

CHAPTER I

INTRODUCTION

1.1 Background

Due to the global economic crisis that led to the poorer condition of third world countries, there are several economic problems need to be solved.¹ The increasing number of poverty, lower economic growth and higher number of unemployment have caused international world to explore the alternative sources of their national revenue. One of the alternative sectors that emerged as the most prominent sector to be relied on by some countries was *labor migration*.² Based on the International Organization for Migration (IOM), 2009, Labor migration³ could be defined as a cross-border movement for the purpose of employment in a foreign country; the subject of Labor migration is called *Labor Migrants*.⁴ Labor migration through legal or some irregular means contributes to the national revenue of both the origin and the destination countries through foreign exchange.⁵ As the number of labor migration keeps increasing, the dependency of International world on this sector

¹ Shaohua Chen and Ravallion. 2010. "The Global Financial Crisis on the World's Poorest," in Voxeu. Home page on-line. Available: <http://www.voxeu.org/index.php?q=node/3520>. Internet; accessed: 10 December 2010

² Anis Hidayah. 2010. "Melindungi Buruh Migran," in Perspektif Baru online. Home page on-line. Available: <http://www.perspektifbaru.com/wawancara/655>. Internet; accessed: 12 December 2010

³ International Organization for Migration 2010. "Labor Migration," in International Organization for Migration Website Online. Home page-online. Available: <http://www.iom.int/jahia/Jahia/about-migration/developing-migration-policy/migration-labour/labour/cache/offonce>. Internet; accessed: 23 October 2010

⁴ *Ibid.*

⁵ *Ibid.*

also increases.⁶ Moreover, labor migration has become more interesting for countries all over the world, especially for those who have a huge number of populations, including Indonesia.⁷ Through labor force market, Indonesia as the fourth most populous country in the world also has a high dependency on this sector; and it has now become a country with the largest labor migration exporting after Philippines.⁸ Moreover, the revenue budget expenditure (*Anggaran Pendapatan Belanja Negara/APBN*) of Indonesia shows that labor migrant holds the second rank of the most contributive sector for national revenue, right after gas and oil.⁹ However, it should be noted that labor migrant in Indonesia is actually dominated by lower skilled and semi-skilled workers who mainly work in the sectors of service, construction, domestic work, and manufacturing.¹⁰

Based on the data from the Department of Manpower and Transmigration Republic of Indonesia, 2006, Malaysia is listed as the biggest importer of Indonesian labor migrants.¹¹ Basically, low and uncertain incomes in villages are the driving forces for Indonesian citizens to work overseas. The salary in the village is not enough to fulfill their daily living expenses. Moreover, the number of jobs offered

⁶ Manolo Abella. 2010. "ILO Asian Regional Programme on Governance of Labor Migration," in PECC online. Home page-online. Available: http://www.pecc.org/resources/doc_view/670-challenges-to-governance-of-labour-migration-in-asia-pacific. Internet; accessed: 30 November 2011

⁷ Anis Hidayah, *op cit*.

⁸ International Organization for Migration. 2007. *Estimated Numbers of Labor Migrants by Country of Origin and Country of Destination*. Indonesia: IOM for Indonesia, pp. 10

⁹ Anis Hidayah, *op cit*.

¹⁰ Mulya Carunia. 2005. *Trends, Issues and Policies Toward International Labor Migration: An Indonesia Case Study*. New York: Department of Economic and Social Affairs United Nations Secretariat, pp.8

¹¹ *Ibid*.

abroad is much higher and promising.¹² Based on the official data from Malaysia, 70 percent of the Labor Migrants in Malaysia are Indonesians.¹³ There are at least two reasons why there are still high demands from Malaysia for Indonesian Labor.¹⁴ Firstly, the close distance between Indonesia and Malaysia makes the movement become easier. Secondly, since Indonesia and Malaysia are located quite close with each other, the two countries have similar language and culture countries that ease the process of building relationship between the employers and Indonesian labor migrants.

Problem arose because Indonesia as a country that sends many labor migrants to the other country and even relies its income on it actually does not have enough restriction or legal binding.¹⁵ Today, Indonesia has several rules on international labor migrants, but still those rules do not have enough power to protect Indonesian labors. They are only rules that explain the technical procedures of how the labors could do the migration. Beside, there are some rules that made even bring some disadvantages to Indonesian labors. The large number of human right violations to Indonesian Labor Migrants could occurs as the result of lack of legal protection for Labor migrants

¹²The World Bank. 2010. "*MIGRATION, REMITTANCE AND FEMALE MIGRANT WORKERS*," in World Bank Website online. Home page on-line. Available: http://siteresources.worldbank.org/INTINDONESIA/Resources/fact_sheet-migrant_workers_en_jan06.pdf. Internet; accessed: 23 October 2010

¹³ International Organization for Migration. *op cit*, pp. 41

¹⁴ *Ibid.*

¹⁵ Mulya Carunia. *op cit*, pp.18

overseas.¹⁶ In comparison, Philippines as the number one exporter of labor migrants have direct rules, which are under Migrant Workers and Overseas Filipinos Act of 1995.¹⁷ This act does not only govern the protection of Filipinos migrants but also organizes the rights and obligations of Filipinos returning migrants. Additionally, there is a restriction from the government of Philippines that causes the government from other country really implements the rules they make, such as giving the labor migrant their wages as noted in their convention. Filipino labor migrants who work in Malaysia even earn the highest salary of US\$400 a month because of the requirements imposed by the government of Philippines. On the contrary, compared to other countries that employ a large number of Indonesian workers, Malaysia instead offers the lowest wages.¹⁸

The Indonesian government actually is not absent to solve this problem. There are some efforts given to protect Indonesian labor migrants, which are stated in the rules of Labor Migration. The first provision is the Ministerial Rule No. 4/1970.¹⁹ This rule explains the general ways in managing domestic migration and international migrations. Second rule is the rule signed by the Minister of Transportation and the Minister of Manpower, Transmigration and Cooperative Units No. KM136/S/PHB

¹⁶ *Ibid.*

¹⁷ Nisha Varia. 2009. "Letter to Governments of Malaysia and Indonesia," in Human Right Watch online. Home page on-line. Available: <http://www.hrw.org/en/news/2010/05/10/indonesiamalaysia-end-wage-exploitation-domestic-workers>. Internet; accessed: 23 November 2010

¹⁸ *Ibid.*

¹⁹ Mulya Carunia. *op cit*, pp.18

and No. Kep-59/men/1977²⁰. This rule governs the permission of international labor migrants to work overseas under the government's supervision. In 2004, the Indonesian government made The Regulation no 39/ 2004,²¹ which focuses on the mechanisms or procedures of recruitment, placing process, and returning of migrants to their homeland (chapter V, verse 77 to 84). However, However, this regulation does not cover the international provisions for labor migrants such as resting right, minimum wages, etc. Moreover, Indonesian labor migrants who work in Malaysia often become victims of human rights violation. One of the violations is they have to work overtime exceeding the total working hours as stated in the International convention of labor migration.²²

Problems about labor migrants that continually occurred have caused Susilo Bambang Yudhoyono, the President of Republic Indonesia, to issue a Presidential Instruction no 6/2006.²³ This instruction rules the quality and quantity of prospective labor migrants, service workers at embarkation, the strengthening of Indonesia's function in protecting representative workers, advocacy and defense of workers, and the eradication of brokers. However, due to the complexity of the problems, there is

²⁰ *Ibid.*

²¹ Budi Sutomo. 2009. "Perlindungan Masalah Hukum TKI," in Wawasan Digital Online. Home page-online. Available: http://www.wawasandigital.com/index.php?option=com_content&task=view&id=42389&Itemid=62. Internet; accessed: 20 November 2010

²² *Ibid.*

²³ *Ibid.*

no significant result of this instruction.²⁴ After the Presidential Instruction, the government of Republic Indonesia initiated the Memorandum of Understanding on The Recruitment and Placement of Indonesian Domestic Workers in 2006. The government of Republic Indonesia and Malaysia finally signed this MoU. Unfortunately, the memorandum that was expected to protect Indonesian labors has caused disadvantages for Indonesian labors.

The need to protect Indonesian labors has led the Indonesian government to have a negotiation with Malaysia as the highest importer of Indonesian labor migrants²⁵. After reaching an agreement through the MoU in 2006, these two countries have agreed to meet regularly in order to discuss the implementation of the MoU. During the regular meetings between the government of Indonesia and Malaysia, negotiations took place. Since they did not have any bilateral agreement on labor force migration²⁶ that is actually very important to prevent illegal labor migration and to protect Indonesian migrants from exploitation by overseas employers, the negotiation between the two countries discussing protection for Indonesian labor migrants became very important.

There are several negotiations on labor migration that have been done by both countries during 2006-2010, such as the negotiation concerning minimum wages,

²⁴ *Ibid.*

²⁵ Mulya Carunia. *op cit*, pp.8

²⁶ *Ibid.*

several negotiations in June 2009 on labor migrant violation cases.²⁷ At the end of 2009, there were several important things Indonesian Government did such as taking a decisive steps to stop the exporting of migrant workers to Malaysia and giving a strong warning to Malaysia to accomplish the demand of minimum wages and the amendment of Memorandum of Understanding 2006. In 2010, the government of Republic Indonesia and Malaysia even signed the Letter of Intent (LoI) as the initiation of their commitment to protect Indonesian labors.²⁸

The negotiations conducted between Indonesia and Malaysia from 2006 to 2010 did not result in effective system to protect Indonesian labor. Legal binding as a strategic system became the needs of Indonesian government because it is powerful enough to protect Indonesian Labor Migration in Malaysia. The long phases and the preliminary results of each negotiation became the two main concerns in this research. This issue is worth to explore since there must be important factors of why the negotiations seemed to end without any concrete conclusions and why there should be another negotiation to close the loop.

In order to understand the important factors behind the long phases of the negotiations between the two countries and the results of the negotiations, this research entitled, **“THE NEGOTIATION BETWEEN REPUBLIC OF**

²⁷ Depkominfo. 2010. “Malaysia Sepakat Perbaiki Perlindungan,” in Kabar Indonesia online. Home Page-online. Available: <http://kabar.in/2009/indonesia-headline/rilis-berita-depkominfo/06/14/indonesia-malaysia-sepakat-perbaiki-perlindungan-tki.html>. Internet; accessed: 13 December 2010

²⁸ Human Rights Watch. 2009. “Indonesia”, in Human Rights Watch online. Home Page-online. Available: <http://www.hrw.org/en/world-report-2010/indonesia-0>. Internet; accessed: 14 December 2010

INDONESIA AND MALAYSIA CONCERNING PROTECTION OF INDONESIAN LABOR MIGRANTS 2006-2010” was made.

1.2 Research Problems

Since there is a high number of human right violations of Indonesian Labor Migration in Malaysia²⁹, the needs of legal binding to protect the right of Indonesian Labors increases. Moreover, due to the inclining number of Indonesian workers sent to Malaysia,³⁰ the need of legal binding has become one of the prominent issues to be solved. One of the ways to find the solution to this need is conducting negotiation process between the two related countries. From 2006 to 2010, Indonesia and Malaysia have conducted several negotiations on the related cases³¹. This research focused on discussing the results of the negotiations and the implementation of the results.

From the issues discussed previously, the research would be discussing two major points as stated in the followings:

- 1.2.1 How is the negotiation process between Indonesia and Malaysia concerning protection of Indonesian Labor Migrants 2006-2010?

²⁹ International Organization for Migration. *op cit*, pp. 10

³⁰ *Ibid*.

³¹ Depkominfo. *op cit*.

- 1.2.2 What are the preliminary results of the negotiation between Indonesia and Malaysia concerning protection of Indonesian Labor Migrants on 2006-2010?

1.3 Goal and Significance of the Research

1.3.1 Goals

The research has two main goals:

- 1.) Describing the negotiation process of Indonesia and Malaysia concerning protection of Indonesian Labor Migrants 2006-2010.
- 2.) Describing the preliminary results of the negotiation between Indonesia and Malaysia concerning protection of Indonesian Labor Migrants on 2006-2010.

1.3.2 Significance

Based on the theoretical framework, the research is significant to contribute to the knowledge principles of International Relations in the application of Realist theory in describing the process and results of negotiation between the government of Indonesia and Malaysia concerning of the issue of Indonesian Labor Migration.

Besides that, this research is hoped to be a significant endeavor in completing the data of the negotiation process between Indonesia and Malaysia concerning labor migration. By having a more complete data and a deeper understanding of the factors behind the long phase of the negotiation, the society

will eventually gain a better understanding of the long negotiation process precisely

Moreover, this research also discussed the results of the negotiations that have already been done during 2006-2010 to see the correlation between the process and its significant to the Indonesian society as a whole.

1.4 The Organization of Thesis

This research is divided into five parts as follows:

CHAPTER I INTRODUCTION

The first chapter of this research is an introductory part that explained about the background of the research, research problems, research goal and significance, as well as the organization of the thesis.

CHAPTER II ANALYTICAL FRAMEWORK

The second chapter of this research contains several concepts related to the negotiation between Republic of Indonesia and Malaysia concerning protection for Indonesian labor migrants in 2006-2010. The key concepts used are negotiation in realist perspective (only involving states actor and the goal is to reduce uncertainty and complexity, not to find cooperation), national interest as the input of the negotiation, and several concepts around the negotiation, such as: leverage, bargaining, escalation, de-escalation and deadlocks. In addition, there is an explanation about the theories used to explain the process and the outcomes of the

negotiation, which are the theory of negotiation and game. The entire concepts and theories are used as the framework that helps to understand the research.

CHAPTER III RESEARCH METHOD

The third chapter of this research mainly discusses the scope of research, research type and method, type and source of data used in this research, the techniques of data collecting, as well as the techniques of data analysis.

CHAPTER IV ANALYSIS

The fourth chapter contains the entire data and analysis used to answer the research questions. Firstly, it will briefly discuss the relationship between Indonesia and Malaysia in terms of Indonesian labor migrants and the national interest of Indonesia and Malaysia in Indonesian labor migrants as the background of the negotiation. Secondly, it will discuss the negotiation process between Republic of Indonesia and Malaysia concerning Indonesian labor migrants in 2006-2010, which is divided into three groups: the initiation, the process, the time line and the analysis of the negotiation. Thirdly, it will explain about the outcomes of the negotiation as well as the factors behind those outcomes.

CHAPTER V CONCLUSIONS

The fifth chapter of this research is the last part of a series of chapters in this research, which consists of conclusions, summary of the research and the recommendations related to the research topic.