

CHAPTER III RESEARCH METHODOLOGY

A. Type of Research

There are two main types of legal research as follows, normative legal research and socio-legal research. The normative legal research¹ is usually known as a study of documents, utilizes a qualitative method in analyzing data, and using secondary data as the sources, such as legal theories, regulations, court decisions, books, and doctrines. On the other hand, socio-legal research² consider a fact, law as a social phenomenon with a structural approach and generally quantitative legal research with primary source of data which is obtained directly from the first source.

The researcher uses the comparative law method to identify the problem, identify the jurisdiction, gather the relevant materials, organizing materials according to legal philosophy and ideology of the system, map out the possible answer to the problem, analyze the intrinsic value of the legal principles, and form conclusions. Through the title of the research, the researcher attempts to elaborate the different legal systems of the two countries and the role of the notaries in respective legal systems.

Comparative Law is a method to comprehend or understand a legal issue, or legal institutions, or the entire justice system. The purpose of

¹C.F.G. Sunaryati Hartono, *Penelitian Hukum Di Indonesia Pada Akhir Abad Ke-20*, cet. 1, (Bandung: Alumni, 1994), page 140.

²*Ibid.*

comparative law, such as for an academic, an aid to legislation and law reform, construing law, better understanding legal rules, and contribution to the systematic unification and harmonization of law.

There are two types of comparative law, such as macro level (study two or more legal systems) and micro level (study three or more topic or legal aspect). From the macro level, the researcher will comparing, contrasting, analyzing, investigating and examining, thus bring out the similarities and differences. Furthermore, the advantages and disadvantages will be shown. This is the best way to know which legal system and legal aspect we should adopted.

The researcher uses the normative legal research in analyzing the data because the normative legal research has interpretation, which is defined as the process of changing from something that unknown to be known and understand.³ There are seven types of normative research, namely:

1. Positive Law Inventory Research

This research identified positive law by using critical-analytical and logical-systematical approaches.

2. Legal Principles Research

This research selects articles containing the rule of law, clarifies and analyzes the articles based on the legal principles, then reconstructs them.

3. Clinical Law Research

³*Ibid*, page 142.

This research is to discover what are the juristically for a case *in-concreto* by collecting positive law *in-abstracto*. This type of research uses the legal norms as a major premise, and the facts of the case are used as a minor premise.

4. Legal Research on Regulation Structures

The first step of this research is to collect all regulations as an object of the research. Secondly, to clarify the object based on the chronology of the regulation. Thirdly, to analyze the basic understanding of a legal system and the last step is to construct the research based on the basic understanding of the legal system.

5. Legal Research on the Synchronization of Regulation

Synchronization of regulation can be reviewed vertically or horizontally. If the synchronization of regulation is reviewed vertically, it means the regulation will be examined based on its hierarchy. If the synchronization of regulation is reviewed horizontally, it means that the research aims to find the strengths and weaknesses of the regulation. In this regard, researchers may give recommendations for possible amendments to the regulation.

6. Legal History Research

The research intends to explain the development of the areas of law. This type of research aims to reveal the legal facts of the past in relation to the facts of the present law.

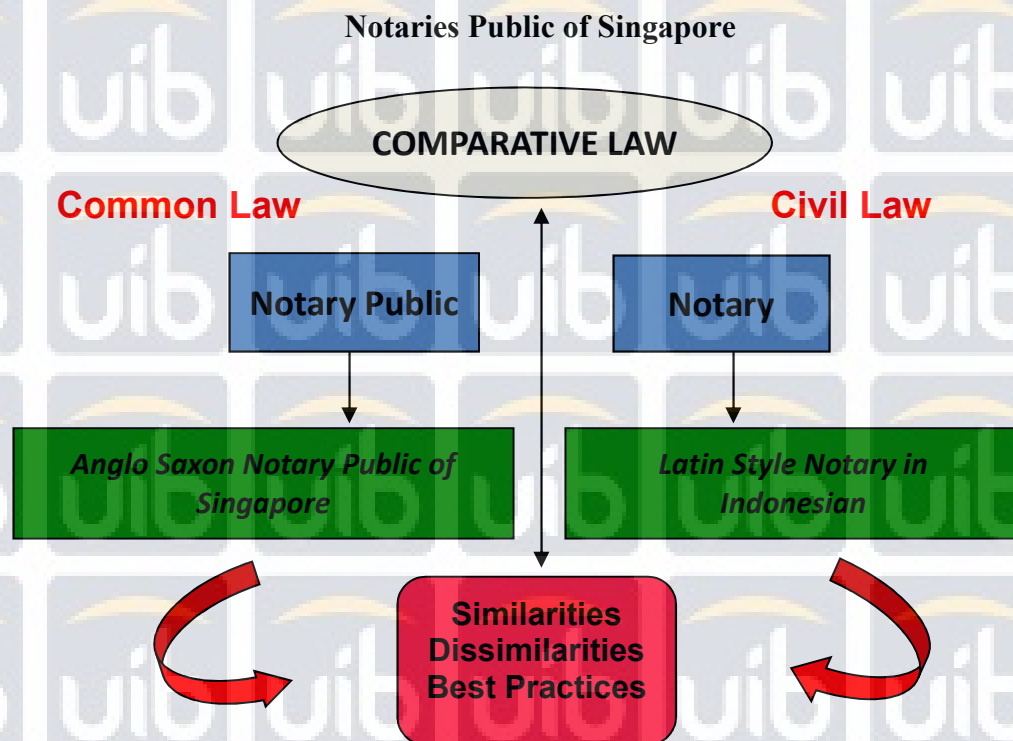
7. Comparative Law Research

The research aims to compare the legal system or regulations between one state and another.

In conclusion, this research is based on a normative legal research which adopts the methods of comparative law, regarding the comparison between the notaries in both states with different legal system. Researcher will shows the following figure of framework and the rest of study is structured as follow:

Picture. 3.1

Research Framework on Latin Style based in Indonesia and Anglo Saxon



B. Type of Data

Normative legal research consists of two types of data, such as the primary and secondary data. The primary data obtained directly from the first source.⁴ The secondary data is compiling relevant data in the written form such as obtained from official documents, books, reports, journals, rules and regulations.

The secondary data consists of primary, secondary and tertiary legal materials.⁵ Primary legal materials of this research, are as following:

- a. Law number 30 of the year 2004 concerning the status of Notary (hereinafter referred to as “Undang-Undang Tentang Jabatan Notaris”);
- b. The Notary Public Rules
- c. The Notary Public Act (Cap 208)
- d. The Singapore Academy of Law Rules
- e. *Reglement op het Notaris-ambt in Indonesie (Staatblaad 1860:3)*
- f. Ethical Codes of Notary

Secondary legal materials: journal, books, reports and internet based sources. Tertiary legal materials are materials that provide instructions and explanations of the primary and secondary legal materials, such as Black’s Law dictionary, wikipedia, encyclopedia.

⁴Soejono Soekanto, *Pengantar Penelitian Hukum*, cet. 3, (Jakarta: Universitas Indonesia, 1986), page 51.

⁵*Ibid*, page 52.

C. Data Collection Technique

The Data Collection Technique used by this research is a library research method, as this research relies on a normative legal research. The library research⁶ means that all data, namely the legal profession articles, journals and other sources relevant to the notary and notary public that can be found on the internet journals, articles, etc

D. Data Analysis Method

There are two types of data analysis, namely: qualitative and quantitative methods.⁷ The qualitative research is a type of scientific research, consists of an investigation that seeks answers to a question; systematically uses a predefined set of procedures to answer the question; collects evidence; produces findings that were not determined in advance; and produce findings that are applicable beyond the immediate boundaries of the study.

The quantitative research generates statistics through the use of large-scale survey research, using methods such as questionnaires or structured interviews.

⁶*Ibid*, page 66.

⁷*Ibid*, page 68.