

CHAPTER THREE

RESEARCH METHOD

A. Type of Research

This research is a juridical-normative³¹ research implementing a combination of comparative and statutory approach³² to analyze the issue of *fiqh* tolerance in a democratic state. In this research, the author applied an exploration method that aims to recognize or catch a new perspective of a phenomenon, so that the formulation of the research problem or the formulation of the research hypothesis becomes more precise.³³

In this case, the research has been done by surveying the existing data, literature, and study of *fiqh* tolerance and its implementation in Indonesia. The doctrinal method has also been used in this research which focuses on reading and analyzing primary materials (such as the legislation) and secondary materials (such as legal dictionaries, textbooks, journal articles, case digest, and legal encyclopedias).³⁴

³¹ Soerjono Soekanto and Sri Mamudji, 2007, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, Jakarta, PT.Raja Grafindo Persada, p.12

³² Gusti Ngurah Wairocana, 2013, *Pedoman Pendidikan Fakultas Hukum Universitas Udayana*, Bali:Fakultas Hukum Universitas Udayana, p. 75

³³ Sukandarrumidi, 2002, *Metodologi Penelitian*, Yogyakarta, Gajah Mada University Press, p. 61

³⁴ Mike McConville and Wing Hong Chui, 2012, *Research Methods for Law*, Edinburgh, Edinburgh University Press, p. 47

B. Type of Approach

A statutory and case approach with particular references to history were implemented in this research. The study had been carried out by analyzing the storyline of the historical development of *fiqh* of tolerance and learning various cases to provide a comprehensive understanding of the issue. In juridical-normative researches, the statutory approach was used to explore specific statutes as the main issue analyzed in the normative legal research.³⁵

To clearly understand the implementation of legal norms conducted in legal practices, a case approach implementation is needed.³⁶ There are some specific recent cases that had been collected and analyzed within the research, namely the case of Saefur Rochmat from *Universitas Negeri Yogyakarta*, Nur Robi Wahidah from *Institut Agama Islam Negeri Jember*, Gabriella Febrianty Shofiana from *Universitas Airlangga* and M. Ali Haidar from *Universitas Negeri Surabaya*.

C. Type of Data

Sources of data in this research were collected by the secondary data method which means that the data collection is taken from the library research of literature study. The secondary data that were collected are namely:

a. Primary Legal Material

³⁵ Johny Ibrahim, 2006, *Teori dan Metodologi Penelitian Hukum Normatif*, Second Edition, Malang, Bayu Media, p. 302-303

³⁶ Johny Ibrahim, *Op.Cit.*

The primary legal materials taken from legal documents, legislation, and treaties, which are relevant to this research are:

1. The 1945 Constitution,
 2. The Law No 1 of 1965,
 3. The Law No. 12 of 2005, and
 4. The Law No. 39 of 1999.
- b. Secondary Legal Material

Secondary legal materials consist of several books, journals, news, and related articles to the topic.

c. Tertiary Legal Material

The tertiary legal material means any other materials which support the research. It covers the legal materials that provide instructions or explanations of primary and secondary legal materials from the outside field of law, e.g., the field of politics, sociology, and language as supporting material of complementary. In this research, the tertiary legal materials are:

- a) Law Dictionary: Black's Law Dictionary written by Henry Campbell; and
- b) English Dictionary: Kamus Inggris Indonesia, written by John M. Echols and Hassan Sadily.

D. Method of Data Collection

The method of data collection in this research had been done by a library research which included reading, analyzing, and deriving conclusion from related documents such as Charters, Declarations, Law Books, Legal Journals, Websites, and other materials related to the main problem of the research.

E. Method of Data Analysis

The method of data analysis had been carried out systematically through a consistent juridical qualitative analysis. Consistently here means that the research was analyzed according to municipal laws, *fiqh*, and other norms related to the constitutional law matters, especially the *fiqh* tolerance in the democratic state of Indonesia. Meanwhile, a juridical qualitative analysis here means that the analysis was conducted according to the principle of law, *fiqh*, and other related regulation.³⁷

³⁷ Mukti Fajar ND and Yulianto Achmad, 2009, *Dualisme Penelitian Hukum*, Yogyakarta: Pensil Komunika, p. 123