

CHAPTER THREE

RESEARCH METHOD

A. Type of Research

The type of the research is a normative legal research. Normative legal research is a process to find a rule of law, principles of law, and the legal doctrines in order to address the legal issues faced.²² In political aspect, the author looks for information about the policy of Indonesian government on the sinking of foreign ship. Political aspect is a basic to determine the policy of a state and encourages a state to involve in International area.²³

Related to the normative legal research, the author uses several approaches, namely Statute and Case Approach. Statute approach is the approach by using legislation and regulations and is done by examining all laws and regulations relevant to the legal issues being addressed.²⁴ The research tells several regulations such as Responsibility of States for Internationally Wrongful Acts, United Nations Convention on the Law of the Sea (UNCLOS) and conventions in regard to the issue, including Indonesian regulation in the fisheries field. The research also uses case

²² Peter Mahmud Marzuki, 2010, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, p. 35.

²³ M. Risfan Sihaloho, 2015, "Pengertian Politik Hukum", taken from <http://www.kabarhukum.com/2015/09/08/pengertian-politik-hukum/>, accessed on Thursday, December 1st, 2016 at 8.47 pm.

²⁴ *Ibid*, p. 93.

approach because this research aims at studying the norms or regulations in practice pertaining to the sinking of foreign ship against illegal fishing in Indonesia.

B. Type of Data

The research uses data taken from any literatures consisting of primary, secondary, and tertiary legal materials.

- a. Primary legal material consists of several conventions as follows:
 - 1) United Nation Conventions on the Law of the Sea 1982;
 - 2) Responsibility of States for Internationally Wrongful Acts 2001;
 - 3) Law No. 31 Year 2004 on Fisheries; and
 - 4) Law No. 45 Year 2009 on Amendment of Law No. 31 Year 2004 on Fisheries.

- b. Secondary material consists of several documents related to the primary legal material such as:
 - 1) Books;
 - 2) Journals;
 - 3) Others legal document related to the issue;
 - 4) Black laws dictionary;
 - 5) Trusted internet sites; and
 - 6) Other non-legal documents related to this research.

- c. Tertiary legal materials:
 - 1) Black Laws Dictionary;
 - 2) English dictionary;
 - 3) Wikipedia; and
 - 4) Encyclopedia.

C. Method of Collecting Data

The method of collecting data in the research was done through library research by literature learning. The author will collect data from reading, analyzing, and trying to make conclusion from related documents namely convention, laws books, legal journals, and others which are related to the main problem as the object of this research.

D. Method of Data Analysis

The data will be analyzed systematically through descriptive qualitative method. Qualitative means a research that aims to understand the phenomenon of what is experienced by the subject of the study such as behavior, perception, motivation, action by way of description in the form of words and language, in a specific context that is natural and by utilizing a variety of natural methods. The format of descriptive qualitative is focusing on

a particular unit of a variety of phenomena.²⁵ Systematically means the researcher analyzes the case based on Indonesian Law of the Sea and International Law of the Sea, especially the international treaty and the international customary law. Then the author makes the conclusion taken from the findings and analysis.

²⁵ Burhan Bungin, 2007, *Penelitian Kualitatif*, Jakarta: Kencana Prenada Media Group, p. 68.