

## CHAPTER III RESEARCH METHOD

### A. Type of Research

The object of legal science research is legal problems. Legal problems are the facts (descriptive) / *das sein* which are not appropriate with the law (prescriptive) / *das sollen*. Legal problems can be known from observation, experience, reading materials and so on.

Legal problems are usually divided into four, specifically law making process, law enforcement or implementation of the law, disputes settlement and law in society.

Research is a scientific activity that is related to the analysis and construction methodologically, systematic and consistent. The term methodology is derived from the word "method" which means "the way to." According to custom formulated method among others, a type of thinking that is used in research and assessment, a common technique for science, and a certain way to carry out a procedure. Systematic means by a system, while the absence of a consistent means contradictory things in a certain framework. Legal research is an activity that is based on scientific methods, systematic and specific thinking, which aims to study one or more symptoms of a particular law, by way of analyzing it.<sup>1</sup>

---

<sup>1</sup> Indonesia. Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: Universitas Indonesia, 2010), p.42

According to Soerjono Soekanto there are thirteen steps for doing legal research:<sup>2</sup>

1. Formulation of research titles
2. Formulation of the problem introduction
3. Formulation of the problem
4. The affirmation of the intent and purpose
5. Preparation of tentative theoretical framework
6. Preparation of conceptual framework and operational definitions
7. Formulation of hypotheses
8. Posting / determination methodology
9. Presentation of research results
10. Analysis of data that has been collected
11. Preparation of a summary of the results of research
12. Formulation of conclusions
13. Preparation suggestions

In order to have a good analysis database, researcher will use the socio-legal/empirical research methods in research, which somehow has its theoretical and methodological base in the social sciences. It seeks to understand law as a social phenomenon. Its methodology is predominantly empirical and social-theoretical rather than doctrinal.

According to the Oxford Dictionary, the meaning of socio-legal is relating to the relationship between law and society. Socio-legal research considers law as

---

<sup>2</sup> Metode Penelitian Hukum, available on <http://www.artikelkomplit.com/2012/07/metode-penelitian-hukum.html>

a social phenomenon with a structural approach therefore generally uses the quantitative legal research.

Socio-legal research works by following:

- a. Theoretical and empirical analyses of the nature of law and its relationship to society and the state in the context of a rapidly changing world;
- b. Examination of the operation of the law in formal contexts; for example, the courts, or in informal contexts, for example, the law office;
- c. Analyses of the process of decision-taking by those responsible for the administration of the law; and
- d. Analyses of the experience of those affected by the process of law.

Besides, in socio-legal research method, it must be kept in mind that the essential features of law and social science are quite different. Law attempts to regulate, influence, and sanction conduct. Social science, on the other hand, seeks to describe and explain human behavior. And the regulation of conducting a law, however, requires a starting point in some perspective or theory about man in society.

## **B. Type of Data**

### **1. Primary Data**

The type of data used in the processed in socio legal research method are usually the primary data. Primary data is data obtained directly from respondents through questionnaires, observations and interviews with informant's researchers.<sup>3</sup> In this study, researchers used data collection method in the

<sup>3</sup> Available on <http://teorionline.wordpress.com/service/metode-pengumpulan-data/>

interview, yet the interview in this case is not the primary data, but rather as supplementary material to support secondary data because there is many more secondary data that researcher can use as a database for research.

## 2. Secondary Data

Secondary data is the study of literature documents or by collecting and checking or browsing documents and literature that can provide information or information that is needed by researcher. Secondary data sources in this research are divided into:

### a) **Primary Legal Materials**

According to Peter Mahmud Marzuki, primary legal materials are materials that are authoritative, which means that have the authority. Primary legal materials consist of legislation, official records or minutes in the making of legislation.<sup>4</sup>

Primary legal materials used in this study consisted of:

- i. CEDAW (Convention on the Elimination of All Forms of Discrimination against Women), 1979
- ii. Elimination of Domestic Violence Law of Indonesia No. 23 of 2004;
- iii. Thailand Law B.E 2550 2007 about Domestic Violence Victim Protection Act.

---

<sup>4</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta : Kencana, 2005), p. 141

### **b) Secondary Legal Materials**

Secondary legal material is legal material that explains the existing primary legal materials which researcher can do the analysis and have a deeper understanding towards it, which consist of:

- i. Explanation and legislation are used in the primary legal materials ;
- ii. Books or reading literature that describes the women rights ;
- iii. The results of research related to the domestic violence (journals and reports) ;
- iv. The opinion of experts with research investigators ;
- v. Articles or posts from the experts ;
- vi. Statistic of each country domestic violence case.

### **c) Tertiary Legal Materials**

Tertiary legal materials are materials that provide instructions and explanations of the primary and secondary legal materials. Tertiary legal materials in this study are Dictionary Oxford Advanced Learner's Dictionary and Black's Law Dictionary.

## **C. Data Collection Techniques**

In this research, mostly researcher used an interview technique to gather the data. The interview is a data collection technique to obtain information directly from the speaker. The interview was used to conduct an open interview question and answer directly guided by a list of questions previously created by researcher and developed during a live interview. Researcher conducted interviews in most of social institutions, court, law firm and police station. This is

because of the persons interviewed in the field of those places can actually provide realistic condition of domestic violence and the implementation of the law in Indonesia.

In addition, the source of the data used in this study is the secondary data. The entire secondary data using a data collection technique by documents collected through the literature (library research). Library research is a method of data collection is done through the materials and source in the form of literature books, journals, and articles written by experts, both for Indonesia and Thailand literature. In this case, the legislation as the main reference, and is supported by theories about domestic violence by the experts.

In the terms of completeness, towards the good monitoring of implementation with the data collection and empirical studies, all the data that has been acquired and collected both by the interviews and the literature were reviewed to determine completeness and clarity, and further processing of data held by the data compiled is then classified so that researcher can be easier to perform data analysis.

#### **D. Data Analysis Method**

Data collected from the research results and then analyzed by the researcher by following mechanism:

- i. Quantitative. As quantitative research is essentially about collecting numerical data to explain a particular phenomenon, particular questions seem immediately suited to being answered using quantitative methods, researcher

will explain the conditions that happens by collecting numerical or statistic data.

- ii. Descriptive - qualitative. Descriptive means of data ; the data results of research conducted by researcher is used to determine the content or meaning of the rule of law referenced in resolving legal issues that become the object of research. Meanwhile qualitative research means that refers to the legal norms contained in laws and norms that develop in the society.
- iii. Comparative Law, which is a method for researching case, a way of working by that comparison. Comparative law as a method included a sense, which is an approach to better understand an object or issue under the research, between states with another.

The legal source obtained in the interviews and literature study, statutory regulations and the article in question, researcher describe and connect in such a way, between the legal comparisons of Indonesian state law with the laws of Thailand, presented in a more systematic writing to answer the problem formulation in this research.