

CHAPTER I

INTRODUCTION

A. Background of Research

Indonesia is one of the migrant worker suppliers. From about 270 million of the Indonesian population, 115 million of them are labor forces; nevertheless, the job opportunities in Indonesia are very limited.¹

The condition of Indonesian society can be seen from the statistics data that the unemployment rate in Indonesia, on February 2015 was 5,81 percent and increased into 6,18 percent on August in the same year. On February 2016 there was 5,50 percent and on August 5,61 percent. Furthermore, within the same period (February-August 2017) the number of unemployment still increased from 5,33 percent to 5,50 percent.² It means that the unemployment figures reflect undeniable fact that the numbers of job seekers in Indonesia are very high.

According to the Budi Wantara, the staff in the Department of Manpower and Transmigration (DISNAKERTRANS) of Bantul Regency, a total of 500 Indonesian Migrant Workers (hereafter is referred to as TKI) departed to Malaysia in 2017.³ It can be inferred that there is an employment scarcity in

¹Mahidol Migration Centre, 2017, Migrant Workers Right to Social Protection in ASEAN: Case Study of Indonesia, the Philippines, Singapore and Thailand, Accessed from <http://www.ilo.org>, on Thursday 2 November 2017.

²Badan Pusat Statistik, 2017, "*Tingkat Pengangguran Terbuka (TPT)*", <https://www.bps.go.id/Brs/view/id/1376>, accessed on Sunday, 5 November 2017

³Interview's result with Penata *TKI Pengantarkerja Penyeliain* the Department of Manpower and Transmigration (DISNAKERTRANS) of Bantul Regency, Budi Wantara, on February 13, 2018.

Indonesia, it is difficult to find a job in Indonesia for those of elementary, high school, diploma, and university graduates. This condition has encouraged them to try their luck by working at formal and informal sectors in Malaysia. Besides, the job vacancies in Malaysia are still opened with promising salaries.⁴ Malaysian is ranked as the most favorite destination for Indonesian workers compared to Middle East or other ASEAN countries because of its geographical proximity factor and similar cultural background.

Based on the Paragraph 4 of the Preamble of the 1945 Constitution, it is found that *“Subsequent thereto, to form a government of the state of Indonesia which shall protect all the people of Indonesia and their entire native land, and in order to improve the public welfare, to advance the intellectual life of the people and contribute to the establishment of a world order based on freedom, abiding peace and social justice, the sovereignty of the Republic of Indonesia which is based on the belief in the One and Only God, just and humanity, the unity of Indonesia, democracy guided by the inner wisdom of deliberations amongst representative and the realization of social justice for all of the people of Indonesia”*. Article 27 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia also mentions that *“Every citizen has the right to work and to live in human dignity”*.⁵

⁴ Redatin Parwadi, “Penyimpangan Kebijakan Pengiriman TKI ke Luar Negeri”, Fisip Universitas Tanjungpura, *Jurnal Kebijakan Publik*, Vol. 3, No. 1, Maret 2012, hlm. 1-57

⁵ Republik Indonesia, 2004, *Law on Placement and Protection of the Indonesia Migrant Workers, Law No 39 of 2004*, Statute book No 133, Supplement statute book No 4445, part of explanation.

Furthermore, Article 28D (2) states, “*Everyone has the right to work and obtain remuneration and fair and reasonable treatment concerning his or her employment.*” In addition, Article 31 emphasizes, “*Every worker has the same right and opportunity to choose, get or change jobs and earn a decent income inside or outside the country.*”⁶ These articles proved that all citizens who are willing and able to work should be given work so they can live as human beings who have rights protected by law. However, in reality, the opportunities for a job vacancy in Indonesia are limited. Meanwhile, the number of job seekers are increasing. This has led to increasing the amount of unemployment’s rate.

The placement program of Indonesian Migrant Workers by the private agency (Pelaksanaan Penempatan TKI Swasta, hereafter is referred to PPTKIS) Bantul Regency in Malaysia is one of the efforts to combat the problem of unemployment. The role of the government in the program is focused on the coaching aspect, such as protecting and providing various easiness on the hooked parties, especially of TKI and private agency (PPTKIS). The program does not only give the benefit to reduce the amount of unemployment but also provides benefits for TKI placement to another which improve the prosperity of families through salary or remittance as long as they are entitled to the rights and obligations in accordance with their treatment. In addition, it also enhances the

⁶Winherly Tan and Rina Shahriyani Shahrullah, 2017, *Human Right Protection for Indonesian Migrant Workers: Challenges for Asean*, <https://www.google.co.id/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=0ahUKEwiYsuXLR4HYAhUSS48KHTvIAFcQFghBMAM&url=https%3A%2F%2Fjurnal.ugm.ac.id%2Fjmh%2Farticle%2Fdownload%2F16680%2F16259&usg=AOvVaw1NuXt8acUtU6vIPP1pr2E>, accessed on Monday 13 November 2017.

skills of TKI because having a job experience abroad and those workers also bring foreign currency home.⁷

According to Mrs. Ari Soemarni as the *Pengantar Kerja Ahli Madya* in the office of Center for Placement and Protection of Indonesian Migrant Workers (BP3TKI) of Yogyakarta, some obstacles have been hindered the workers until right now such as illegal status as the victim of human trafficking, slavery, and human right violation.⁸

Based on the background above, the researcher is very interested in conducting a research entitled “**Placement Procedures of Indonesian Migrant Workers in Malaysia (Case Study at PPTKIS Bantul Regency)**”.

B. Problems of Research

Based on the background above, the researcher formulates the problems of research as follows:

1. Whether placement procedure of Indonesian Migrant Workers in Malaysia at PPTKIS Bantul Regency comply with the Law No. 39 of 2004 on the Placement and Protection of Indonesian Migrant Workers Abroad or not?

⁷Dwi Kunto, “*Understanding Mengenai Perekrutan dan Penempatan TKI Sektor Domestik Bersama Keempat antara Pemerintah Malaysia Tentang Rancangan Protokol Nota Kesepahaman antara Pemerintah*”, Accessed from [www.academia.edu/4409457/ Understanding Mengenai Perekrutan dan Penempatan TKI Sektor Domestik Bersama keempat antara Pemerintah Malaysia Tentang Rancangan Protokol Nota Kesepahaman antara Pemerintah](http://www.academia.edu/4409457/Understanding_Mengenai_Perekrutan_dan_Penempatan_TKI_Sektor_DomestikBersama_keempat_antara_PemerintahMalaysia_Tentang_Rancangan_Protokol_Nota_Kesepahaman_antara_Pemerintah), on Tuesday, October 10, 2017 at 11.00 A.M.

⁸Interview’s result with *Pengantar Kerja ahli Madya* in the office of Center for Placement and Protection of Indonesian migrant Workers (BP3TKI), Mrs. Ari Soemarni, on Februari 12, 2018

2. What are the obstacles often encountered by Indonesian Migrant Workers in Malaysia?

C. Objectives of Research

The objectives of the research are as follows:

1. To find out the compliance placement procedures of Indonesian Migrant Workers in Malaysia at PPTKIS Bantul Regency with the Law No. 39 of 2004 on the Placement and Protection of Indonesian Migrant Workers Abroad or not.
2. To find out the obstacles often encountered by Indonesian Migrant Workers in Malaysia.

D. Benefits of Research

The benefits of this research are presented as follows:

1. For the Law Science

This research gives benefit to the extension of knowledge in the area of law especially protection of the Indonesian Migrant Workers.

2. For Indonesian Government

This research can provide input to the Indonesian government to be more concern about the TKI residing outside the country, ensuring prosperity, protect of Indonesian citizen especially TKI abroad as well as selective in producing and sending TKI with expertise and skills.

3. For the Society

This research is expected to provide input to the international community especially in the placement and protection procedures of migrant workers.