

CHAPTER THREE

RESEARCH METHOD

A. Type of Research

This research was conducted by using normative-empirical assessment method³² in analysing the issue of the regional office of the Ministry of Law and Human Rights in regional regulation making process in the Special Region of Yogyakarta . This research examined the implementation of legal provisions of the functions and duties of the regional office of Ministry of Law and Human Rights factually on the role of the Ministry of Law and Human Rights in regional regulation making process in the Special Region of Yogyakarta.

In this case, the reaserch was done by collecting the existed data, literature, and regulation of the study firstly to formulate the research question more precisely and formulate the research hypothesis using normative assessment method. The second step was using empirical assessment method by surveying the factually action directly in regional office of Ministry of Law and Human Rights, Provincial House of People Representative, and Provincial Government to analysed the implementation of legal provision in real action.

³² Depri Liber Sonata “Metode Penelitian Hukum Normatif dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum”, *Fiat Justisia Jurnal Ilmu Hukum*, Volume 8 (1), January-March 2014, Lampung, p. 27

B. Type of Data

There were two data sources used in this research, namely:

1. Primary Data

Primary data were data obtained through researches directly in the field in order to obtain data relating to the problem under study³³. The data collection had been done through interviews using interview guidelines for Provincial House of People Representative of Yogyakarta member represented by, the Yogyakarta Provincial Government member represented by Muh. Isnaini Raharjo, and the Yogyakarta Regional Office of the Ministry of Law and Human Right represented by Chintya Insani Amelia. The data were specifically collected and directly related to the role of regional office of Ministry of Law and Human Rights in regional regulation making process and its obstacles.

2. Secondary Data

Secondary data consisted of primary legal material, secondary legal material, and tertiary legal material. Actually, secondary data were used as supporting data, but the importance of this existence is to enrich research information. Below are the data lists which are used in this research:

a. Primary Data

³³ Meray Hendrik Mezak "Jenis, Metode, dan Pendekatan Dalam Penulisan Hukum", *Law Review*, Fakultas Hukum Pelita Harapan, Volume V (3), March 2006, Jakarta, p. 87.

Primary legal materials, namely binding legal materials, consist of:

- 1) The 1945 Constitution of the Republic of Indonesia
- 2) The Law Number 17 of 2014 on MPR, DPR, DPD, dan DPRD.
- 3) The Law Number 23 of 2014 on Regional Regulation.
- 4) The Law Number 12 of 2014 on Regional Government
- 5) The Law Number 12 of 2011 on Establishment of Legislations.
- 6) The Law Number 39 of 2008 on State Ministries
- 7) The Government Regulation Number 59 of 2015 on the Participation of Designers of Laws and Regulations in the Formation of Laws and Regulations.
- 8) The Government Regulation Number 59 of 2015 on the Participation of Designers of Legislation in Establishing Legislation and Guidance
- 9) The Minister of Law and Human Rights Regulation Number 19 of 2013 on Amendments to the Regulation of the Minister of Law and Human Rights Number M.HH-05.OT.01.01 of 2010 concerning the Organization and Work Procedure of the Ministry of Law and Human Rights of the Republic of Indonesia
- 10) The Ministry of Law and Human Rights Regulations Number 28 of 2014 on the Organization and Work Procedure of the Regional Office of the Ministry of Law and Human Rights.

- 11) The Ministry of Law and Human Rights Regulations Number 30 of 2018 on the Organization and Work Procedure of the Regional Office of the Ministry of Law and Human Rights
- 12) The Presidential Regulation Number 83 of 2012 on Organizations and Work Procedures for Vertical Agencies of the Ministry of Law and Human Rights
- 13) The Presidential Regulation Number 87 of 2014 on Implementation Regulations of Law Number 12 of 2011 concerning the Establishment of Legislation
- 14) The Regulation of the Minister of Administrative Reform and Bureaucratic Reform of the Republic of Indonesia Number 6 of 2016 on the Second Amendment to the Decree of the Minister of State for Administrative Reform Number 41/Kep/M.Pan/12/2000 concerning the Functional Position of Designers of Legislation and Credit
- 15) The Regulation of the Minister of Home Affairs Republic of Indonesia Number 80 of 2015 on Establishment of Regional Legal Products

b. Secondary Data

Secondary materials consist of several documents related to the primary legal material such as:

- 1) Scientific journals;

- a) Arrista Trimaya, “Performance Parliament Legislation Function of 2009-2014”, *Journal Legislasi Indonesia*, Volume 10 (3), 2013, September, Jakarta.
- b) Depri Liber Sonata “Metode Penelitian Hukum Normatif dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum”, *Fiat Justisia Jurnal Ilmu Hukum*, Volume 8 (1), January-March 2014, Lampung.
- c) Eka N.A.M. Sihombing, “Problematika Penyusunan Program Pembentukan Peraturan Daerah”, *Journal Legislasi Indonesia*, Volume 13 (8), 2016, Regional Office of Ministry of Law and Human Rights in the North Sumatra, Medan.
- d) Fauzi Iswahyudi, “Keikutsertaan Perancang Perundang-Undangan dalam Pembentukan Peraturan Daerah”, *De Lega Lata*, Volume 1 (1), January-June 2016, Regional Office of Ministry of Law and Human Rights in, North Sumatra.
- e) Reza Fikri Febriansyah, “Harmonisasi Peraturan Perundang-Undangan dalam Mendukung Pembangunan Nasional, Direktorat Hukum dan HAM” *Journal Legislasi Indonesia*, Volume 12 (5), 2015, Jakarta.
- f) Leo Agustino, “Pembatalan 3.143 Peraturan Daerah” *Jurnal Ilmu Pemerintahan*, Volume 3 (1), April 2017, University of Sultan Ageng Tirtayasa, Banten.

- g) Meray Hendrik Mezak “Jenis, Metode, dan Pendekatan Dalam Penulisan Hukum”, *Law Review*, Fakultas Hukum Pelita Harapan, Volume V (3), March 2006, Jakarta.
 - h) Muhammad Suharjono, “Pembentukan Peraturan Daerah yang Responsif dalam Mendukung Otonomi Daerah”, *Jurnal Ilmu Hukum*, Volume 10 (19), February 2014, East Java.
 - i) Siti Masitah, “Urgensi Prolegda dalam Pembentukan Peraturan Daerah”, *Jurnal Legislasi Indonesia*, Volume 11 (4), December 2014, Jakarta.
 - j) Taufik H Simatupang, “Peran Perancang Peraturan Perundang-Undangan Kantor Wilayah Kementerian Hukum dan HAM Dalam Rangka Harmonisasi Peraturan Daerah”, *Jurnal Ilmiah Kebijakan Hukum*, Volume 10 (1), March 2017, Jakarta.
- 2) Books related to the issue;
- a) Ahmad Yani (2013) *Pembentukan Peraturan Perundang-undangan Yang Responsif*, Konstitusi Press, Jakarta
 - b) Amiroeddin Sjarif (1987) *Perundang-Undangan Dasar, Jenis, dan Teknik Membuatnya*, Bina Aksara, Jakarta.
 - c) Bagir manan, (1992), *Dasar-Dasar Perundang-Undangan Indonesia*, Ind-Hill-Co, Jakarta

- d) Hans Kelsen (1945) *General Theory of Law and State*, Russell & Russell, New York
- e) HAW. Widjaja, (1998) *Percontohan Otonomi Daerah di Indonesia*, Rineka Cipta, Jakarta
- f) Jimly Asshiddiqie & M. Ali Safaat, 2006, *Teori Hans Kelsen Tentang Hukum*, Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, Jakarta
- g) M. Dahlan Al Barry (2009) *Bahasa Indonesia Dictionary*, Arkola, Yogyakarta
- h) Maria Farida Indrati Soeprapto, (2006), *Ilmu Perundang-Undangan, Dasar-Dasar dan Pembentukannya*, Kanisius Press, Yogyakarta
- i) Ni"matul Huda, (2011), *Teori & Pengujian Peraturan Perundang-Undangan*, Nusamedia, Bandung
- j) Rosjidi Ranga widjaja, (1998), *Pengantar Ilmu Perundang-Undangan Indonesia*, Mandar Maju, Bandung
- k) Soebono Wirjosoegito (2004) *Proses & Perencanaan Peraturan Perundangan*, Ghalia Indonesia, Jakarta
- l) Suhariyono (2007) *Peranan Kantor Wilayah Departemen Hukum dan Hak Asasi Manusia Dalam Penyusunan Prolegda, Dalam Bimbingan Teknis Proglam Legislasi Daerah*, Jakarta

- m) Suhariyono (2007) *Peranan Kantor Wilayah Departemen Hukum dan Hak Asasi Manusia Dalam Penyusunan Prolegda*, Bimbingan Teknis Proglam Legislasi Daerah, Jakarta
- n) Umar Said Sugiarto (2013) *Pengantar Hukum Indonesia*, Sinar Grafika, Jakarta
- o) Yuliandri (2010) *Asas-Asas Pembentukan Peraturan Perundang-Undangan Yang Baik*, Raja Grafindo, Jakarta
- 3) Trusted internet sites and;
- a) Dwi Murdaningsih, Detik.com Accessed from <https://republika.co.id/berita/dpd-ri/berita-dpd/17/10/18/oy0i5c368-harmonisasi-peraturan-daerah-dan-pusat-belum-tercapai>, on 14th of Dec 2018 at 11.01 am
- b) Rudy Hendra Pakpahan, Pengawasan Peraturan Daerah Dikaitkan dengan Tugas dan Fungsi Kantor Wilayah Kementerian Hukum dan Hak Asasi Manusia, accessed from https://www.academia.edu/4915699/Pengawasan_Perda_Dikaitkan_Dengan_Peran_Kanwil_Kemenkumhan, on 29 April 2019
- c) Wuri Virgayanti, Peran Strategis Perancang Peraturan Perundang-Undangan, Accessed from <https://jabar.kemenkumham.go.id/berita-kanwil/berita-utama/peran-strategis-perancang-peraturan-perundang-undangan>, on 29 April 2019

- d) Visy Triyeni, Urgensi Prolegda Dalam Pembentukan Perda,
accessed from
<https://jabar.kemenkumham.go.id/berita-kanwil/berita-utama/urgensi-prolegda-dalam-pembentukan-perda>, on 29 April 2019

The use of secondary legal material is to give a guideline for the researcher in order to decide the next step in conducting this research.

c. Tertiary material

Tertiary materials are supporting primary and secondary materials, such as legal dictionaries to help translating existing legal terms. This material is utilized to catch the latest information and closely related to the problem under study. Tertiary materials used in this research are.

- 1) Encyclopaedia
- 2) English dictionary
- 3) Indonesian dictionary
- 4) Law dictionary

C. Data collection

In collecting the data, the researcher followed the procedure of data searching, reviewing literature study and identifying legal materials related to the problems highlighted in this study. The legal material was then

inventoried in the system contained in the chapters and sub-sections in accordance with the discussion's subject matter. There were several steps used in data collection, namely:

1. Interview Method

Conducting an interview means to obtain information verbally in order to achieve certain goals.³⁴ Goals can vary among others to diagnose and to treat. Interviews are a technique of gathering information/data that is done by submitting questions in direct contact.³⁵ In this research, the researcher collected the information from respondents who are some experts and directly involves in the fields. Then, the researcher immediately asked questions to the respondents about the role of regional office of Ministry of Law and Human Rights in regional regulation making process and its obstacles in Special Region of Yogyakarta. The question and answer directly involved the Regional Office of the Ministry of Law and Human Rights in Special Region of Yogyakarta, the Legal Bureau of the Yogyakarta Provincial Government and members of the Yogyakarta Provincial Legislative.

2. Library Study

The researcher used library study to search publications and implemented relevant study as a fundamental theory in conducting this

³⁴ Suharsimi Arikunto, 2013, *Manajemen Penelitian*, RinekaCipta, Jakarta, p,181.

³⁵ Moh. Nazir, 2013, *Metode Penelitian*, Ghalia Indonesia, Bogor, p,71.

research. Researcher done library study in many library such as: University of Muhammadiyah Yogyakarta Library, Yogyakarta City Library, Faculty of Law Laboratory, IPOLS Library, University of Gajah Mada Yogyakarta Library, and Graha Tama Library.

D. Data Analysis

After the data from the field were completely collected and classified according to the problem, the next step was managing and analyzing the data. The data analysis was done by referring to the descriptive qualitative method in written form of data presentation and data explanation. Usually, the data were analysed manually.³⁶

³⁶ Haris Herdiansyah (2010) *Metodologi Penelitian Kualitatif*, Salemba Humanika, Jakarta p.48.