which are used related to legislation with the annulment of an arbitration award, such as:

- a. Law No. 30 of 1999 on the Arbitration and Alternative Dispute Resolution
- b. Law No.14 of 1970 on Basic Provision on Judicial Power
- c. Law No. 2 of 1986 on Court of General Jurisdiction
- d. Law No. 8 of 2004 on Court of General Jurisdiction (first amendment)

---

<sup>6</sup> Jony Ibrahim, *Op. Cit.*, p. 302-303.

<sup>7</sup> Peter Mahmud Marzuki, 2009, *Penelitian Hukum*, Jakarta, Kencana Prenada Media Group, p. 93.

<sup>8</sup> *Ibid.*

<sup>9</sup> Jony Ibrahim, *Op. Cit.*, p. 321.

<sup>10</sup> Mukti Fajar ND, Yulianto Achmad, *Op. Cit.*, p. 157.

- e. Law No. 7 of 1989 on Religious Court
  - f. Law No. 3 of 2006 on Religious Court (first amendment)
  - g. Law No. 50 of 2009 on Religious Court (second amendment)
  - h. Law No. 14 of 1985 on Supreme Court
  - i. Law No. 5 of 2004 on Supreme Court (First Amendment)
  - j. Law No. 3 of 2009 on Supreme Court (Second Amendment)
  - k. Constitutional Court decision No. 15/PUU-XII/2014 on Judicial Review of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution.
  - l. Supreme Court Decision No. 26 B/Pdt.Sus-Arbt/2014 on the Annulment of Arbitration Award No. 442/I/ARB-BANI/2012
  - m. Supreme Court decision No.293 K/Pdt.Sus/2012 on annulment of South Jakarta District Court decision No. 306/Pdt. G/BANI/2014/PN Jkt.Utr which annul arbitration award of BANI No. 378/I/ARB-BANI/2011.
  - n. Supreme Court Decision No. 03/Arb.Btl/2005 on the Annulment of Arbitration Award No. 15/ARB/BANI JATIM/III/2004
2. Secondary Legal Materials

Secondary Legal Materials are legal materials which provide explanations on the primary legal materials.<sup>11</sup> Meanwhile the secondary legal material, are:

- a. Book;
- b. Journal;
- c. Newspaper and;
- d. Online data which related to main problem of this research.

---

<sup>11</sup> *Ibid.*

### 3. Tertiary Legal Materials

Tertiary Legal Materials are legal materials to support the primary and secondary legal material which gives the understanding and the meaning of other legal materials. The tertiary legal material used by the author, are:

- a. Indonesian Dictionary and;
- b. Dictionary of Law

#### **D. Method Of Collecting Data**

The data we collected through library research in which the researcher reads, writes and gathers pertinent information related to the topic of this thesis. After having information from related documents such as international legal instrument, books, scientific journals, and others regarding the main problem as the object of this research, then the researcher tries to make conclusion.<sup>12</sup>

#### **E. Data Analysis**

In this study, the researcher uses qualitative prescriptive analysis in which the researcher analyzes and gives interpretation or disclosure of subject and object of research undertaken.

---

<sup>12</sup> Mestika Zed, 2008, *Metode Penelitian Kepustakaan*, Jakarta, Yayasan Obor Indonesia, p.2.