

CHAPTER THREE

RESEARCH METHOD

a. Type of Research

The types of this research are under normative research method¹ combined with doctrinal and exploratory research, especially related with the issue of the implementation of Online Arbitration. Normative Legal Research is a research in the form of prevailing law inventories by seeking principles or the basic philosophy of the legislations, or a research for the legal discovery purpose of any particular case.² It means in this research will focus on reading and analysis primary and secondary data.

In addition, doctrinal research is essentially a library-based study, which means that the materials needed by a researcher may be available in libraries, archives and other databases.³ It is library-based, focusing on a reading and analysis of the primary and secondary materials (such as legal dictionaries, textbooks, journal articles, case digests and legal encyclopedias)⁴. In this research, the author will use International Law and National law such as Convention, Charter, Rules, The Law and some regulations related to Arbitration and Alternative Dispute Settlement. In this study, the author uses the method of exploratory research study that aims to recognize or get a new view of a phenomenon, which is often able

¹ Soerjono Soekanto & Sri Mamudji, 2007, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, Jakarta, Rajawali, p.12.

² Bahder Johan Nasution, 2008, *Metode Penelitian Ilmu Hukum*, Bandung, Mandar Maju, p. 86.

³ Anwarul Yaqin, 2007, *Legal Research and Writing*, Kuala Lumpur, LexisNexis, p. 10.

⁴ Mike McConville & Wing Hong Chui, 2012, *Research Methods for Law*, Edinburgh, Edinburgh University Press, p. 47.

to formulate the research problem more precisely or to formulate the research hypothesis.⁵

Moreover, In connection with the normative legal research, the author uses statutory approach. Statutory approach means that the author uses the legislation or regulation as the basic for conducting the research.⁶ A normative legal research should certainly statute approach, because it highlights some regulations such as International and National Law related to Arbitration and Alternative Dispute Settlement.

b. Type of Data

This research uses secondary data that consist of primary legal material, secondary legal material and tertiary legal materials.

1. Primary legal material consist of several treaty and regulations as follows:
 - a. United Nations Charter;
 - b. New York Convention 1958;
 - c. 2017 ICC Rules of Arbitration & Mediation;
 - d. ICC Notes to Parties and Arbitral Tribunals on the Conduct of the Arbitration;
 - e. ICC Commission Report on Information Technology in International Arbitration;

⁵ Sukandarrumidi, 2002, *Metodologi Penelitian*, Yogyakarta, Gadjah Mada University Press, p. 61.

⁶ Jhony Ibrahim, 2006, *Teori dan Metodologi Penelitian Hukum Normative*, Second Edition, Malang, Bayu Media, p. 302.

- f. Indonesian Law Number 30 of 1999 on Arbitration and Alternative Dispute Settlement;
 - g. Indonesian Law Number 19 of 2016 concerning Electronic Information and Transactions; and
 - h. The Incoterms Rules 2010.
2. Secondary material consists of several documents related to the primary legal material such as:
 - a. Scientific journals;
 - b. Books related to the issue;
 - c. Seminars papers related to the issue;
 - d. Others related document;
 - e. Trusted Internet sites and;
 - f. Other non-legal documents related to this research.
 3. Tertiary legal material:
 - a. Encyclopedia;
 - b. English dictionary.

c. Method of Collecting Data

The method of collecting data in this research was done through library research by literature learning. This method collects the data from read, write, analyze, and gather information related to the topic of this thesis. After having information from the documents such as international and national legal instrument, book, journal, and others related to the main

problem as the main of this research, author ultimately tries to create conclusion.

d. Method of Data Analysis

The data analyzed systematically through descriptive qualitative which include qualitative research. The systematically through evaluative where the data was taken relating to the issues to be researched.⁷ The aim of qualitative research is to ascertain opinions, behaviour, attitudes, likes or dislikes. The main forms of qualitative research include content analysis.⁸

The analysis data is the most important stage and determination stage in a research. Descriptive qualitative research trying to describe a social trend. In other words, this study aims to describe the nature of something that is taking place at the time of the study. The qualitative method this provides information complete so beneficial for the development of science and more could be applied to problems.

⁷ Jhony Ibrahim, *Op.Cit*, p. 303

⁸ Content analysis refers to a systematic examination of anything that is recorded in some documents or forms, such as a book, rules, letter or any other medium.