

## **Prevention of The Crime Of Trafficking in Persons (TPPO) in Cases Of Illegal Sending Indonesian Migrant Workers (PPMI) Overseas as Foreign Ship Crew**

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### ***Abstract***

Human trafficking is a transnational crime in the form of human smuggling and is the third largest transnational crime in the world after drugs and weapons. Some of the contributing factors are cheap labor, low risk, high reward, and sexual demands. From 2017 World Bank data, there are 9 million Indonesians working abroad and only 4.7 million are recorded in SISKOP2MI (Indonesian Migrant Worker Protection Computer System), the remaining 4.3 million people are illegal. This is the background to which this research was conducted. It is not easy to prevent and eradicate criminal acts of trafficking in persons (TPPO) because it requires the seriousness of many parties, from the police, courts, public prosecutors to the Ministry. Human trafficking has various modes, apart from the perpetrators and victims, it must always be understood in terms of legal definitions. Without theoretical guidelines and legal norms, it would be dangerous because it could lead to wrong shots, for example in determining a suspect. This research uses secondary legal materials, a case approach and uses prescriptive analysis. It is hoped that the results of this analysis can provide input for efforts to prevent and eradicate TIP in the jurisdiction of each Regional Police/Polres.

***Keywords: TPPO prevention; Determination of the suspect; illegal PPMI .***

### **Abstract**

Perdagangan manusia merupakan kejahatan transnasional berupa penyelundupan manusia dan merupakan kejahatan transnasional terbesar ketiga di dunia setelah narkoba dan senjata. Beberapa faktor penyebabnya adalah tenaga kerja murah, risiko rendah, imbalan tinggi, dan tuntutan seksual. Dari data Bank Dunia tahun 2017, terdapat 9 juta penduduk Indonesia yang bekerja di luar negeri dan tercatat di SISKOP2MI (Sistem Komputer Perlindungan Pekerja Migran Indonesia) hanya 4,7 juta, sisanya 4,3 juta orang secara ilegal. Hal tersebutlah yang menjadi latar belakang penelitian ini dilakukan. Tak mudah mencegah dan memberantas tindak pidana perdagangan orang (TPPO) karena diperlukan keseriusan banyak pihak mulai dari kepolisian, pengadilan, penuntut umum sampai Kementerian. Perdagangan orang

memiliki beragam modus di samping itu pelaku, dan korban selalu harus dipahami dari sisi definisi hukum. Tanpa rambu-rambu teori dan norma hukum akan berbahaya karena bisa salah bidikan misalnya dalam penetapan tersangka. Penelitian ini menggunakan bahan hukum sekunder, pendekatan kasus dan menggunakan analisis preskriptif. Hasil analisis ini diharapkan dapat memberikan masukan bagi upaya pencegahan dan pemberantasan TPPO di wilayah hukum masing-masing Polda/Polres.

**Kata Kunci: pencegahan TPPO; penetapan tersangka; PPMI ilegal.**

### **Introduction**

Human trafficking has become a rapidly growing organized crime activity, because labor is cheap, low risk, high reward, there is a demand for sexual needs. According to the US Ministry of Foreign Affairs' 2018–2019 annual report, there are several countries with a bad rating in handling human trafficking cases (Belarus, Russia, Iran, Turkmenistan). Cases of human trafficking for Indonesia as one of the destination countries and the place of origin of the victims.

According to BP2MI, more than 1,900 people died due to TIP. Specifically in NTT, from January to May there were 55 bodies returned home and 94 thousand TKI deported from Middle Eastern and Asian countries, 90% of whom were sent by illegal syndicates. From World Bank data in 2017, there were 9 million Indonesians working abroad and only 4.7 million were recorded in SISKOP2MI (Indonesian Migrant Worker Protection Computer System). So, there are 4.3 million people working abroad illegally. Meanwhile, according to information from Illegal Indonesian Migrant Workers who work abroad as Foreign Ship Crew through PT. Two Indonesian anchors experienced slavery by working 2 days a day, eating, drinking and resting were limited and did not receive salary for 3 months

One of the state institutions that is at the forefront of fighting TIP is the Ministry of Foreign Affairs of the Republic of Indonesia (Kemenlu RI), to prevent and tackle cross-border human trafficking. According to data from the Indonesian Ministry of Foreign Affairs and the United States Embassy (US Embassy), the Indonesian Ministry of Foreign Affairs received reports of human trafficking cases in Indonesia in 2016 –

2021. In 2016 there were 478 cases received by the Ministry of Foreign Affairs; in 2017 there were 340 cases; in 2018 there were 164 cases; in 2019 there were 259 cases; and in 2020 there were 383 cases. Meanwhile, the number of complaints of human trafficking cases involving sending migrant workers to the International Organization for Migration (IOM) during the 2016 - 2018 period in four countries that receive many Indonesian Migrant Workers (TKI). This number is still dominated by Malaysia, in 2016 (1,535 cases); 2017 (1,704 cases); and 2018 (3,133 cases). Complaints from Taiwan in 2016 (442 cases), 2017 (622 cases), 2018 (272 cases), Saudi Arabia in 2016 (1,145 cases), 2017 (874 cases), 2018 (441 cases), while complaints from United Arab Emirates in 2016 (314 cases), 2017 (199 cases) and 2018 (28 cases). 1 Meanwhile, according to data from the Indonesian Migrant Worker Protection Agency (BP2MI), the number of victims from Indonesia who died as a result of TIP was more than 1,900 people, and specifically in East Nusa Tenggara (NTT), from January to May there were 55 corpses (died). world) went home because of TIP.

TIP case report 2016 – 2021; Sending Illegal PMI to the International Organization for Migration (IOM) 2016 – 2018 and victims who died due to TIP as seen in table 1 below:

**Table: 1**  
**TPPO Cases 2016 – 2021, Illegal PMI Sending 2016 – 2018 and**  
**The victim died due to TIP**

No	TIP problems	Information
1	Data from the Indonesian Ministry of Foreign Affairs & US Embassy Indonesian TIP Case Reports 2016 – 2021.	2016 (478 cases); 2017 (340 cases) 2018 (164 cases); 2019 (259 cases); and 2020 (383 cases).
2	Complaints of TPPO cases in sending PMI to the International Organization for Migration (IOM) in 2016 – 2018 in the countries that receive the most migrant workers	a. Malaysia <ul style="list-style-type: none"> <li>• 2016 (1,535 cases)</li> <li>• 2017 (1,704 cases)</li> <li>• 2018 (3,133 cases)</li> </ul> b. Taiwan <ul style="list-style-type: none"> <li>• 2016 (442 cases)</li> <li>• 2017 (622 cases)</li> <li>• 2018 (272 cases)</li> </ul> c. Saudi Arabia <ul style="list-style-type: none"> <li>• 2016 (1,145 cases)</li> </ul>

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	<ul style="list-style-type: none"> <li>• 2017 (874 cases)</li> <li>• 2018 (441 cases)</li> </ul>
	d. United Arab Emirates
	<ul style="list-style-type: none"> <li>• 2016 (314 cases)</li> <li>• 2017 (199 cases)</li> <li>• 2018 (28 cases)</li> </ul>

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3	The victim died according to BP2MI	More than 1,900 people died due to TIP, specifically NTT from January to May 55 people's bodies were returned home due to TIP.
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Source: Secondary data processed.

This research began with the rise of TIP and Indonesian migrant workers working abroad through illegal syndicates died as a result of TIP. The number of TIP cases in 2016 – 2020 was 1,624 cases. The most cases were in 2016 (478 cases) and the fewest were in 2018 (164 cases). Number of PPMI Cases to the International Organization for Migration (IOM) for the 2016–2018 period, the countries receiving the most migrant workers, namely Malaysia (6,372 cases), Taiwan (1,336 cases), Saudi Arabia (2,460 cases), United Arab Emirates (541 cases) and victims More than 1,900 people died due to TIP.

Penelitian ini bermula dari maraknya TIP dan TKI yang bekerja di luar negeri melalui sindikat ilegal meninggal dunia akibat TIP. Jumlah kasus TPPO pada tahun 2016 – 2020 sebanyak 1.624 kasus. Kasus terbanyak terjadi pada tahun 2016 (478 kasus) dan paling sedikit terjadi pada tahun 2018 (164 kasus). Jumlah Kasus PPMI menurut International Organization for Migration (IOM) periode 2016–2018, negara penerima TKI terbanyak yaitu Malaysia (6.372 kasus), Taiwan (1.336 kasus), Arab Saudi (2.460 kasus), United Arab Emirates (541 kasus) dan korban Lebih dari 1.900 orang meninggal akibat TIP.

Prevention of TIP begins with the President's order to the Police, asking the ranks to take quick steps to prevent and eradicate TIP within a month to show the public that the State, Police, TNI and other government officials are here to act quickly. This order was followed up by the Regional Police Chief ordering the Head of the Regional Police

TPPO Task Force and the Police Chief to order Kasatreskrim within one month to uncover cases of human trafficking. It is hoped that this research can provide input for efforts to prevent and eradicate TIP in the jurisdiction of each Regional Police/Polres.

**Problem:**

Based on the above background, the problems in this research are: (1) How are suspects determined in preventing TIP in cases of sending illegal Indonesian migrant workers abroad as crew members of foreign ships? and (2) What is the pre-trial lawsuit regarding the determination of the suspect in the case of illegal PPMI going abroad as a foreign ship's crew and the solution?

**Discussion:****Determination of Suspects in Preventing TPPO Cases of Sending Illegal Indonesian Migrant Workers Abroad as Crew of Foreign Ships**

Prevention of TPPO is carried out through the restructuring of the TPPO Task Force by ordering quick steps within a month to show the public, the State, POLRI, TNI and other government officials to act quickly to prevent TPPO, even though the prevention of TPPO is often hampered by the bureaucracy of the parties who provide support. ) against TIP.

The President reminded government officials not to support TIP and ordered the National Police Chief not to do any backing because this firm action was backed by the State. There is no backing for criminals, the backing for truth is the State, the backing for law enforcement is the State.

The President's order was followed up by the Head of the Central Java Police TPPO Task Force, Brigadier General Pol. Abiyoso Aji, that the Central Java Regional Police will continue to take action against companies or institutions that distribute Indonesian Migrant Workers abroad that ignore the legality of their activities. Even though 26 cases have been uncovered, the TPPO Task Force will not stop enforcing the law on alleged TPPO, because the TPPO case received the President's attention

until the National Police Chief instructed that TPPO law enforcement be followed up by the regional police. Apart from that, the Central Java Regional Police's TPPO Task Force will continue to observe and check companies that distribute migrant workers by collaborating with related stakeholders, including Immigration (visa/passport processing), Ministry of Manpower (permits for labor distribution providers). From a number of cases revealed, facts were found of recruiting and sending workers using tourist visas. Previously, in the jurisdiction of the Pemalang Police, distribution companies sending migrant workers to be employed as ship crew abroad did not have a SIUPPAK issued by the Indonesian Ministry of Transportation or a SIP3MI issued by the Indonesian Ministry of Manpower. From this practice, companies or individuals reap personal profits (fees) of IDR 5 million per worker and the results of investigations by investigators estimate that the accumulated profits are around IDR 2.5 billion and the victims' losses reach IDR 5.3 billion. 3

The order of the Head of the Central Java Police TPPO Task Force was followed up by the Batang Police Chief AKBP. Saufi Salamun, Batang Police succeeded in uncovering the TIP case and secured the suspect and evidence, through the Head of Criminal Investigation Unit of Batang Police, AKP Andi Fajar, the disclosure of the case was carried out after a report was received. "Armed with information, the Batang Police Criminal Investigation Unit conducted an investigation into companies that recruited illegal crew members abroad," (14/06/2023). From the investigation, the Batang Police arrested the suspect MS (35), the main director of the company recruiting prospective crew members to be sent abroad. It is suspected that the suspect does not have SIP2MI and SIUPPAK. During the period April 2022 to June 2023, 72 crew members have been sent abroad. The alleged articles are Primary: Article 4 of the TPPO Law, and Subsidiary: Article 81 in conjunction with Article 86 of the PPMI Law, with a maximum threat of 15 years in prison. 4

Prevention of TPPO is carried out through the determination of the suspect Mohamad Slamet, Director of PT. Two Indonesian Anchors by the Batang Police Chief through the Batang Police Criminal Investigation Unit as Investigator. The criminal

incident is known to have taken place between April 2022 and June 2023 at the PT Office. Dua Anchor Indonesia address Jl. Raya Banjiran Gang.1 Banjiran Village, Warungasem District, Batang Regency, Central Java, that there is a suspicion of a TPPO. Reported party Mohamad Slamet bin (late) Sachorim, 40 years old, male, Muslim, works as a seaman / Director of PT. Two Indonesian Anchors, address Flood Village RT.01 RW.01 Warungasem District, Batang Regency, Central Java Province.

PT. Two Indonesian anchors are known to not have SIUPPAK and SIP3MI documents, but are still carrying out business activities for recruiting and placing ship crew outside the territory of the Republic of Indonesia, reported in Friday, June 9 2023 at 17.00 WIB, IPDA Reporter. Reno, A. Santoso, S.Km, Head of the Women and Children Protection Unit (Kanit PPA), the Reported Party is Mr. Mohamad Slamet Director PT. Two Indonesian Anchors, the criminal act reported is: "Everyone who takes Indonesian citizens outside the territory of the Republic of Indonesia with the intention of exploiting them outside the territory of the Republic of Indonesia, every individual who carries out the Placement of Indonesian Migrant Workers" (Article 4 UU-TPPO jo Article 69 in conjunction with Article 81 UU-PPMI).

Witnesses: (1) Maryono bin Trisno Paidi, 41 years old, male, Muslim, Polri, Jl. Orchid No.29 RT.01 RW.03 Pasekaran Village, Batang, (2) David Qirmades bin Sanyoto, 27 years old, Male, Muslim, Polri, Dk Terate Lor RT.03 RW.06 Kel Kasepuhan Batang, (3) Afina Rizkiana, 26 years old, Female, Muslim, Employee of PT. Two Indonesian Anchors, Address of Flood Village, Warungasem Batang District. Evidence: (1) One Deed of Establishment of the Company PT. Two Indonesian Anchors, (2) Two NIB sheets. PT. Two Indonesian Anchors and (3) One sheet of SIUPPAK Application Letter.

Requesting information from several experts: (1) IW Umbara, MMTr., (Expert from the Ministry of Transportation), the Director General of Maritime Transportation and the Indonesian Ship Crew Placement Company for Foreign Ships issued a Permit for the Recruitment and Placement of Indonesian Ship Crews Domestically/Abroad, in the form of SIUPPAK; (2) Budhi H. Laksana, SH., (Expert from the Ministry of

Manpower), Companies recruiting overseas workers are required to have SIP3MI/SIP2MI; (3) Dr. Aulia, SH. M. Hum., (Criminal Expert), Ship Agent companies are required to have a SIUPPAK, as regulated in Article 4 paragraph (5) of the Minister of Transportation Regulation Number PM 84 of 2013 concerning Recruitment and Placement of Migrant Workers, they are required to have a SIP3MI. Asking for information from the suspect: Mr. Mohamad Slamet Director PT. Two Indonesian anchors explained that PT. Two Indonesian Anchors receive a fee from the Ship Company per crew member of IDR 1,200,000 (one million two hundred thousand rupiah). Documents owned by PT. Two Indonesian Anchors: Deed of Company Establishment Decree of the Minister of Law and Human Rights, NIB, Company Operational Permit, and Location Permit.

PT. Two Indonesian Anchors operate on Jl. Raya Banjiran Gang.1 Banjiran Village, Warungasem District, Batang Regency, Central Java, from May 2022 to June 2023, they have recruited and placed 72 crew members from Taiwanese, Italian and Spanish companies. In recruiting crew placements, PT. Dua Anchor Indonesia as the company's main director manages Mohamad Slamet's business activities, but PT. Two Indonesian Anchors do not have a Ship Crew Recruitment and Placement Business License (SIUPPAK) and an Indonesian Migrant Worker Placement Company License (SIP3MI).

Make a Police Report Number: LP/A/15/VI/2023/SPKT.Reskrim/Polres Batang/Polda Jateng, dated 9 June 2023; and take legal action, namely: Investigation: Investigation Order Number: SP. Lidik/83/VI/2023/ Criminal Investigation dated 9 June 2023; Investigation: Investigation Order Number: SP. Sidik/83/VI/2023/Reskrim, dated 9 June 2023; Suspect Determination: Suspect Determination Letter Number: S.Tap/102/VI/2023/Reskrim, concerning Suspect Determination, dated 10 June 2023; Arrest: Arrest Warrant Number: SP.Kap/ 89/VI/2023/Reskrim, dated 10 June 2023; Detention: Detention Order Number: SP.Han/81/VI/2023/Reskrim, dated 10 June 2023; & other actions: Crime scene processing, no summons and warrant to bring; Conduct a Search & Confiscation of PT documents. Two Indonesian Anchors.



Based on the facts and analysis, there are indications of a criminal act committed by the suspect, Mohamad Slamet, Director of PT. Two Indonesian Anchors:

PT. Two Indonesian Anchors stand updated 10 May 2021, Deed of Establishment, Number 4, dated 10 May 2021 operational domicile in Dukuhwaru Tegal; December 2021 according to Minister of Law and Human Rights Decree Number: AHU-0074200. AH.01.02 of 2021 dated 21 December 2021 concerning Approval of Amendments to the Company's Articles of Association regarding the domicile of PT. Two Indonesian Anchors moved to Gg.1 Banjiran Village, Warungasem District, Batang Regency, Central Java Province. While operating on Jl. Raya Banjiran Gg.1 Banjiran Village, Warungasem District, Batang Regency, from May 2022 to June 2023, they have recruited and placed 72 crew members at Taiwanese, Italian and Spanish Ship Owner Companies. In recruiting and placing prospective crew members, he acts as the Main Director of Mohamad Slamet PT. Two Indonesian Anchors do not have SIUPPAK and SIP3MI.

This act is regulated and punishable by crime: Primary: Article 4 of Law Number 21 of 2007 concerning Eradication of TIP; and Subsidiary: Article 69 in conjunction with Article 81 of Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers: According to the statements of victims, witnesses, results of crime scene processing, evidence, case analysis, statement of suspect Mohamad Slamet, Banjiran Village, RT. 002 RW.001 Warungasem Batang has been proven to have committed TIP as regulated: Primary: Article 4 of Law Number 21 of 2007 concerning Eradication of TIP; and Subsidiary: Article 69 jo 81 of Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers.

Regarding the acts of exploitation (slavery) experienced by crew members who have worked on foreign shipping companies, Batang Police Tipidter investigators have examined seven witnesses on crew members who have worked on foreign ships and asked for additional information from criminal experts, namely:

Witness 1:

Name Rochimin, place of birth in Batang, November 14 1985, Age 37 years, Gender Male, Indonesian Citizenship, Muslim, Occupation Fisherman, address Dk Kabundelan RT. 04 RW.07 South Karangasem Kel, Batang District, Batang Regency.

Witness 2:

Name Tofan Firmansyah, NIK 3328102903840006, place of birth Jakarta, 29 March 1984, Age 39 years, Gender Male, Religion Islam, Job Entrepreneur, Address Jl. Jati RT.03, RW.04 Kagok Village, Slawi District, Tegal Regency (085869222282).

Witness 3:

Name Alif Muhammad, NIK 3375011803940004, place of birth Pekalongan March 18 1994, Age 29 years, Gender Male, Religion Islam, Job Student, Address Kraton Kidul RT.10 RW.26 Kelurahan Pasir Kramat Kraton, West Pekalongan District, Pekalongan City.

Witness 4:

Name Mugiri, Population Identification Number (NIK): 332709170390001317, place of birth Pemalang, March 17 1990, Age 33 years, Gender Male, Religion Islam, Job Self-employed, address Gondang Village RT.02 RW.01 Kec Taman Pemalang Regency Prov Central Java (083833883850).

Witness 5:

Name Abdul Masruri, place of birth Tegal 24 May 1995, Age 28 Years, Gender Male, Religion Islam, Occupation Laborer, address Dukuh Banjarejo, Banjarejo Village, Warureja District, Tegal Regency (085600315662).

Witness 6:

Name Fela Kurniawan, NIK: 3324162111940004, place of birth Kendal 21 November 1994, Age 29 years, Gender Male, Religion Muslim, Occupation Fisherman, Address Dukuh Randusari RT.02 RW.13 Gempolsewu Village, Rowosari District, Kendal Regency.

Witness 7:

Name Mega Prasetyo, NIK: 330519040001, place of birth Kebumen 4 October 1994, Age 29 years, Gender Male, Religion Muslim, Job Employee, address Dukuh Meton, RT06 RW03, Semanding Village, Gombong District, Kebumen Regency (0882003772843).

The acts of slavery against the seven Indonesian Migrant Workers are as shown in table 2 below:

**Table: 2**  
**Slavery Against Sending Illegal Indonesian Migrant Workers**  
**Going Abroad via PT. Two Indonesian Anchors**

No	Name of Migrant Worker	Information
1	Witness 1: Name Rochimin, Batang, 14 Nov 1985, 37 years old, Male, Indonesian, Muslim, Fisherman, Dk Kabundelan RT. 04 RW.07 South Krasem Batang District/Regency.	Crew August 2022 Taiwan ship in Tanzania 2 year contract, Dec 22 food and drink limited, working hours 20 hours
2	Witness 2: Name Firmansyah, born Jakarta, 29 March 1984, 39 years old, Male, Muslim, Entrepreneur, Jl. Jati RT.03, RW.04 Kel Kagok Kec Slawi Tegal Regency	Trajano Ship Crew 1 month working hours 2 days, 4 hours rest, limited meals, no holidays on Saturdays and Sundays
3	Witness 3: Name Alif M, born in Pekalongan 18 March 1994, 29 years old, male, Muslim, student, Kraton Kidul RT.10 RW.26 Kramat Kraton Pkl Barat Pekalongan City.	Crew salary is 500 USD cut from 900 – 1000 dollars, with 14 crew members divided into 2 ships, 4 months home without salary, limited food and drink, no holidays, working 20 hours a day;
4	Witness 4: Name Mugiri, born in Pemalang, 17 March 1990, 33 years old, male, Muslim, self-employed, Gondang Village RT.02 RW.01 Taman District, Pemalang Regency.	ABK August – Nov 2022 limited food and drink, no holidays, work 20 hours a day, 4 months home get k-4 month's salary, cut Tanzania Indonesia PP ticket;
5	Witness 5: Name Abdul Masruri, born in Tegal 24 May 1995, 28 years old, male, Muslim, worker, Banjarejo Village, Warureja District, Tegal Regency.	Crew of 15 people carried by 10 people, rest 4 - 5 hours per day, month 5 gets a salary of 500USD x 5 months = 2,500 USD deducted by 1,000 USD.
6	Witness 6: Name F. Kurniawan, born Kendal 21 November 1994, Age 29 years, Male, Muslim, Fisherman, Dk Randusari RT.02 RW. 13 Ds Gempolsewu District Rowosari Kendal.	Tanzanian crew for 3 months without salary, 15 people eating and drinking, no breaks, salary 1,290 USD deducted from return ticket.

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7	Witness 7: Name M. Prasetyo, born in Kebumen 4 October 1994, 29 years old, male, Muslim, employee, Dk Meton, RT06 RW03, DsSemandingKecGombong Kebumen Regency.	To the airport wear a PT uniform. DJI, on the way, reprimanded the delivery party because it wasn't official yet, there would be problems.
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Source: Primary data processed.

## **Pre-trial Lawsuit regarding the Determination of a Suspect in the Case of PPMI Illegally Going Abroad as a Foreign Ship Crew and the solution**

### **1) Pretrial Petitioner**

Firman, SH, Kusnadi, SH, R. Rendi Sudendi, SH & Muhammad Sidik, SH, Advocate Legal Advisor from the Law Office of FIRMAN BADJRIE, SH & REKAN, Jl. Raya Sindoro No.001 A, RT.005RW.002, Mulyoharjo Pemalang. HP: 08561900445/082114485617, email:[badjriefirman@gmail.com](mailto:badjriefirman@gmail.com), based on a Special Power of Attorney dated 19 June 2023 on behalf of individually/jointly against:

- Bro. Mohamad Slamet bin (late) Sachorim, 40 years old, Flood Village RT.01/RW.01 Warungasem District, Batang Regency (Applicant)

#### **OPPOSE**

- Batang Resort Police Chief Cq. Head of Criminal Investigation Unit of Batang Police as Investigator; Jl. Gajah Mada No.200, Batang, Central Java 51211 (Respondent)

Pre-trial filed against Suspect Determination Letter Number: S.Tap/102/VI/2023/Reskrim, dated 10 June 2023; Arrest Warrant Number: SP.Kap/89/VI/2023/Reskrim dated 10 June 2023; Detention Order Number: SP.Han/81/VI/2023/Reskrim dated 10 June 2023, issued by the Central Java Police Investigator Superior Batang Resort against Petitioner Mohamad Slamet, regarding Illegality and Having No Legal Force.

Legal Basis for Pretrial Application:

- Article 1 number 10, Article 77, Article 78 (1), Article 82 number 1 letter b KUHAP
- MK Decision Number: 21/PUU-XII/ 2014, April 28 2015:  
Determining a suspect is part of the court process in which there are arbitrary actions by investigators, including deprivation of rights and the validity of the determination of a suspect as an object of pre-trial institutions so that the treatment of a person in the process of stopping a suspect who has equal dignity and status before the law."

- South Jakarta District Court Decision Number: 0/Pid.Prap/2015/ PN.Jkt.Sel, dated February 16 2015:

All actions (investigators/prosecutors) in the investigation or prosecution process have not been regulated in Article 77 in conjunction with Article 82 paragraph (1) in conjunction with Article 95 paragraphs (1) and (2) of the Criminal Procedure Code which stipulates that the pretrial object of legal institutions is authorized to test the validity of the investigator's actions in the investigation process or the prosecution is the Judicial Institution.

The applicant objected to being named a suspect in the aquo case in accordance with the Suspect Determination Letter Number: S.Tap/101/VI/2023/Reskrim concerning Suspect Determination dated 10 June 2023. The applicant's legal reasons:

- On June 8 2023 at 13.30 WIB members of the Batang Police came to the PT Office. Two Indonesian Anchors on Jl. Raya Banjiran, Banjiran Village, Warungasem District, Batang Regency, asked about the company's activities in distributing crew members to shipping companies outside the Indonesian sea area. The applicant was asked to come to the Batang Police Station on June 8 2023 at 18.30 WIT to ask for information from the Batang Police Tipidter Unit 2 Investigator regarding the organizational structure, number of employees and company permits. After completion, BA was asked for a clarification and refused to sign because the beginning of the sentence referred to a criminal act, the contents: I was questioned regarding TPPO, Law No.21/2007 concerning Eradication of TPPO, Law No.18/2017 concerning Protection of PMI. The applicant objected because it was not in accordance with his business and requested that the articles and law be removed.
- On Saturday, June 10 2023, at 08.30 WIT, the applicant was arrested by Batang Police investigators at Banjiran Warungasem Batang and conducted a search of the PT office. Two Indonesian anchors used serial numbers and police lines, all documents were checked, photographed, displayed, then put into a container at 11.30 WIB carrying the documents and investigators asked employees to attend the Batang Police Station to be questioned.
- The search secured documents without a receipt, namely: OPPO A54 HP, Lenovo Laptop, HP Laptop, ABK Insurance Policy and Insurance Card, Original ABK Documents, Draft Maritime Work Agreement, ABK Work Contract, 20 pieces of Original Apposite Documents, Original Headquarters SKCK National Police, large folder containing original company permits, 6 frames of copies of original company permits, forms and registration books for prospective crew members, financial report books, and two large and small notebooks.

- At 13.00 WIT the Petitioner was asked for information and his status as a suspect, accompanied by an Advocate with the same questions as on 8 June 2023, around 8 hours in the investigator's room, at around 20.45 WIT the examination was completed and he was asked to sign because the sentence from BA began. The examination still led to the criminal act of refusing to sign the BA. There was a rather tense conversation between the Petitioner and the investigator, the Petitioner still refused the BA for examination and a BA issued a refusal to sign.

The pre-trial was submitted to the Chairman of the Batang District Court to test the invalidity and legal force of the Suspect Determination Letter, the Arrest Letter and the Applicant's Detention Letter.

#### APPLICANT'S Legal Standing

- Applicant Mohamad Slamet was named a suspect by the Head of Criminal Investigation Unit of the Batang Police according to Police Report Number: LP/A/15/VI/2023/SPKT.Satreskrim/ Batang Police/Central Java Police, dated June 9 2023 and legal action: inquiry, investigation, determination of the suspect , arrest, detention. The Respondent's actions are invalid and have no legal force.
- The alleged articles, Article 4 of Law No.21/2007 concerning Eradication of TIP, and Article 69 in conjunction with Article 81 of Law No.18/2017 concerning Protection of PMI are in conflict with the actual position of the incident;

#### About Sitting Cases (POSITA)

- The applicant was reported according to Police Report Number: LP/A/15/VI/2023/SPKT.Satrekrim/Res.Btg/PoldaJateng, dated 9 June 2023. According to Article 5 of National Police Chief Regulation No.14 of 2012 concerning Management of Criminal Investigations, Police Report consists of: LP Model A and Model B. LP Model A: made by the Police who were aware of the incident that occurred and LP Model B was made by members of the Police based on complaints from the public.
- The investigator's authority to make a Model A Police Report needs to be verified for investigators who experience, know and discover TPPO, Article 4 of Law No. 21 of 2007 regarding the exploitation of crew members, the incident occurred not in Indonesian territory. The Respondent conducted an Investigation (Investigation Sprint Number: SP.Sidik/83/VI/2023/Reskrim, dated 9 June 2023; Investigation and Decision Letter Number: S.Tap/102/VI/2023/Reskrim, dated 10 June 2023, designated as Suspect.
- The investigator's actions were: arrest (Arrest Warrant Number: SP.Kap/89/VI/2023/Reskrim), dated June 10 2023; Detention (Detention Order Number: SP.Han/81/VI/2023/Reskrim), dated June 10 2023; Search and seizure (without letter) PT Documents. Two Indonesian Anchors followed by exposure on the online media Radar TEGAL. com (Disway. ID), headline:

"Raid Migrant Worker Agents in Batang, Police Find This", released Sunday, 11 June 2023, Mitra Today.com, headline: "Mode for Illegal Employing Crew Members, Director of PT DuaANGKAr Indonesia Named as a TIP Suspect", dated June 10 2023. Did not uphold the principle of presumption of innocence, before the *inkracht van gewijsde* decision.

The judge rejected the applicant's pretrial request and stated that the Respondent's Suspect Determination Letter Number: S.Tap/102/VI/2023/Reskrim concerning Suspect Determination dated 10 June 2023 was valid and had legal force and effect; Arrest Warrant Number: SP.Kap/89/VI/2023/Reskrim, dated 10 June 2023; and the Detention Order Number: SP.Han/81/VI/ 2023/Reskrim, dated 10 June 2023 on the basis of the Investigation Order Number: SP.Sidik/83/VI/2023/Reskrim, dated 9 June 2023 has legal force and effect law and ordered the Petitioner as a Suspect to remain in Batang Police Detention.

## 2) The solution

- a) Investigating a TIP case in the case of sending illegal Indonesian migrant workers abroad as crew members of a foreign ship. The suspect Mohamad Slamet was continued until the case file was declared complete by the Public Prosecutor and the suspect remained in the custody of the Batang Police;
- b) Batang Police Tipidter investigators complete the TIP case file for the case of illegal sending of Indonesian migrant workers (PPMI). Suspect Mohamad Slamet, when it is declared complete, the second stage of case files will be handed over followed by the handover of the suspect and evidence.

## Conclusion

Law Number 21 of 2007 concerning the Crime of Trafficking in Persons (UU-PPTPPO) is better than the previous law (KUHP), but it is not adequate so that there are difficulties in preventing and eradicating TIP related to cases of Illegal PPMI as crew members of foreign ships to Abroad through illegal syndicates.

Preventing and eradicating TPPO still requires political will from the authorities, as carried out by President Jokowi's government by ordering the National Police and its ranks to take quick steps to prevent and eradicate TPPO within a month, which can show to the public that the State, Police, Indonesian National Army and government officials others were present and acted quickly.

## Suggestion

Prevention and eradication of criminal acts of human trafficking (TPPO) must be able to uncover the factors that cause human trafficking and not just carry out orders from superiors such as the President's orders to the Police and their staff. In the UUPPTPPO it is necessary to make special provisions regarding the prevention and eradication of TIP for sending Indonesian migrant workers carried out by illegal syndicates that receive support from certain elements.

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