



## **CHAPTER III**

### **RESEARCH METHOD**

#### **A. Types of Research**

The type of this research is a sociological or empirical research, because this research is more emphasis on observation<sup>1</sup> and performed in terms of a particular environment, which is carried out in several regions in Malaysia, i.e Selangor, Kuala Lumpur, Pulau Pinang, Negeri Sembilan, and Pahang, especially migrant workers (*TKI*) who practice *sirri* marriage. Empirical research is research that seeks to observe the facts of law in society requires knowledge to be observed

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<sup>1</sup> Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum* (Bandung: Mandar Maju, 2008), p. 125.

and verified publicly. Starting point of observation lies in the social fact in the midst of the life as life culture of society.<sup>2</sup> The social factor in Indonesian migrant workers (*TKI*) that *sirri* marriage practice became a phenomenon.

This research emphasis on the discussion of the problems that done by looking at the interrelationships between law and the social reality in the society which causes consequences on various aspects of life.<sup>3</sup>

## **B. Research Approach**

The type of approach is a comparative approach (comparative approach), is reviewing the law by comparing the laws of a country with laws of other countries, or comparing the customary law of region with other region of the country. Comparative approach also caps a comparison of schols and religious sects.<sup>4</sup> In this research, researcher comparaship on the Marital law No. 1 of 1974 with Enakmen Islamic Family Law, of Selangor in 1984 which contains provisions marriage.

Descriptive study aimed accurately describe the properties of an individual, the state, or the symptoms of a particular group, or to determine the spread of a phenomenon, and determine a relationship between symptoms with other symptoms in the community.<sup>5</sup> This research describes the *sirri* marriage phenomenon among migrant workers in some regions in Malaysia (Selangor,

<sup>2</sup> Bahder Johan Nasution, *Metode Penelitian* (Bandung: Mandar Maju, 2008), p. 125.

<sup>3</sup> Liza Wahyuninto, *Problematika Pemenuhan* p. 49.

<sup>4</sup> Pedoman Penulisan Karya Ilmiah Fakultas Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang, (Malang; UIN Press, 2012), p. 21.

<sup>5</sup> Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: PT Raja Grafindo Persada, 2006), p. 25.

Kuala Lumpur, Penang and Pahang). The process, factors and impact of *sirri* marriage practice.

### C. Source of Data

According to Moleong (1998), the source data of qualitative research is view the form of words spoken or written that is observed by the researcher, and the objects were observed to detail that can be captured in document implied meaning or object. Supposed source of data is origin, but if the original hard to find, copy, or imitation does not matter, as long as can be obtained strong evidence that legalization position. Empirically qualitative data sources mentioned these can be broadly divided into two, namely human and non-human. The human and are not human of source data beings selected according to the needed of research.<sup>6</sup>

The source data of this research are:

#### 1. Primary Data

The primary data is the verbal or words spoken orally, gestures or behavior by subjects who can be trusted. The subjects of this research is the informants who related to the variables studied.<sup>7</sup> Primary data is got from the habit of the society.<sup>8</sup> In this research, 10 Indonesian migrant workers (*TKI*) who practice *sirri* marriage, *ustadz i.e penghulu profession*, a third secretary (consular affairs) of

<sup>6</sup> Suharsimi Arikanto, *Prosedur Penelitian Suatu Pendekatan Praktik* (Jakarta: Rineka Cipta: 2010), p. 22.

<sup>7</sup> Suharsimi Arikanto, *Prosedur Penelitian*, p. 22

<sup>8</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Penerbitan Universitas Indonesia (UI), 1986), p. 12.

the Embassy of the Republic of Indonesia , an employee of the Position of Islam in Selangor (JAIS), the lecture of Islamic Studies faculty of Universiti Kebangsaan Malaysia is DR. Zuliza, Dwi a travel agency owner from Banyuwangi, and Agus an Indonesia citizen who got blue IC (identification card) will be the source of data .Observation and interviews are the methods that have been selected to collect data.

## 2. Secondary Data

Secondary data is obtained from graphical documents (tables, records, note Short Message Sent (SMS) etc), photographs, films, recordings vidio, and others objects which can enrich the primary data. <sup>9</sup> The secondary data from recorded interviews with migrant workers who practice of *sirri* marriage, *ustadz i.e penghulu profession* who has good knowledge of religion are often asked to marry fellow workers in Malaysia, Mrs. Alia Fitria a third secretary (consular affairs) of the Embassy of the Republic of Indonesia , Mr. M. Azizan an employee of the Position of Islam in Selangor ( JAIS ), the lecture of Islamic Studies faculty of Universiti Kebangsaan Malaysia is DR. Zuliza, Dwi a travel agency owner from Banyuwangi, and Agus an Indonesia citizen who got blue IC (identification card).

Additional of secondary data is photos when interviews with the informant i.e migrant workers, employee of Embassy, Position of Islam in Selangor, lecture of University Kebangsaan Malaysia and travel agency owner. The letters were obtained from the Embassy relevant birth documents, *borang* (blangko) of registered marriage from the Position of Islam (JAIS) in selangor associated to

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<sup>9</sup> Suharsimi Arikanto, *Prosedur Penelitian*, p. 22

other citizen, if want marriage in Malaysia. Books in relation on *sirri* and *sindeket* marriage, marital law no. 1 of 1974 and Islamic Family Law, of Selangor 1984.

#### **D. Location**

This research began on 10 October<sup>th</sup> 2013 until 27 February<sup>th</sup> of 2014. Malaysia was selected as the location of this research due to several considerable reasons. First, Malaysia is a country that a lot of Indonesia citizen as migrant workers. Supervisory Team of the data Protection of Indonesian Workers Abroad (TP2TKILN) House of Representatives (DPR RI) the number of migrant workers in Malaysia at the moment is five (5) million Indonesian citizens. However, data from the Ministry of Foreign Affairs is migrant workers who has recently recorded around 2.5 million,<sup>10</sup> and the rest of them are illegal. Second, explanation from Dwi a travel agency owner from Banyuwangi, the case of migrant workers (*TKI*) in Serawak state of Malaysia, nearly 90% of them practice *sirri* marriage.<sup>11</sup> But, this research focused in Selangor state only, and additional data, the researcher done observation in Indonesia country, specially in Banyuwangi and Pasuruhan city (Plampangrejo, Kaliploso and Sempu village in Banyuwangi, and Wonorejo village in Pasuruhan).<sup>12</sup> The researcher got information of migrant workers who practice *sirri* marriage not only in Selangor state, but also, in some regions in Malaysia i.e Selangor, Kuala Lumpur, Pulau Penang and Pahang.

<sup>10</sup> Amnesti berakhir, Masih ada Ratusan Ribu Tki Ilegal di Malaysia”, Gresnews.com, Thursday, 20 Februari 2014, p. 1.

<sup>11</sup> Dwi, *interview* (Plampangrejo, 13 Februari<sup>th</sup> 2014).

<sup>12</sup> Indonesia migrant workers who return to Indonesia or vacation/holiday (free from Job) or TKI who no come back to Malaysia.

## E. Data Collection Techniques

In order to obtain a clearly description and detail, the researcher used the following techniques:

1. *Indepth interviews*, the collection of social facts by giving question and answer directly. The purpose of indepth interview is intended to obtain the correct and accurate information from sources previously defined.<sup>13</sup> Information that getting from this interview can be wrote down or recorded. The informants is:
  - a. Practitioner of *sirri* marriage is Migrant workers, and *ustadz i.e penghulu profession* who has good knowledge of religion are often asked to marry fellow workers in Malaysia<sup>14</sup> as "resource person" they are the main actors, and an individual or a group will given the information about practice of *sirri* marriage.
  - b. Mrs. Alia Fitria a third secretary (consular affairs) Employees of Embassy of the Republic of Indonesia Kuala Lumpur. They are the most vital subsystem as a government that have duty in providing services to migrant workers in Malaysia, because, most of migrant workers have a lot problems that they face in Malaysia.
  - c. Academic is DR. Zuliza as the lecture of Islamic Studies faculty of Universiti Kebangsaan Malaysia. Dwi a travel agency owner from Banyuwangi, and Agus an Indonesia citizen who got blue IC

<sup>13</sup> Bahder Johan Nasution, *Metode Penelitian*, p. 167-168.

<sup>14</sup> Ustadz or TKI who be god knowldge about Religion (have mondok) and be a ustadz in malaysia.

(identification card). Snowball-sampling techniques will be used. This involves a sample selection process through which one respondent may leads to another.<sup>15</sup>

2. *Observation Research*, data collection technique which conduct direct observation of symptoms research subjects, were carried out in the actual situation or in relief situations, specifically held.<sup>16</sup> In this research, used a type of passive observation, is the researcher did not participate in the activities performed by the actors/informants and do form social relationships with the them.<sup>17</sup> Passive involvement was conducted by researcher directly by visiting *ustadz i.e penghulu profession* and migrant workers's home in some regions of Malaysia i.e Selangor, Pulau Penang, Kuantan, and Pahang. The research went to the Embassy of Republic of Indonesia to obtain additional information, visit the Position of Islam in Selangor (JAIS) to obtain additional information related in marriage and divorce procedures in Malaysia, performed by the Indonesian citizens who want marriage in Malaysia. The researcher are only doing interviews and not directly involved in the process of *sirri* marriage migrant workers in Malaysia.
3. *Documentary research*; is examine the data that provide information, explanations, and references to this research. This document can be personal or agencies that have relevance to the context of this research. As the way to test the validity of the data as follows:

<sup>15</sup> Suharsimi Arikanto, *Prosedur Penelitian*, p. 23.

<sup>16</sup> Burhan Ashshofa, *Metode Penelitian*, p. 26.

<sup>17</sup> Burhan Ashshofa, *Metode Penelitian*, p. 28.



- a. Personal approach <sup>18</sup>with the informant is expected to reduce the subjectivity of the information provided.
- b. Discussions with other researchers about similar research.<sup>19</sup>

## **F. Data Processing Method**

### **a) Editing**

The data obtained from the observation by interviewing respondents migrant workers who practice *sirri* marriage in Malaysia, then examined again that the data obtained are good and can be prepared for the next process. Before the data collected will be processed, researcher checked back all the data by reading it once again, to determine the data is still wrong or dubious, in this stage the researcher will examine the data in terms of completeness of answers, clarity of writing, understanding, consistency of response, and the feasibility of providing the data. If researcher find less in these data revision immediately by asking friends who company/deliver researcher when observation in Malaysia via short messages from mobile phones. In this way is expected to improve the quality of data to be processed and analyzed.<sup>20</sup>

### **b) Classifying**

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<sup>18</sup> Personal approach are cultural approach by visiting Kongsu or migrant worker's home who practice *sirri* marriage and doing unstructure speaking with them, to avoid distrustful from migrant workers about *sirri* marriage. Because, very difficult to get information about *sirri* marriage, the practitioner which further impresses that they do not want people to know that their marriage is a *sirri* marriage.

<sup>19</sup> Syukri Fathudin AW dan Vita Fitria, *Problematika Nikah*, p. 14.

<sup>20</sup> Liza Wahyuninto, *Problematika Pemenuhan*, p. 53.



All data were obtained from interviews migrant workers who practice sirri marriage in some regions in Malaysia must read, researched in depth, and classified according to the requirement. In this process the researcher to sort out the data that have been edited before in accordance with the divisions required in the data exposure.<sup>21</sup>

#### c) Verifying

The next stage of verification (verifying), is step in research to obtain data and information from the observation must be cross-check again to be recognized validation by the reader. This way of this stage by the data from informants respon is classified, then check back validity of the data again to be recognized and easier reseacher in the data analysis.<sup>22</sup>

#### d) Analysing

A process of simplification of data into a specific shape that is easier to read and interpret. In this analysis will be used relevant theories. The researcher will analyze and present the data obtained from the observation migrants workers who practice of *sirri* marriage, in the part of interview or documentation<sup>23</sup>

#### e) Concluding

Is the the results or conclusions of a research process, the culmination of this research. Anxiety of the background will soon get the answer. In this concluding process, the reseatcher conclude the findings from the observation to solved issues that have been presented in the formulation of the problem.

<sup>21</sup> Liza Wahyuninto, *Problematika Pemenuhan*, p. 53.

<sup>22</sup> Liza Wahyuninto, *Problematika Pemenuhan*, p. 54.

<sup>23</sup> Liza Wahyuninto, *Problematika Pemenuhan* p. 54.

## G. Data Analyzing Methods

The contains of analysis data is a description the analysis methods was described of the analysing data and the benefits complite data for using in solving research problems. In empirical research as researcher build theory by analyzing the social facts to explain by legal aid or otherwise, the law was explained by the social facts that existing and develop in society.<sup>24</sup>

Analysis method is descriptive analysis, begins by classifying the same data and information according to sub-aspect and do the interpretation to give meaning to each sub-aspect and their relationship each other. The data gathered will be analyzed through *munakahat* approach of *taukil* of guardian theory, and comparaship on the Marital law No. 1 of 1974 with Enakmen Islamic Family Law, of Selangor in 1984 which contains provisions marriage. The verification of collected data is the last step in this research. It means that, after it is analyzed, the data will be related to existing theories in order to help to lend empirical support.<sup>25</sup>

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<sup>24</sup> Bahder Johan Nasution, *Metode Penelitian*, p. 174.

<sup>25</sup> Bahder Johan Nasution, *Metode Penelitian*, p. 174.