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APPLICATION OF THE LEX SPECIALIS PRINCIPLE TO THE NON-PROCEDURAL PLACEMENT OF INDONESIAN MIGRANT WORKERS THROUGH BATAM: BETWEEN THE MIGRANT WORKER PROTECTION LAW AND THE ANTI-TRAFFICKING LAW (A STUDY OF BATAM DISTRICT COURT DECISIONS)

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Abstract

Batam is one of the main departure points for Indonesian migrant workers who leave for Malaysia and Singapore outside official procedures. Prosecutors can charge the same conduct under Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers (the PPMI Law) or under Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons (the TPPO Law), yet the two laws protect different interests and carry different penalties. This study examines how the lex specialis principle determines which law applies and how the Batam District Court has chosen between them. It uses normative legal research with statutory, conceptual, and case approaches, and it analyzes five Batam District Court decisions issued between 2020 and 2025. The findings show that the two laws do not stand in a general and special relationship, because neither contains all the elements of the other. The PPMI Law punishes placement outside the lawful procedure, while the TPPO Law requires proof of an exploitative purpose. In all five decisions the court convicted under the PPMI Law, and in one case it rejected the trafficking charge because exploitation was not proven. The study recommends treating such conduct as a concurrence of offences, investigating indicators of exploitation before departure, and issuing Supreme Court guidelines on charging.

Keywords: Batam, Human Trafficking, Lex Specialis, Migrant Workers, Non-Procedural Placement

INTRODUCTION

Batam lies a short ferry ride from Singapore and the Malaysian state of Johor. Its international ferry ports appear again and again in criminal cases involving Indonesian migrant workers who leave without going through the official placement procedure. Between 1 and 16 November 2024 alone, the Riau Islands Regional Police uncovered 14 trafficking cases, named 25 suspects, and rescued 29 victims bound for Singapore, Malaysia, and Cambodia. One of those cases involved a civil servant of the Batam Free Trade Zone Authority (BP Batam) who was assigned to the port and allegedly received Rp800,000 for each group of workers he let board (Antara Kepri, 2024). The problem is national as well as local. Sukman et al. (2025) report that 2,149 trafficking victims were rescued in 2023, and Indradewi and Ginting (2024) note that the national anti-trafficking task force received 757 reports of trafficking that included forced labor and the exploitation of ship crews.

Two statutes govern this conduct. Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers (the PPMI Law), as amended by Law Number 6 of 2023 on Job Creation, regulates who may place workers abroad and under what conditions. It prohibits placement by individuals in Article 69, and Article 81 punishes an individual who places workers with up to 10 years' imprisonment and a fine of up to Rp15 billion. Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons (the TPPO Law) punishes trafficking. Its Article 4 targets anyone who brings an Indonesian citizen out of Indonesia with the intent that the person be exploited abroad, and at the time of the decisions examined here it carried three to 15 years' imprisonment and a fine of Rp120 million to Rp600 million. Recruiting a worker, housing the worker in Batam, and putting the worker on a ferry can satisfy both laws at once.

When one act falls under two criminal provisions, the choice of provision is governed by Article 63 of the Criminal Code (KUHP) that applied to the decisions examined in this study. Article 63(1) applies the heaviest principal penalty when a single act falls under more than one provision, while Article 63(2) provides that if an act

falls under a general provision and also under a special one, only the special provision applies. Both the PPMI Law and the TPPO Law are special statutes outside the Criminal Code, so the question is not simply whether a special law prevails over the Code. The question is which of two special laws applies, or whether both do. The answer matters. A conviction under the TPPO Law recognizes the worker as a victim of trafficking, carries a minimum prison term, and gives the victim an express right to restitution under Article 48. Nola (2023) argues that the PPMI Law reinforces the TPPO Law rather than replacing it, which suggests that the two laws were meant to work together, not to exclude each other.

Earlier studies have looked at the protection policy for migrant workers or at single decisions. Ilham et al. (2023) analyze a decision of the Praya District Court that convicted a participant in illegal placement under Article 81 of the PPMI Law, and Zakariya (2023) identifies problems in the way the PPMI Law criminalizes conduct. None of these studies asks how the lex specialis principle should guide the choice between the PPMI Law and the TPPO Law, or how a border court has actually made that choice. This article addresses two questions: first, how the relationship between the two laws should be understood under the lex specialis principle; and second, how the Batam District Court applied the two laws in cases of non-procedural placement decided between 2020 and 2025.

LITERATURE REVIEW

The Lex Specialis Principle and Concurrence of Provisions

The maxim lex specialis derogat legi generali means that a special rule sets aside a general rule on the same matter. In Indonesian criminal law it is codified in Article 63(2) of the Criminal Code. Legal doctrine distinguishes two forms. Logical specialty (logische specialiteit) applies when a special provision contains every element of a general provision plus one or more additional elements. Systematic specialty (systematische specialiteit) is used when two special laws regulate the same conduct and the court must decide which of them governs. Hiariej (2021) proposes three parameters for systematic specialty: the law's substantive criminal rules depart from the general rules of the Criminal Code, its procedural rules depart from the Code of Criminal Procedure, and its addressees are a special group of legal subjects. Applying these parameters, he concludes that tax criminal law qualifies as systematic lex specialis, while banking and corruption laws, whose addressees are general, do not meet them in the same way.

Batistuta and Purnawan (2024) describe how systematic specialty works in practice. Courts look at the subjects involved, the object of the violation, the evidence, and the area in which the offence took place, and then apply the law that dominates those factors. Where the two laws do not stand in a general and special relationship, Article 63(1) of the Criminal Code applies instead. That provision treats the case as concursus idealis, or concurrence of provisions arising from a single act, and imposes only the provision with the heaviest principal penalty.

Non-Procedural Placement and Trafficking in Persons

Research on migrant workers shows that the line between irregular migration and trafficking is often blurred. Sirait and Narwastuty (2022) distinguish migrant smuggling, which may rest on an agreement between the migrant and the smuggler, from trafficking, which is defined by its exploitative purpose. They argue that international law favors not criminalizing migrants who consent to being smuggled, while Indonesian practice still allows them to be prosecuted. Utomo and Arifin (2025) find that Indonesia has a fairly comprehensive legal framework, mainly the PPMI Law and the TPPO Law, but that its implementation is weak for undocumented workers, who fall outside the official placement system and therefore outside state protection.

Studies of the PPMI Law point to problems of design and enforcement. Zakariya (2023) identifies four reasons to reform its criminal provisions: continuing violations of workers' rights, the existing guarantees of legal protection, problems in how conduct is criminalized, and the limited capacity and authority of the Ministry of Manpower's civil servant investigators. Nola (2023) notes that the PPMI Law imposes fines far higher than those in the TPPO Law and lists PPMI provisions that address conduct related to trafficking, such as falsifying a worker's age and sending workers without complete documents. She also observes that trafficking prosecutions remain few and attributes this to weak enforcement, unclear definitions, and under-reporting. Sukman et al. (2025) reach a similar conclusion: the two statutes offer strong protection on paper, but enforcement gaps persist.

The regional dimension adds to the difficulty. Agusmidah et al. (2025) attribute the stalled protection of migrant workers in ASEAN to the absence of binding minimum standards, weak enforcement mechanisms, and member states' resistance to supranational authority. Harini (2025) finds systemic gaps in Indonesia's cross-border protection and argues that ASEAN's fragmented institutions make it easier for trafficking networks to operate. Taken together, the literature explains why non-procedural placement persists, but it does not examine how courts choose

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between the PPMI Law and the TPPO Law when both could apply. This study fills that gap by analyzing decisions of the Batam District Court.

METHOD

This study is normative legal research. It uses three approaches. The statutory approach examines Article 63 of the Criminal Code, the PPMI Law as amended by Law Number 6 of 2023, and the TPPO Law. The conceptual approach examines the doctrines of logical and systematic specialty, concurrence of provisions, and exploitation as an element of trafficking. The case approach examines five decisions of the Batam District Court issued between 2020 and 2025 in cases where workers were recruited or held in Batam for placement abroad outside the lawful procedure.

The primary legal materials are the statutes and court decisions. The secondary legal materials are journal articles published between 2021 and 2025 in journals accredited by SINTA or indexed in Scopus. Contextual data on enforcement in Batam come from police statements and court reports published by news outlets. The facts of the decisions were taken from published case analyses and court reports, because the full texts of some decisions could not be retrieved. For the two decisions issued in 2025, the sources consulted do not state the case numbers, so those decisions are identified by the date of pronouncement and the names of the defendants. The materials were analyzed qualitatively, and the conclusions were drawn through prescriptive legal reasoning.

RESULTS AND DISCUSSION

Patterns in the Batam District Court Decisions

Table 1 summarizes the five decisions. They cover different kinds of placement, including fishing vessel crews, workers bound for Malaysia and Singapore, and welders recruited for a company in Singapore. In every case the workers were recruited or held in Batam and were to cross the border through one of the city's international ferry ports.

Table 1. Batam District Court decisions on non-procedural placement of migrant workers, 2020 to 2025

Decision	Facts	Provisions applied	Sentence
No. 929/Pid.Sus/2020 /PN Btm	Placement of Indonesian fishing vessel crew by PT MJM Abdi Baruna, which held no SIP3MI, SIP2MI, or SIUPPAK; the court treated the company as an individual placer	PPMI Law, prohibition on placement by individuals	1 year 4 months' imprisonment and a fine
No. 587/Pid.Sus/2022 /PN Btm	42 workers found at a shophouse in Batu Ampar on 30 June 2022, ready to leave for Malaysia through Harbour Bay or Batam Centre port	Art. 81 jo. Art. 69 PPMI Law (alternative indictment)	Imprisonment; term not reported in the source consulted
No. 372/Pid.Sus/2023 /PN Btm	Joint placement of migrant workers without the right to do so	Art. 83 jo. Art. 68 PPMI Law jo. Art. 55(1)(1) KUHP (second primary count)	4 years and Rp50 million (3 months in lieu)
Decision of 3 July 2025 (Misno and Roni Suryadi)	Five workers recruited for work in Singapore; three left through Batam Centre port on 29 Oct 2024, two were stopped on 31 Oct 2024	Charged in the alternative under the TPPO Law and the PPMI Law; TPPO charge rejected for lack of proof of exploitation; convicted under the PPMI Law	2 years and Rp200 million (prosecutor sought 3 years)

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Decision	Facts	Provisions applied	Sentence
Decision of 15 Oct 2025 (Tan Pek Hee)	Singaporean manager recruited welders for a Singapore parent company without SIP2MI; workers stopped at Batam Centre port before departure	Art. 86(c) jo. Art. 72(c) PPMI Law jo. Art. 55(1)(1) KUHP	1 year and Rp100 million

Source: compiled from Daun and Rulli (2025) for Decision No. 929/Pid.Sus/2020/PN Btm; the Universitas Riau Kepulauan repository for Decision No. 587/Pid.Sus/2022/PN Btm; Manullang et al. (2024) for Decision No. 372/Pid.Sus/2023/PN Btm; Batam Pos (2025); and Dandapala (2025).

Three patterns emerge from the table. First, the court convicted under the PPMI Law in all five cases. The provisions varied, from the prohibition on placement by individuals in Articles 69 and 81 to the requirement of a placement permit (SIP2MI) in Articles 72(c) and 86(c), but none of the convictions rested on the TPPO Law. Second, the sentences ranged from one year to four years' imprisonment. In three of the four cases where the term is known, the sentence was below the three-year minimum that Article 4 of the TPPO Law carried at the time. Third, the decision of 3 July 2025 shows that the TPPO Law was not ignored but tested and rejected. The prosecutor charged the defendants in the alternative under both laws, and the court found that the element of exploitation had not been proven. It then convicted the defendants of jointly placing workers abroad without a lawful procedure (Batam Pos, 2025).

The facts of that case are worth noting. One defendant acted as the link between a man named Heri and the prospective workers and received Rp6.9 million in transfers, and another handled documents and financing. Three women had already left through the Batam Centre ferry port on 29 October 2024, and two more were stopped at the same port two days later (Batam Pos, 2025). The workers who were stopped had not yet been exploited, and the workers who had left were beyond the reach of Indonesian investigators. This illustrates a structural problem: in a transit city, the exploitation that the TPPO Law requires usually happens, if at all, after the border has been crossed.

Is the PPMI Law Lex Specialis to the TPPO Law?

The court's consistent choice of the PPMI Law could be read as an application of the lex specialis principle, on the view that a law written specifically for migrant workers is more special than a general law on trafficking. That reading does not survive a comparison of the elements of the two offences, which Table 2 sets out.

Table 2. Comparison of the placement offences in the PPMI Law and Article 4 of the TPPO Law

Aspect	PPMI Law placement offences	Art. 4 TPPO Law
Legal interest protected	An orderly, licensed, and supervised placement system	The person's liberty and dignity against exploitation
Core conduct	Placing workers abroad as an individual, without the right to do so, or without a placement permit	Bringing an Indonesian citizen out of Indonesia
Purpose element	None; the offence is complete when the placement occurs outside the procedure	Intent that the person be exploited abroad
Licensing status	Lack of license or permit is an element	Not an element; licensed agencies can also commit the offence
Victim's consent	Not addressed as an element	Does not remove criminal liability (Art. 26)
Penalty at the time of the decisions	Art. 81: up to 10 years and up to Rp15 billion	3 to 15 years and Rp120 million to Rp600 million

Source: compiled from the PPMI Law, the TPPO Law, and Nola (2023).

Logical specialty requires the special provision to contain every element of the general provision plus something more. Article 4 of the TPPO Law does not require that the placement be carried out without a license or

outside the official procedure, so a licensed agency that sends workers abroad to be exploited still commits trafficking. The PPMI placement offences, for their part, do not require any exploitative purpose, so a broker who sends workers to genuine jobs without a permit still commits a PPMI offence. Each provision has an element that the other lacks. Neither is the general form of the other, and Article 63(2) of the Criminal Code does not apply.

Systematic specialty does not give the PPMI Law priority either. Under the parameters set out by Hiariej (2021), a law qualifies as systematically special when, among other things, its addressees are a special group of legal subjects. The PPMI offences applied in Batam are addressed to individuals and to "every person", which are general addressees. The factor-based approach described by Batistuta and Purnawan (2024) leads to the same result. The subjects in the Batam cases are brokers and recruiters, the object is the worker's departure, and the evidence concerns documents, permits, and payments. These factors point to the PPMI Law only when there is no evidence of exploitation. Once there is evidence of deception about the job, debt imposed on the worker, or confiscation of documents, the dominant interest becomes the worker's liberty and dignity, and that interest is protected by the TPPO Law.

The better view is that the two laws protect different legal interests and can apply to the same act at the same time. The PPMI Law protects an orderly and supervised placement system. The TPPO Law protects the person against exploitation. When a single act satisfies both, the case is one of concursus idealis under Article 63(1) of the Criminal Code, and the provision with the heaviest principal penalty applies. For prison terms, that provision is Article 4 of the TPPO Law, with a maximum of 15 years against the 10 years in Article 81 of the PPMI Law. This conclusion is consistent with the view of Nola (2023) that the PPMI Law reinforces the TPPO Law rather than displacing it. The Batam decisions therefore do not show the lex specialis principle at work. They show a choice of evidence: prosecutors charge in the alternative, and the court convicts under the offence that can be proven from documents and payment records.

Consequences for Victims and for Enforcement in Batam

The choice of law shapes how the worker is treated. A conviction under the PPMI Law frames the case as a breach of placement procedure, and the worker appears in the record as someone whose departure was irregular. A conviction under the TPPO Law frames the worker as a victim. The TPPO Law also provides that the victim's consent does not remove criminal liability (Article 26), which matters in Batam because many workers agree to leave through informal channels. Sirait and Narwastuty (2022) and Utomo and Arifin (2025) both argue that workers in this position should be protected rather than blamed, and the TPPO Law is the instrument that gives that protection legal form.

The Batam cases also suggest where enforcement fails. In the 2022 and 2025 cases the workers were routed through official international ports, and the 2024 police operation implicated a BP Batam employee who was assigned to the port (Antara Kepri, 2024). The problem is not only that workers slip across unguarded coasts. Brokers use the official route, sometimes with help from inside. This matches the findings of Agusmidah et al. (2025) and Harini (2025) that weak cross-border mechanisms allow trafficking networks to operate, and it means that evidence of exploitation will often have to be gathered through cooperation with the authorities in Singapore and Malaysia.

Three measures follow from this analysis. First, where there are indications of exploitation, prosecutors should charge the TPPO offence as the primary count and the PPMI offence as a subsidiary count, rather than presenting them as equal alternatives. This structure requires the court to address the trafficking charge first and to explain why it fails before it turns to the PPMI offence. Second, investigators in Batam should collect evidence of exploitation before departure, including fees or debts imposed on workers, promises about wages or jobs that do not match the real arrangement, documents held by the broker, and payments received from employers abroad. Third, the Supreme Court should issue guidelines on charging and deciding cases in which the PPMI Law and the TPPO Law overlap, so that the result no longer depends on how a particular indictment is drafted. Cases decided after 2 January 2026 will also be governed by the concurrence rules of the new Criminal Code (Law Number 1 of 2023), which this study does not examine.

CONCLUSION

The PPMI Law and the TPPO Law do not stand in a general and special relationship. The PPMI placement offences punish placement outside the lawful procedure without requiring any exploitative purpose, while Article 4 of the TPPO Law requires an intent to exploit but does not require that the placement be unlicensed. Because each has an element the other lacks, neither logical nor systematic specialty gives one law priority over the other. When

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a single act satisfies both, it is a case of concurrence under Article 63(1) of the Criminal Code, and the provision with the heaviest principal penalty, Article 4 of the TPPO Law, should apply.

In the five decisions examined, the Batam District Court convicted only under the PPMI Law, with sentences of one to four years' imprisonment. In the one case where a trafficking charge was tested, it failed because exploitation was not proven, which reflects the difficulty of proving exploitation in a transit city before the worker crosses the border. The choice of the PPMI Law in these cases is a matter of proof, not of lex specialis. Prosecutors should charge trafficking as the primary count where there are signs of exploitation, investigators should gather evidence of exploitation before departure and through cooperation with Singapore and Malaysia, and the Supreme Court should issue guidelines for cases in which the two laws overlap. Further research should examine the full texts of a larger set of Batam decisions and the application of the concurrence rules of the new Criminal Code.

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