

CHAPTER III

THE COMPLEX PROBLEMS OF INDONESIAN MIGRANT WORKERS IN RECEPTIONS COUNTRIES

A. Roots and the initial cause of the problem

There are several causal factors have resulted in the poor quality of life of Indonesian migrant workers, including government policies. The issue of Indonesian migrant workers starts from within Indonesia itself, such as the process of managing to become a candidate for migrant workers who are considered complicated and convoluted, long delays that have no certainty, so that many prospective migrant workers use shortcuts through brokering which are considered more accessible and faster even though they become illegal workers. The Indonesian and Malaysian governments use a variety of recruitment procedures that require large fees, such as medical tests. Insurance is carried out in two countries, in Indonesia, and Malaysia. Even worse, all costs are borne by workers through deducting salaries or paying in advance. (Ratnaningsih, 2017)

Besides, the problem arising from Indonesian migrant workers is the flow of migration dominated are workers who are low educated and unskilled. Most of the Indonesian migrant workers with little education are considered vulnerable as targets of exploitation and the emergence of various cases of acts of violence. (Ibrahim, 2007)

Agencies that sell workers at prices that are too high or too low cause employers to treat workers arbitrarily. Both agencies both Indonesia and Malaysia often falsify documents and do not provide proper training to migrant workers. As a result, Indonesian migrant workers come with unpreparedness and do not meet the requirements, which ultimately makes employers often complain and there is a disharmony between workers and employers. Indonesian migrant workers become victims of feelings and work in inhumane conditions because of mistreatment from employers because they often get psychological pressure from their employers while working. (Husni, Lalu, 2000)

The emergence of migrant workers is undoubtedly a phenomenon that is based not only on economic issues but also on socio-political matters. In the economic field, the appearance of migrant workers is a logical consequence of the government's lack of success in the distribution of development outcomes. The style of economic development oriented to liberal capitalism in many ways has given rise to some new problems. One of them is the increasing economic disparity between upper-class society and lower class society. (Nasution, M. Arif, 1996)

Initially, most migrant workers worked professionally, but finally, migrant workers control other sectors and even become the backbone of Malaysian economic development. Migrant workers also began to get involved in problems including the issue of flooding illegal workers. Besides, the increasing number of Indonesian migrant workers coming, this made Malaysia aware of some urgent reasons for taking Indonesian workers seriously. For example, some Indonesian migrant workers are involved in crimes and disturb public order. In 1987, 36% of prisoners in Malaysian prisons were migrants from Indonesia. In the next development, Indonesian migrant was also involved in riots, for example in prison in Semenyih, Selangor state which is caused a police officer to be killed and several other migrants injured. At the same time, cases after case of migrant workers in Malaysia are also increasing. Non-formal sector labor migrants are the group most vulnerable to various problems, for example, rape, improper residence, exploitation, etc. Media in Malaysia is also not reluctant to call Indonesian migrant workers as "troublemaker." (Soetomo, 2005)

The existence of migrant workers in Malaysia who often experience problems seems to be a problem that has not been resolved to date. Although the government has issued regulations that specifically regulate Indonesian workers abroad and the moratorium on migrant workers to Malaysia, these efforts have not been effectively implemented and have not touched the underlying root causes in protecting workers. The ineffectiveness of the Government's role is reflected in a still increasing number of cases of acts of violence and problems that violate human

rights against Indonesian migrant workers in Malaysia. (Tjiptoherijanto P. , 2017)

Also, the lack of coordination between relevant agencies that deal with Indonesian migrant workers, and the weak diplomacy carried out by the government in terms of protection of migrant workers, so that Indonesia's bargaining position is fragile against Malaysia. The government only gave attention and pressure when the problem had reached a climax and became a headline in various mass media.

Starting from illegal migrant workers, the weak protection of work which makes to the rise of cases of violence and sexual harassment, many officials and irresponsible parties take advantage of the "weaknesses" of migrant workers to seek momentary benefits, so that this triggered the entry of human trafficking in various ways and strategies so that many migrant workers were caught in legal cases abroad. (Roostiawati, 2010)

At least two factors cause the problem. Namely the weak commitment of the state in protecting migrant workers and the weak bargaining position of the Indonesian government in the presence of Malaysia. As is known every year Malaysia offers many jobs that provide opportunities for foreign workers to enter Malaysia. The swelling of unemployment as a domestic problem has made Indonesia the largest exporter of migrant workers in Asia and even the world.

Narrow employment in Indonesia has prompted many Indonesian migrant workers to complain to various countries from year to year. The desire to improve living standards by working abroad defeats the picture of violence, exploitation, and deportation policies for Indonesian migrant workers, it will still be done even if should has to go with undocumented status, irregular, illegal migration has long been a global phenomenon especially for Indonesia.

As stated in the 1945 Constitution in particular Article 27 D paragraph (2) of the 1945 Constitution and its amendment which is "Every citizen has the right to work and livelihood that is appropriate for humanity." In essence, the sound of the article contains two meanings at once, namely giving "rights" to

citizens to obtain one of the basic human rights, namely job and burden the "obligation" to the state to fulfill it. Meanwhile, besides having the right to obtain employment, Article 38 paragraph (2) of Law No. 39 of 1999 concerning Human Rights further emphasizes that citizens also have the right to choose the jobs they like freely. Therefore, citizens cannot be prohibited from working anywhere, including abroad. Efforts to create employment opportunities to reduce unemployment and at the same time accommodate the increase in labor are a part of the whole development policies and programs. (UUDRI, 2015)

For sending countries such as Indonesia, the Philippines, Sri Lanka, India, Bangladesh, Pakistan, Vietnam, and Thailand, the amount of interest or interest in labor abroad on the one hand can be seen as positive because labor export is an important strategy to open employment opportunities or overcome unemployment, generate foreign exchange, and encourage economic growth.

Every one percent of economic growth absorbs more than 400 thousand new workers. While at the height of the crisis (1998-2000), employment has fallen dramatically to below 200 thousand absorptions for every percent of economic growth. Even though it has improved now, the job has not been as good as before the crisis. (IOM, 2010)

Growth in labor supply is influenced by population growth. Increasing growth will weigh on the labor market in the next few years. Every year around 2.5 million new workers enter the labor market. If the current employment rate is around 250 thousand for every 1% of economic growth, at least 10% of economic growth is needed. Indonesia's economic growth is currently far below the 10% figure.

The Indonesian migrant worker has initially been a solution to reduce unemployment in the country, but the attention to Indonesian labor migrants was limited to the process of sending and placement, at the moment migrant workers are a problem that has taken the Indonesian government's full attention because many issues have happened to Indonesian migrant workers. One of them is the rights of migrant workers

abroad, and this is a concern of the government because their rights are often ignored by the Indonesian government itself and the country where they work. Moreover, the issue of protection is vital for workers to get justice for them that outside country.

In a political context, the weakness of the government's "political will" in protecting the rights of migrant workers has developed into a kind of omission of the practices of injustice received by workers. This can be seen, for example, in some cases of violence that have occurred migrant workers, where the government always seems to be normative, without ever attempting radical measures to prevent similar incidents from happening again. Employment issues in Indonesia can be studied based on political power behind them. Also, despite changes in political power, labor issues in Indonesia revolve around the problems of formal and informal employment. Nearly 70 percent of the population in Indonesia works in the informal economy, and the most substantial profession is in the agricultural sector, which is around 40 percent. In the current era of globalization, the government no longer has sufficient capacity to encourage protection and respect for human rights because of their increasingly eroded role in the market, in a situation like this the issue of human rights today is becoming increasingly complex and essential. The contribution of globalization and enforcement of human rights appear to be in two opposite corners.

On the one hand, democracy spreads on a full scale, and the other side of the reformation occurs a lot because of the openness of information to the international community. (Winarno, 2011)

The placement of Indonesian workers abroad is a national policy program that aims to improve socio-economic welfare, especially for workers and their families. In this case, the Placement of Indonesian Workers Abroad is a program that is considered to be a good solution. Placement of workers abroad still encounters several obstacles, especially labor for individuals.

Two countries have pursued G-to-G cooperation between Indonesia and Malaysia as a basis for protecting Indonesian

migrant workers in the country. The Ministry of Foreign Affairs has formed a bilateral agreement on a memorandum of understanding that can protect workers in Malaysia, both for the formal sector and the informal sector. MoU for workers in the formal sector, signed in 2004, and 2006 for informal workers. But many parties, including the UN Special Rapporteur on the Rights of Migrant Workers, NGOs that are concerned with labor issues, and so on, assess this MoU as violating human rights and potentially massive trafficking practices for Indonesian domestic workers in Malaysia, such as Indonesian domestic workers' passports or documents must be held by the employer. There is no guarantee of fulfilling other basic domestic workers' rights. Many migrant workers go abroad using fake documents, so their status in the destination country becomes illegal. With this illegal status, it makes human beings rights violated. (Abdulsalam, 2014)

Within the framework of ASEAN regional cooperation, the issue of migrant workers in Malaysia is one of the most crucial and is still under considerable discussion. ASEAN should be a friendly area for migrant workers and a community that can benefit the foreign exchange heroes, but because of the many phenomena in the problem of migrant workers for sending countries or recipient countries that cheat makes the problem more complicated even though ASEAN provides a mutually agreed rule namely establishing an ASEAN committee to implement the declaration on the Protection and Promotion of the Rights of Migrant Workers.

Indonesia is the largest archipelago in the world that forms a country with dynamic problem employment. From the legal aspect, since 2004 this country had completed constitutional reform in the field of employment when in that year Law No. 2 concerning Settlement of Industrial Relations Disputes promulgated. This is one of the three regulations that cover labor issues in this country. Previously there was Law No. 21 of 2000 concerning Trade Unions / Labor Unions and Law No. 13 of 2003 concerning Manpower. Not only that, Indonesia is the first country in Asia and the fifth country in the world to ratify all the

ILO's core conventions. Since becoming a member of the ILO in 1950, Indonesia has ratified 18 conventions. It consists of eight main conventions, eight general conventions, and two other conventions. However, even though have done it all, it does not mean that Indonesia does not have migrant workers issues.

Indonesia is one of the few countries that can survive the global recession, which occurred in the late 1990s. In recent years, Indonesia has been even better than neighboring countries whose economies are more advanced, by maintaining positive economic growth. Although the negative impact of the crisis was felt throughout the region, Indonesia was able to support positive economic growth in 2009 and 2010 thanks to the large domestic market. However, law enforcement from the placement and protection of Indonesian workers policy is very weak. Starting from pre, period and after placement violations occur. While the sanctions are often given not comprehensive and also does not cause a deterrent effect for the perpetrator. This is an essential strategic note to consider. (Sherlock, 1998)

Indonesians in Malaysia are the most massive random migration stream in Asia and globally only defeated by Mexicans entering the United States. During the amnesty apply that governed the immigration status of undocumented workers in 1992, fifty thousand undocumented workers arrived. In 1997, 1.4 million Indonesians residing in Malaysia distributed their votes in the Indonesian elections, which made the Malaysian Immigration Department estimate that 1.9 million Indonesians were living in Malaysia at that time.

The Ministry of Manpower and Transmigration estimates that around 2.7 million migrant workers are working abroad. However, the amount can be more significant considering that many illegal migrants are not registered. About 45% of migrant workers choose to work in Malaysia because of the ease of communication. Many migrants choose to enter Malaysia through unofficial routes because migration through official employment agencies can result in long delays and require complicated bureaucratic procedures, while informal arrangements only take a few days. However, there is a higher

risk of corruption and harassment with unauthorized employment agencies, as well as a lack of protection if workers face problems with employers or government authorities (Tjiptoherijanto, 1998: 87).

1. Several causes of insecurity suffered by Indonesian migrant workers:
 - a. The level of education of Indonesian migrant workers abroad for the domestic worker's sector is low. This condition does not give a high bargaining position to overseas employers who will hire them. The limited knowledge covers the work procedures and culture of the local community. The level of education also influences the mastery of language, access to information on technology and the culture in which Indonesian migrant work. As migrant workers, not only capital skills or technical expertise but also an understanding of the culture of the community in which they work. Because of the quality of labor and education always has relevance. This synergy for migrant workers, especially those who work abroad is still lacking. This is evident from the results of a survey conducted by The Political and Economic Risk Consultancy which positioned the quality of education in Indonesia ranked 12th after Vietnam with a score of 6.56.
 - b. The behavior of users of workers who lack respect and respect for the rights of workers. The hard character of the family or employer often causes violence. This happens because of differences in culture, rhythm or working atmosphere in the country where the migrant worker works. The position of migrant workers is fragile, do not have sufficient expertise, so they only work and are paid.
 - c. Regulations or Government policy that do not favor the migrant workers abroad, especially the domestic worker's sector
2. Several things that made the failure of the negotiation process with the Malaysian side were Indonesia's weakness

in managing the workforce who would work abroad. Such as:

- a. The number of illegal Indonesian migrant workers is higher than legal. This is due to complicated, significant costs and a long time to migrate through official channels. Prospective migrant workers often only have little access to information about migration procedures and working conditions in Malaysia, as a result of being trapped on unofficial lines.
- b. The Government has not signed the Migrant Workers Convention and Settlement of migrant workers Disputes. The Indonesian government also considers the rights of foreign workers working in Indonesia when ratifying migrant conventions. This Convention will also require the Indonesian government to pay attention to and give the rights of foreign workers working in Indonesia. This is considered difficult because of the economic conditions in Indonesia which are have not allowed foreigners to deal with the difficulties of the Indonesian people in general. The Indonesian government is worried that if it has ratified the convention of migrants, it will increase the number of foreign workers who enter Indonesian because foreign workers will be given facilities as stated in the convention. Because this convention not only protects Indonesian migrant workers abroad but vice versa, foreign workers in Indonesia also must be protected.
- c. Most governments were sending Indonesian migrant workers without the expertise and understanding detail of the recipient country's culture and unclear employment contracts.
- d. The existence of parties who carry out extortion against migrant workers, such as the presence of transportation brokers and moneychangers in the Airport or terminal, deductions from workers' wages, transparency in utilization and violence against Indonesian migrant workers.

B. Complex Problems Often Faced Indonesian Migrant in Malaysia

At the end of the SBY era until Jokowi, the dynamics problems of the Indonesian workers in Malaysia were still dynamic. The coverage of Indonesian Workers in Malaysia has developed in such a complicated, the problem continues to surface and is still unresolved. The very fundamental problems include a large number of social irregularities, slum areas and even other social issues such as the deportation of migrant workers or the finer connotation is expelling Indonesian workers from Malaysia, this problem almost every day adorns the news. The initial cause was because many Indonesian migrant workers in Malaysia were non-procedural, working in Malaysia not supported by the complete documents as required. The problem with the second largest position that is often faced by Indonesian migrant workers besides deportation is overstayed. Malaysia is still the country with the highest number of Indonesian workers who get the most problems.

Besides, a series of cases that are often experienced by Indonesian migrant workers are also human trafficking, sexual harassment, fraud, violence, confinement, and the imposition of excessive fees that are not by government standards. For example, the transport costs of Indonesian migrant workers are legal to Malaysia is 15 million, but the Indonesian migrant workers must pay up to 50 million. Until 2018, the case of human trafficking was the often case handled by union Indonesian migrant workers (trafficking in persons for labor), which is a form of transnational crime where activities are carried out from Indonesia to Malaysia. Cases of human rights violations against Indonesian migrant workers are inseparable from those involved in them, namely state actors and non-state actors. There were also workers who had lived for months in the Implementing Placement of Indonesian Private Workers but had failed to go to Malaysia even though they had already incurred expensive fees at the shelter. These tragic stories show that being a migrant worker is not an option, but a compulsion.

Especially during the reign of Dr. H. Susilo Bambang Yudhoyono 2004-2009 was "extraordinary" which experienced many problems that arose primarily in the protection of Indonesian Workers. However, when the government of Joko Widodo-Jusuf Kalla in June 2017 the number of Indonesian migrant insurance participants reached 813,696, up from the end of 2015 and 2016 positions reached 336,934 and 671,080 respectively. The number of problematic Indonesian workers has decreased from year to year. Until June 2017, 15,157 migrant workers had problems. In 2015 and 2016, at least the number of migrant workers with more problems was 30,661 and 19,029 people.

At the beginning of the Jokowi government era, the Malaysian government had planned to deport around 50,000 illegal Indonesian migrant workers. Based on the records of the Indonesian Embassy the numbers are spread in several states with various cases and problems. In Johor, there are around 21,000 illegal workers, and in the states of Sarawak and other states, there are approximately 16,000 workers, including 5,000 who are in Malaysian prisons. The case of deporting Indonesian workers from Malaysia is indeed a hot issue between the two countries as long as President Jokowi leads Indonesia. At the end of December 2014, at the beginning of Jokowi's administration, 22,312 migrant workers were deported from Malaysia. In 2015, the Malaysian government deported migrant workers more than 10,000 people returned to Indonesia even though the two countries have reached several essential agreements related to the issue of migrant workers. In 2016 as many 17,921 migrants were deported in various cases.

Crisis Center BNP2TKI records complaints from migrant workers by classifying six categories of facilitated media, such as through Letters, or by the complaint of cases by visiting BNP2TKI's office, Via Phone, Email messaging service. Thus, from 2016 to 2018 complaints from migrant workers to Indonesia as many as 4,678 cases were received and processed by BNP2TKI, the most of which was none other than the same conditions with the highest number of migrant workers occupied

by Malaysia 6,359 complaints while Taiwan only 1,335, United Arab Emirates 2,454, Singapore 474, Brunei Darussalam 263, Hong Kong 417, Qatar 161. (BNP2TKI, 2014)

In the last era of SBY until Jokowi in 2011-2018, there were 10,962 complaints to BNP2TKI from Malaysian Indonesian migrant workers. Data problems are increasingly rising every year, more details were in 2011 there were 387 complaints, 2012 as many as 613 complaints, 2013 as many as 723, 2014 as many as 886 complaints, 2015 surges more than doubled namely 1994, 2016 as many as 1,535, 2017 as many as 1,704, and 2018 with a significant number of 3,120 complaints.

Table 3. 1 Number of complaints from Indonesian migrant workers 2011-2016

JUMLAH PENGADUAN TKI BERDASARKAN 20 NEGARA								
TAHUN 2011 S.D 2016								
NO	NEGARA	2011	2012	2013	2014	2015	2016	Total
1	SAUDI ARABIA	2.884	2.766	1.863	1.294	1.103	1.145	11.055
2	MALAYSIA	387	613	723	886	1.994	1.535	6.138
3	TAIWAN	161	204	345	277	274	442	1.703
4	UNITED ARAB EMIRATES	170	305	262	280	264	314	1.595
5	SYRIA	137	345	166	129	99	97	973
6	JORDAN	253	282	188	132	70	47	972
7	SINGAPORE	102	149	110	152	154	204	871
8	OMAN	66	109	147	155	158	122	757
9	QATAR	59	94	189	126	93	75	636
10	HONG KONG	42	76	86	89	102	195	590
11	KUWAIT	172	138	86	55	56	52	559
12	BAHRAIN	29	64	64	86	107	102	452
13	BRUNEI DARUSSALAM	17	40	25	63	79	92	316
14	KOREA SELATAN	42	63	35	51	55	65	311
15	EGYPT	11	17	10	9	33	13	93
16	ALGERIA	2	11	3	2	10	37	65
17	TURKEY	1	6	3	15	15	21	61
18	CHINA	1	1	3	7	25	16	53
19	CANADA	1	12	3	10	22	4	52
20	JAPAN	6	3	3	7	11	12	42
21	LAINNYA	77	125	118	117	170	166	773
TOTAL		4.620	5.423	4.432	3.942	4.894	4.756	28.067

Table 3. 2 Number of complaints from Indonesian migrant workers 2017-2018

JUMLAH PENGADUAN PMI BERDASARKAN NEGARA PENEMPATAN PERIODE TAHUN 2016,2017 dan 2018 (s.d DESEMBER)																
NO	NEGARA	2016		2017												Total
		Jan-Des	Jan-Des	Januari	Februari	Maret	April	Mai	Juni	Juli	Agust	September	Oktober	November	Desember	
1	MALAYSIA	1.535	1.704	375	276	378	189	78	67	198	155	294	548	380	182	3.120
2	SAUDI ARABIA	1.145	874	62	38	40	35	15	12	14	38	53	45	39	44	435
3	TAIWAN	442	622	37	28	37	34	12	6	19	12	21	27	16	22	271
4	UNITED ARAB EMIRATES	314	199	9	10	13	13	8	3	7	3	28	20	8	6	128
5	SINGAPORE	204	172	12	18	13	8	4	2	4	4	13	8	6	6	98
6	HONG KONG	195	103	11	8	14	11	5	1	3	8	8	7	19	24	119
7	BRUNEI DARUSSALAM	92	104	10	11	6	10	1	5	4	2	6	3	3	6	67
8	KOREA SELATAN	65	50	11	58	3	5	1	3	0	4	4	13	8	8	118
9	OMAN	122	54	2	2	2	4	0	0	1	0	3	1	0	1	16
10	BAHRAIN	102	61	2	3	1	1	0	1	0	1	0	0	0	0	9
11	QATAR	75	63	5	2	3	2	0	1	2	0	2	5	1	0	23
12	SYRIA	97	37	0	1	3	3	0	0	1	4	1	1	0	0	14
13	JORDAN	47	44	11	4	1	4	1	1	4	4	2	5	5	2	44
14	KUWAIT	52	23	4	4	3	5	1	0	0	1	2	2	0	0	22
15	JAPAN	12	26	0	2	1	3	0	0	0	1	1	0	11	0	19
16	IRAQ	19	14	7	0	1	0	0	0	1	0	0	0	2	2	13
17	ALGERIA	37	2	0	0	0	0	0	0	0	1	0	0	0	0	1
18	TURKEY	21	9	1	0	0	0	0	4	2	0	1	0	0	0	8
19	CHINA	16	7	7	0	2	0	0	1	0	2	0	0	1	1	14
20	MESIR	13	9	0	0	2	0	0	0	2	0	0	0	0	0	4
21	LAINNYA	156	172	13	13	14	7	6	6	8	13	14	21	6	14	135
TOTAL		4.761	4.349	579	478	537	334	132	113	270	253	453	706	505	318	4.678

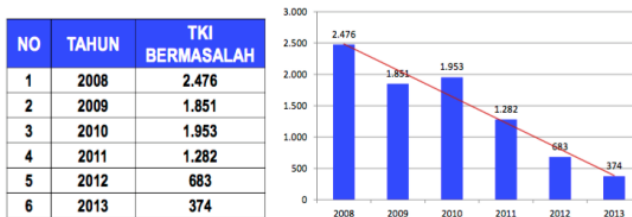
* Periode Cetak Tanggal 14 JANUARI 2019

Data from the Indonesian Migrant Workers Union shows that in 2008 there were many migrations which were problematic and were returned to Indonesia with 2,476 problems, in 2009 there were 1,851 problems, 2010 as many as 19,53 problems, 2011 as many as 1,282 problems, 2012 experienced a decrease which was handled to be repatriated as many as 683 problems, 2013 as many as 374 cases, 2014-2015, there were 321 cases faced, While in 2016-2017 there were 800 cases handled. Of all Indonesian migrant workers who were sent home in 2008 to 2018 with various problems including cases, unilateral layoffs, sickness due to overworked, having troubled, illegal, abused employers, acts of violence from salary employers who did not pay Jobs that do not comply with the agreement, Sexual Harassment, Unpaid Salary on time, no transport costs for returned home, migrant workers in custody, etc. (BNP2TKI, 2010)

Table 3. 3 The number of arrivals of Indonesian Migrant Workers who have problems 2008-2013

**Rekapitulasi Data Kedatangan TKI Di BPK TKI Selapajang
TKI Bermasalah Tahun 2008 - 2013
(Negara MALAYSIA)**

Total Kedatangan TKI Bermasalah



Sumber data: PUSAT PENELITIAN PENDEMBANGAN DAN INFORMASI (PUSLITFO BNP2TKI)

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The development of the violence of Indonesian migrant workers developed fluctuating from the end of the era of the Sby to Jokowi tenure. Every issue of migrant workers can be categorized as a crime of trafficking in persons, because the characteristics are appropriate, even the process of the method and purpose. We can observe from the types of cases, where indicators of oppression and exploitation of migrant workers are apparent. While indicators of the type of problem can be categorized as the purpose of exploiting in the context of trafficking on persons, various problems that often occur to migrant workers in Malaysia:

1. Migrant workers and their families do not have access to provide and obtain information about a return, especially migrant workers who have problems such as stopped contract, being sick or experiencing violence while working.
2. Several migrant workers can only get transportation costs to Jakarta (not until home), so they cannot leave to go home.

Moreover, some migrant workers have issued by employers without the support of transportation and accommodation.

3. Indonesian workers are sometimes not notified of the termination of employment by the employer so that migrants do not realize that their residence permit in Malaysia runs out, not even a few migrant workers have to pay a fine overstaying.
4. Many migrant workers deceived by employers with operandi modus and salaries will be paid after they return to Indonesia and employers often lying transfer while workers are difficult to take care of the problem.
5. Indonesian migrant extortion often occurs with the modus operandi of permission out fees from Malaysia, at the seafront, at the airport or labeling discrimination treatment specifically different from other citizens with the operandi act such as transport service, tickets, food and other service products extending more expensive even though they already have an overseas employment card.
6. Private agencies do extortion with the mode of redemption of essential documents, such as diplomas, birth certificates, ID cards and usually this practice.
7. There is no access to get information that there are insurance services, and insurance claims are complicated, this is complicated by the unclear nature of the insurance service because it deals with the protection council.
8. Excessive working hours, on average working 12 to 14 hours a day. No weekend. When on leave or sick, the salary will be deducted or not paid by the employer. Salary deductions exceed provisions or low salaries (compared to Singapore). Salary discrimination, between migrant workers and local workers, and between other migrant workers. For example between the Philippines and Indonesia, the salary size is different.
9. Physical torture that causes fatal injuries or sick even to death that causes deportation with unclear policies.

10. Confinement so that Indonesian migrant workers are limited in all activities or intentionally isolate from the environmental association.
11. The residence that is not suitable to be occupied, such as a place to live together with the workplace.
12. Lack of implementation of Occupational Health and Safety by migrant workers so that it is very vulnerable to workplace accidents.
13. There are duplicate costs for migrant workers, through insurance mechanisms and ownership costs. Many cases of uninsured workers (violations of the Work Expenditure Act 1952) and work assertions were not shared with workers when there was a work accident.
14. They are the object of criminalization by the authorities. Moreover, the agencies disguised themselves as employers, so migrants were often moved around the workplace.
15. Information about rights and labor markets is minimal, controlled by the government and agencies, making them vulnerable to being victims of extortion. Moreover, some migrant workers do not have employment contracts or that are not respected by the employer because of a lack of support from the authorities during the process before departure and during work.
16. Loss of enthusiasm to unite in trade unions because regulations from employers limit it. In practice, the Ministry of Home Affairs prohibits migrant workers from uniting in unions.
17. The loss of the right to contribute to an old-age guarantee of RM5 for each migrant worker, even local workers have that right. Also, the employer does not renew the passport to work with foreign workers, letting migrant lose their status as official workers.
18. Employers and recruitment agents hold a passport, bring them to a very vulnerable situation by the authorities, and oppression by the police.

19. The loss of status as documented workers when their rights are violated and the process of long waiting for the settlement of disputes by migrant and Industrial Relations.
20. Some agencies recruit, transfer and accept workers through ways of cheating and falsifying identity documents (example: the work offered does not exist, is different from the sector contributed and incompatible with the place of work) mainly doing exploitation, making migrant workers victims of trafficking.

Data Based on the type of complaint problem BNP2TKI explained that the data reported related Indonesian migrant workers in 2011-2013 as many as 1724 in the category of frequently experienced issues such as the category that wanted to be repatriated by 95, salaries were not paid there were 174, workers failed to go to Malaysia 205, died 313, terminated employment before the term of employment ended 82, sick 86, dropped out of communication relations 296, employment not in accordance with Work Agreement 85, violence from the employer 30, a worker in prison 15, accident 2, Exhausted workers 75, others 553 complaints. Among migrant workers who experience common cases afflict women and most of them are household assistant workers.

Besides that, there is also something sadder that Malaysia has become a field of death for Indonesian workers. BNP2TKI recorded deceased migrant workers, data in the period 2010-2018 686 migrant workers died in the neighboring country And 437 other migrant workers face the death penalty throughout Malaysia. Of the threatened, 301 Indonesian Citizens were successfully released, 18 of whom were released in 2018. For more details, Indonesian migrant workers who died in Malaysia were recorded by BNP2TKI, namely in 2010 as many as 2 people, 2011 as many as 20 people, 2012 as many as 61 people, 2013 as many as 72 people, 2014 with 72 people, 2015 as many as 103 people, 2016 as many as 137, 2017 as many as 73 and 2018 as many as 37. In the span of the Susilo Bambang Yudhoyono to Jokowi era, the most occurred in 2016, which was 137 people drifted. (BNP2TKI, 2014)

Table 3. 4 Number of Indonesian migrant workers death in Malaysia 2010-2013

**DATA TKI MENINGGAL DARI LUAR NEGERI
NEGARA KAWASAN ASIA PASIFIK**

NEGARA PENEMPATAN	Tahun			
	2010	2011	2012	2013
TAIWAN	11	1	38	10
HONGKONG	0	3	7	9
MALAYSIA	2	20	61	72
KONGO	0	1	1	1
THAILAND	0	0	2	0
SINGAPURA	5	2	8	5
KOREA	7	10	10	5
BRUNAI DARUSSALAM	0	2	10	3
JEPANG	0	1	1	0
AMERIKA SERIKAT	0	0	1	1
YUNANI	0	0	1	1
COLOMBO	0	0	2	1
ARGENTINA	0	0	2	0
JUMLAH	25	40	145	108
TOTAL SELURUH	98	140	328	186

Table 3. 5 Number of Indonesian migrant workers death in Malaysia 2012-2016

**JUMLAH TKI MENINGGAL DI LUAR NEGERI
YANG DIPULANGKAN KE TANAH AIR (ASIA PASIFIK)**

NEGARA PENEMPATAN	Tahun					TOTAL
	2012	2013	2014	2015	2016	
TAIWAN	38	10	37	26	27	138
HONGKONG	7	9	6	4	10	36
MALAYSIA	61	72	13	103	137	386
KONGO	1	1	0	0	0	2
THAILAND	2	0	0	1	0	3
SINGAPURA	8	5	0	2	1	16
KOREA	10	5	8	6	11	40
BRUNAI DARUSSALAM	10	3	6	4	13	36
JEPANG	1	0	1	0	0	2
AMERIKA SERIKAT	1	1	0	0	0	2
YUNANI	1	1	0	0	0	2
COLOMBO	2	1	0	0	0	3
ARGENTINA	2	0	0	0	1	3
PHILIPNESS	0	0	1	0	1	2
URUGUAY	0	0	0	0	2	2
SRI LANKA	0	0	1	0	0	1
JUMLAH	144	108	73	146	203	674
TOTAL (Timeng & Asia Pasifik)	330	186	113	174	247	1.050

Citing data from the National Agency for Placement and Protection of Indonesian Migrant Workers, Malaysia is the first country in the world, where most Indonesian migrant workers die. The number of workers died also found in Taiwan and Saudi Arabia. Even though the reason for death is not always because of a death sentence, but also because of persecution, sick, died due to not being fed by the employer, sleeping with a dog and experiencing physical and non-physical torture by employers in Malaysia, etc. According to several of Malaysian local media, the plan to abolish the death penalty was delivered by the Malaysian Minister of Law, Liew Vui Keong, on Wednesday 10 October 2018. However, in Malaysia, there are still around 1,200 people from various countries who face the death penalty, and currently, there are 136 Indonesians who face the death penalty throughout Malaysia. However, even though there are many cases of migrant workers dying, interestingly Malaysia remains the most significant destination in 2018, and nearly 40 percent go to this neighboring country. It is then followed by Hong Kong, Taiwan, and Singapore.

But observing data on the many deaths of Indonesian migrant workers in Malaysia and various types of violence, Through good coordination with Indonesian representatives, BNP2TKI continually monitors the progress of migrant workers while working abroad and there is a strong suspicion that most problems occur because of illegal migrant workers, and even this problem continues to emerge from the beginning of the process from Indonesia.

Viewed from the relations between countries, the problem of Indonesian migrant workers in Malaysia is the most dominant problem. From an economic standpoint, two labor markets can be seen, the biggest ones about Indonesian migrant workers who enter Malaysia legally, around 1.5 to 2 million people and the second market is the "illegal" Indonesian migrant workers market. The amount is indeed no certainty, but the number is approximately half of the total number of legal workers. Their presence certainly brings problems. The market for illegal

workers is quite large, of course, because there are requests from employers in Malaysia. On the other hand, offers from poor and desperate Indonesians to find work in the country also support it.

Malaysia often contributes the most cases to the world on the workforce problems. Many Indonesian migrant workers who go abroad with fake documents from agencies brokers are not responsible. Some migrant workers cannot even distinguish between official and illegal Indonesian Labor Service Companies. Information dissemination in villages related to overseas labor is very minimal. (Wisnuwardhani, 2016)

Malaysia itself has laws and regulations concerning illegal migrant workers. According to the law in Malaysia employers who violate the law by employing illegal migrant workers will face penalties. However, this rule is not strictly enforced. As long as the Malaysian Government cannot or does not want to act decisively against Malaysian employers who employ illegal workers, then surely the presence of illegal Indonesian migrant workers will continue. While it is also known that the ability of the Indonesian Government to stem the smuggling of Indonesian migrant workers in the border is also in doubt. So that means that it is complicated to stem the flow of migrant workers abroad, both legal and illegal.

The illegal Indonesian labor market is which often makes problems specifically in relations between Indonesia and Malaysia. The number of those who reach hundreds of thousands is often related to social issues in Malaysia, so it is also often accused that 50% of residents of Penitentiary or Prison Houses in Malaysia are Indonesian workers who are illegal workers. In relations between countries, there is a position that benefits from labor suppliers and labor users. (Syam, 2016)

With the many cases of mistreatment and death of Indonesian migrant workers in Malaysia, it has become an irony. Because, as fellow ASEAN member countries, Indonesia and Malaysia also signed a consensus on the Protection and Promotion of Migrant Workers' Rights, the joint agreement agreed to protect migrant workers, including illegal ones, throughout Southeast Asia. Unregistered migrant workers or

undocumented all migrant workers who enter and live to work in a country illegally, or migrant workers who are initially legal but turn out to be illegal. Protection that refers to the principles of Human Rights is not only given to migrant workers but also their families. Fundamental rights of migrant workers and their families such as getting visits from family members, storing personal documents, including passports and work permit documents.

Policies it should provide certainty in the procedures for the placement of migrant workers abroad, the rights and obligations of the parties, and sanctions for violations of the rules. However, the policies that have been made are not in line with the implementation in the field. Migrant workers who experience problems always increase every year: violence, violations of work agreements and threats of capital punishment whack migrant workers. Meanwhile, actors who harm migrant workers are difficult to reach.

Because there are still many real cases that occur there are contradictions according to Migrant CARE, the association of migrant workers in Indonesia, states that this consensus is not sufficient to become an instrument of protection for ASEAN migrant workers. According to Wahyu Susilo, the Executive Director of Migrant CARE stating:

“Needs an instrument to protect migrant workers who have more legally binding based on international instruments. Besides, it needs to be encouraged by the existence of the ASEAN Commission for the Protection of Migrant Workers to ensure the implementation of access to justice and the protection of human rights of migrant workers in the ASEAN region. ”

Even if observed with the increasing number of sending migrant workers to Malaysia, there is a tendency to increase the problems faced by migrant workers. Uncontrolled access Non-skilled migrant workers who are willing to be paid low wages can also hamper economic growth and cause political issues, as well as social security. These things lead to tension between Indonesia

and Malaysia, and if ignored it will disrupt bilateral relations between the two countries. (Pillai, 1995)

Government policy is a significant factor in the poor quality of life of migrant workers working in Malaysia. The weakness of regulations that favor migrant workers and the practices of violating regulations are often found. The results of the analysis of Jaleswari Pramodhawardani Deputy V for Politics, Law, Security and Human Rights shows that Indonesia is indeed capable of sending large numbers of migrant workers abroad. However, the ILO considers that legal protection for Indonesian workers working abroad is still feeble. Apart from being trapped in exploitative conditions, in the long run, most Indonesian migrant workers face uncertainty about the wages they should receive. Also, there is uncertainty about salaries, violence and abuse, sexual harassment and rape, and inhumane treatment at work.

The problems of Indonesian migrant workers is caused by policies that are not complete, comprehensive, and transparent in protecting the fundamental rights of Indonesian migrant workers. Non-integrated systems and inadequate resource allocation to improve quality, many deviations occur from pre-placement, placement to post-placement. Protection and empowerment of migrant workers are minimal, during work until the return of the practice of suppression of migrant workers occurred. The forms include: giving fees to individual field officers, expenses in the selection process, recruitment costs, high loan interest, unpaid salaries, extortion by airport porters, exploitation during shelter, intimidation of employers, etc. (BPNP2TKI, 2015)

Generally from the start when distributing migrant workers through employment agents, legal or private agencies migrant worker agents must control almost the entire process from the beginning, from recruitment, passports, and passport/visa applications, training, transit, and placement of migrant workers. However, because of many of the workers going abroad for the first time, plus recruits from brokers who come to their villages with promises of certain wages, many job choices, and offer assistance in facilitating the process. The low level of education

of prospective migrant workers results in them easily facing the risk of being cheated by other parties because they do not understand the rules and conditions for working abroad. The low report of workers who experienced a particular case to the authorities was also because they are worried about having a fake identity. Many migrant workers are still too young, but for the sake of a smooth process, age in documents is falsified. Counterfeiting is not only age but also name and address. Therefore, it is not easy to track migrant workers who have problems abroad.

The government requires that migrant workers must be legal, sent through official agents who help them to make passports and visas, obtain health certificates, pay insurance and other obligations, have language skills and abilities because in the legal aspect there is a fact that legal status plays a role in successful migration.

The role of the government in this program is focused on aspects of coaching, as well as protection and providing various facilities to related parties, especially Indonesian migrant workers and Indonesian labor placement services companies. In addition to being useful to reduce unemployment pressure, the Indonesian migrant workers placement program also provides benefits in the form of increasing family welfare through received salaries or remittances and also improving the skills of Indonesian migrant workers because they have work experience abroad. For the State, the benefits received are in the form of increased foreign exchange earnings, because the labor migrants who work certainly receive compensation in the form of foreign exchange. (Indonesia L. N., 2013)

However, with a variety of negative impacts arising from migrant worker problems such as the case of environmental/psychology violence, pre, period and after, when returning to the home village. The issue of migrant working abroad has added to the burden of labor problems in Indonesia. Among other things regarding the injustice in the treatment of sending workers by companies sending Indonesian labor services. Placement that is not under the standard, low salary because it is not under the

agreed work contract, violence by users of labor, sexual harassment and an increase in the number of illegal workers allegedly has caused a high level of crime. (DPRRI, 2014)

There are no definite figures regarding the number of workers who migrate without adequate documents. However, according to the research BNP2TKI that the number of migrants without documents is two times greater than those with complete documents. The competency of migrant workers correlates with their level of education, and most migrant workers work on various types of work such as household stewards, factory workers, and plantation workers in Malaysia.

Indonesia considers that stopping the sending of workers to Malaysia is one way to stop this violence. However, Malaysia is worried when sending migrant workers is stopped. Malaysia's Ambassador to Indonesia, Dato Seri Mohamad Zahrain said the moratorium would harm both countries.

According to Ambassador Zahrain of the Malaysian Embassy in South Jakarta, Wednesday (02/21/2018). "With the moratorium, there will be more people coming through illegal channels, two countries must sit together to discuss and determine the SOP about migrant workers, especially domestic workers, so Indonesian migrant workers in Malaysia can be recognized, respected and their rights guaranteed."

The problem of migrant workers is also due to factors from the prospective migrant workers themselves. One example is the lack of awareness that being an illegal workforce has no legal protection. This problem causes many crimes. In this case, the government is obliged to protect migrant workers from these problems as stated in the Republic of Indonesia Minister of Manpower and Transmigration Regulation, where the government is obliged to protect Indonesian migrant workers before departure until they return home to Indonesia. The quality of the problematic labor sector is dominated by 61 percent of the workforce who are the highest graduates from junior high school. Even, from 2012 to 2031, Indonesia enjoys a "demographic bonus" which is ironic because it is not

compatible with the quality of human resources. (menatap, 2015)

It is not surprising that with a low level of education, as well as the highest number of migrant workers are women it can lead to higher acts of violence. Glorene Amala Das, director of Tenaganita, complaints of foreign workers, for example, there are no rest days, and there are no contracts between employers and workers. Various cases of physical violence, sexual violence, overtime work, against the domestic sector Indonesian female workforce, will undoubtedly be a problem that is not quickly resolved. Moreover, they work in closed spaces with minimal access. The place where they work, namely in the employer's house, is considered a private area that cannot be reached by the public to ensure the rights and human rights of domestic workers are protected.

The government cannot monitor the existence of illegal workers when it works. If something like that happens, it is certain that they will not be able to report to anyone. The case of domestic workers who jumped from the floor to floor using tied-up cloths is an example of how difficult it is for them to provide information about their situation to others because it is not a public space.

The tightening of immigration rules carried out under the reasons of Malaysia's national stability is, therefore, a reaction to the government's inability to create transparent labor management and excessive fear of the dominance of foreign workers, especially in the real sectors. If more specific view, the presence of Indonesian workers throughout the crisis era (1997-2002) has made an essential contribution to the running of the Malaysian economy, some of which rely on the plantation and agricultural sectors. Therefore, economically the loss of most foreign workers as a direct implication of the strict policies adopted by the Malaysian government has put a heavy blow on the Malaysian economy for at least for one period.

The logic is that expulsion of foreign workers creates labor vacancies at the lowest level while even local workers are reluctant to fill the job sector. This condition is substantially a

threat to the stagnation of economic growth, especially in the states that use a lot of foreign workers, such as Selangor, Johor, Negeri Sembilan, Malaka and the states in East Malaysia which is being under the Malay alliance. On the other side, it is economically the presence of foreign workers, most of whom from Indonesia have given great profits to the Malaysian government. The relatively cheap use of foreign labor has significantly contributed to the saving of development funds. Also, foreign workers have also played a role in accelerating the transformation of development in all lines of development in Malaysia. This is an essential basis for viewing and reviewing foreign employment policies in Malaysia, especially regarding opportunities and rewards that are should more open now and in the future.

However, the fact is that despite the efforts to tighten immigration, the reality of the enormous needs of Indonesian workers in the lower layers of the Malaysian labor market structure makes migrant inflows challenging to control. Besides, the imbalance in regional economic growth with Malaysia has caused migration activities to be carried out almost without considering the risks that might be encountered throughout the migration process.