

CHAPTER V

CONCLUSION AND RECOMMENDATION

A. Conclusion

Based on discussion in the previous chapter concerning Human Rights Protection on Migrant Workers in the International Law and Indonesian Law perspective, it may summarize some conclusions and recommendation:

1. International Law protect the rights of migrant workers by issuing some of conventions and regulations pertaining to that issue, namely International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), ILO Migration for Employment Convention, and ILO Migrant Workers (Supplementary Provisions) Convention. And also, from the general side International Law provide some of legal protection to the migrant workers, such as Freedom of Association and Protection of the Right to Organize Convention, The Prohibition of Discrimination, Prohibition of Forced Labor and The Protection of Children. All those conventions provide, in order to make sure the right of migrant workers are protected. The problem from International Law on migrant workers protection is comes from the nature of international law is soft law, it means it only gives a moral sanction to the state, who cannot protect the right of migrant workers.
2. Indonesian Law protect the rights of Migrant Workers by issuing some regulations concerning migrant workers, namely Law Number 13 of 2003

on Manpower, Law Number 39 of 2004 on Placement and Protection on Migrant Workers and other regulations such as Law Number 39 of 1999 on Human Rights and Indonesian 1945 Constitution. Besides, Indonesian also made a bilateral agreement with Malaysia pertaining the placement and protection on migrant workers abroad. The problem of Indonesian relating to the protection of migrant workers is comes from government itself, because of government seems unreactive in responding the issue of migrant workers without understanding the causes of the problem. First, government is not able to provide enough employment for all Indonesian people, that is why the workers choose to go abroad for seeking a job without thinking about the risk that probably happen to the workers. Second, complicated bureaucracy is one factors that to get a job is difficult things that must face by the workers, such as various steps that have take by the applicant for fulfill the requirements to get a job, either in regional or national. Third, the lack of cooperation between the Ministries makes the problem cannot be solved quickly.

B. Recommendation

1. From Indonesian Law perspective, First, government has to provide enough work area for the workers. So, the workers will not do the migration to another country. Second, "One door services" it means, government made a new rule specially regulate about the sending of migrant workes. It can be one way, thus the workers only can depart after get the license from the

government. Hence, it makes easy and simple for government in order to control the workers and also to minimize the violation that perhaps will happen again someday. Third, cooperation between ministries such as Minister of Manpower and Transmigration, Ministry of Justice and Human Rights, Ministry of Women Empowerment & Child protection, Ministry of Social Services and Ministry of Foreign Affairs. The cooperation between the ministries are hopefully be as one factors that can overcome the problem of migrant workers.

2. International Law is supposed to be more active in responding migrant workers issues, such as made an International Conference every one year talking about the prevention of human rights violation on migrant workers. Gives a socialization toward the workers and their families in every countries about the steps to prevent the human rights violation.