

CHAPTER THREE

RESEARCH METHOD

A. The Type of Research

As already stated by Soerjono Soekanto, normative legal research include research on the legal principles, research on legal systemic, research on legal synchronization, research on legal historical, and research on legal comparison.¹ Meanwhile, Peter Mahmud Marzuki in his book stated that if the type of research must be stated in writing, simply put that this research is legal research. With the statement, so that research obviously normative.² Therefore, the researcher will analyze this research with use normative legal research relating to The Verdict of Supreme Court No. 37 P/HUM/2017 against The Regulation of Minister of Transportation No. 26/2017: A study of Unfairness Business Competition between Conventional Taxi and Online Taxi Service in Indonesia which is adjusted with the business competition principles in order to develop Indonesian welfare.

¹ Soerjono Soekanto, 1983, *Pengantar Penelitian Hukum*, Jakarta, UI Press, Pg. 51.

² Peter Mahmud Marzuki, 2005, *Penelitian Hukum*, Revision Edition, Jakarta, Prenadamedia, Pg. 56.

B. The Types of Data and Legal Materials

In this research, the researcher does a library study that examines legal materials. There are certain forms of data as legal material in this research, such as:

1. The Primary legal material is the legal material that has an authority. Primary legal materials consist of legislation, official records or transcripts in the making of legislation, and the judge decision.³ There are primary legal materials in this research consists of:
 - a. Law No. 5/1999 about The Prohibition of Monopoly Practice and Unfairness Business Competition;
 - b. Law No. 20/2008 about Micro, Small, Medium Entrepreneurs;
 - c. Law No. 22/2009 about Traffic and Road Transportation;
 - d. The Regulation of Minister of Transportation No. 26/2017 about the Implementation of the People Transportation by Public Transportation Which Not in Route;
 - e. The Regulation of Minister of Transportation No. 108/2017 about the Implementation of the People Transportation by Public Transportation Which Not in Route;
 - f. The Verdict of Supreme Court No. 37/P/HUM/2017.

³ *Ibid.* Pg. 181.

2. Secondary legal materials can be in the form of all publications about the law that is not the official documents, such as the legal publication that includes text books, law dictionaries, legal journal, and the comments on the court decision.⁴ There are secondary legal materials in this research as follows:⁵

- a. Scientific books related to this research.
- b. Other research results related to this research.
- c. The seminar papers related to this research.
- d. Journals and literature related to this research.
- e. The doctrines, opinions and the testimony of the legal experts either written or not written.

3. Tertiary legal materials can be a custom dictionary and encyclopedia.⁶

C. The Techniques of Data or Legal Materials Collection

The technique of data collection in the normative legal research conducted with library study of legal materials, including primary legal materials, secondary legal materials, and tertiary legal materials. Relating to

⁴ *Ibid.*

⁵ Mukti Fajar Nur Dewata dan Yulianto Achmad, 2015, *Dualisme Penelitian Hukum Normatif & Empiris*, 3rd Edition, Yogyakarta, Pustaka Pelajar, Pg. 318.

⁶ *Ibid.*

this searching of legal materials, it can be done by reading, seeing, hearing, or searching problems through internet.⁷ Legal materials consist of primary legal materials, secondary legal materials, and tertiary legal materials in this research will be obtained through:

1. Various national and local libraries.
2. Printed mass media and internet media.

D. The Techniques of Data or Legal Materials Processing

In the normative legal research, material processing activities are done in order to make systematization against the written legal materials. In this matter, material processing done with perform a secondary legal materials selection and then do the classification based on legal materials and arrange the data research results systematically that is done logically. This means that there is a relationship and connectedness between one legal materials with others to get an overview of the research result.⁸

⁷ *Ibid.* Pg. 160.

⁸ *Ibid.* Pg. 181.

E. Techniques of Data or Legal Materials Analysis

The legal materials obtained in this research will be analyzed by evaluative by using statute analytical approach. It means the researcher needs to understand the hierarchy and principles within the legislation.⁹ Also the researcher looking for the meaning of the legal terms that can be found in legislation. So, the researcher obtains understanding or new meaning from the legal term and test the implementation practically with analyzing the legal decisions.¹⁰ Then stacked systematically to provide a justification based on the hierarchy of legislation, the formation of The Regulation of the Minister of Transportation principles, The Verdict of the Supreme Court argumentation and the business competition principles.

⁹ *Op. Cit.* Pg. 137.

¹⁰ *Ibid.* Pg. 187.