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Jurisdictional Analysis of the Authority of the Fisheries Court to Try Corruption Crimes in the Fisheries Sector

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Abstract
This research addresses the legal ambiguity in determining jurisdiction over corruption crimes committed within Indonesia's fisheries sector. Globally, both corruption and illegal fishing represent complex transnational crimes that demand clear legal enforcement. In Indonesia, two distinct legal frameworks intersect in such cases: the Fisheries Court established under Law No. 45 of 2009 and the Corruption Court under Law No. 46 of 2009. This study aims to analyze the jurisdictional conflict that arises when an act of corruption occurs in the fisheries sector, potentially falling under both courts' authority. Using a normative juridical method, the research applies a statutory and conceptual approach by examining relevant laws, court decisions, and legal doctrines. The findings reveal that despite the dual specificity of laws, corruption crimes—even when committed in the fisheries sector—fall under the jurisdiction of the Corruption Court based on the principle of *lex specialis systematica*. This principle prioritizes legal norms that are systematically more specific in handling a particular offense. The study contributes to legal scholarship by clarifying the hierarchy and interaction of overlapping special laws in Indonesia's legal system and provides practical implications for law enforcement agencies and the judiciary to avoid conflict of competence. Future research may explore comparative models in other legal systems for resolving similar jurisdictional overlaps.
Keywords: Corruption Crime Court, Corruption, Fisheries.

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INTRODUCTION

The competence of general courts in handling criminal cases within the integrated criminal justice system is regulated under Law No. 8 of 1981 concerning the *Kitab Undang-Undang Hukum Acara Pidana* (*KUHAP*, hereinafter referred to as "KUHAP"), which governs the entire process from investigation, pre-prosecution, prosecution, court proceedings, legal remedies, execution, to correctional institutions (Herdianzah et al., 2022; I Gede & Ni Putu Linda Santiari, 2020; Madina et al., 2024; Mandela & Torang, 2022; Setio Setoto & Pramesti, 2023). The *KUHAP* serves as the *lex generalis*, the general procedural law for law enforcement officers such as the police, prosecutors, and judges in enforcing general criminal cases. These general criminal acts are regulated under Law No. 1 of 1946 concerning the *Kitab Undang-Undang Hukum Pidana* (*KUHP*, hereinafter referred to as "KUHP") and include criminal acts such as those in Chapter V on Crimes Against Public Order (e.g., Article 170 on assault, Article 171 on spreading fake news), Chapter XIV on Crimes Against Morality (e.g., Article 285 on rape, Article 290 on indecency), and Chapter XIX on Crimes Against Life (e.g., Article 338 on murder, Article 340 on premeditated murder) (Hakim, 2020; Margo Hadi Pura & Faridah, 2021; Yusefin & Chalil, 2018). These chapters and articles regulate general crimes, and their

enforcement procedures fall under the Criminal Procedure Code, commonly referred to as general criminal law. General criminal law is a set of legal norms that apply universally to civilians.

In addition to general criminal law, Indonesian criminal law also recognizes the term *special criminal law*. This refers to provisions that deviate from general criminal law, specifically concerning certain groups, individuals, or types of offenses (ARIS SEPTIONO et al., 2023; Asphianto, 2023; Narwanto, 2021; Sayapin, 2023; Suherman et al., 2020). Although there is no universally accepted definition of special criminal law, Sudarto uses the term *bijzondere wetten*, meaning that it involves provisions that differ both materially and procedurally from general criminal law. Special criminal law lies outside the scope of the *KUHP* and *KUHAP*, and governs specific acts or applies to particular subjects. It also regulates unique procedures and designates different law enforcement agencies, such as investigators and public prosecutors from the *Komisi Pemberantasan Korupsi* (*KPK*, Corruption Eradication Commission) and the *Komisi Nasional Hak Asasi Manusia* (*Komnas HAM*, National Human Rights Commission) (Habibi, 2020; Simbolon, 2020; Sosiawan, 2019).

Teguh Prasetyo contends that special criminal law cannot be separated from general criminal law as it serves as the *lex specialis* to the *lex generalis*. That is, when special criminal law does not cover a matter, the general criminal law provisions apply. Conversely, if special criminal law includes specific provisions, these override the general rules. Jan Remelink refers to special criminal law as *delicti propria*, i.e., offenses committed by individuals with specific qualifications or professional backgrounds. Similarly, Pompe emphasizes that special criminal law serves distinct purposes and functions apart from general criminal law.

According to the *Memorie van Toelichting* (*MvT*) of Article 103 of the *KUHP*, special crimes are defined as those stipulated in separate legislation outside the *KUHP*. Rochmat Soemitro holds that special criminal law pertains to crimes regulated under specific statutes, which contain distinct rules for investigation, prosecution, trial, and sentencing—deviating from the general provisions of the *KUHP* and *KUHAP*.

Among the categories of special criminal law in Indonesia's positive legal framework is anti-corruption law. Normatively, the concept of corruption is regulated under Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption (*Undang-Undang Tindak Pidana Korupsi*), as amended by Law No. 20 of 2001. These laws (hereinafter referred to collectively as the "Corruption Criminal Act Law") do not simply replicate general criminal provisions but provide a tailored legal framework for corruption-related offenses.

Lilik Mulyadi classifies corruption crimes into several categories:

1. Bribery offenses
2. Fraud-related crimes
3. Falsification of accounting books or inspection lists
4. Embezzlement-related crimes
5. Acceptance of gifts or promises

According to the *KPK*, thirteen articles define various forms of corruption crimes, including:

1. **State Financial Losses:** Articles 2 and 3
2. **Bribery:** Articles 5, 6, 11, 12(a), 12(b), 12(c), 12(d), and 13
3. **Embezzlement in Office:** Articles 8, 9, 10(a), 10(b), and 10(c)

4. **Extortion:** Articles 12(e), 12(g), and 12(h)
5. **Fraudulent Acts:** Articles 7(1)(a), 7(1)(b), 7(1)(c), 7(1)(d), 7(2), and 12(h)
6. **Conflict of Interest in Procurement:** Article 12(i)
7. **Gratification:** Article 12B(1)

In addition, other forms of corruption-related offenses include:

- Obstructing the investigation of corruption cases
- Failing to provide or providing false information
- Banks refusing to disclose suspect account details
- Witnesses or experts withholding or falsifying information
- Public officials not disclosing required information
- Witnesses revealing whistleblowers' identities

Based on the *Corruption Crime Law*, it specifically regulates its own procedural law regarding law enforcement for perpetrators of corruption crimes, which is generally differentiated from the handling of other special crimes. This is stipulated in a special court law—Law Number 46 of 2009 concerning the *Corruption Crime Court* (*State Gazette of the Republic of Indonesia Number 155*, *Supplement to the State Gazette of the Republic of Indonesia Number 5074*, hereinafter referred to as the "Corruption Court Law"). This aligns with Pompe's view, who states that:

Special criminal law has special characteristics and handling, such as: special legal rules applied, special procedural law used, special law enforcers involved, and special lawyers handling it.

Therefore, corruption law is a form of *special criminal law* because its *material law* is regulated in the *Corruption Crime Law*, and its *formal law* is regulated in the *Corruption Court Law*. In addition to corruption law, another form of *special criminal law* recognized in Indonesian *positive law* is fisheries law. One of the primary threats to maritime security is the crime of illegal fishing, which refers to activities such as catching, processing, and trading fish in violation of the provisions of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 on Fisheries (*State Gazette of the Republic of Indonesia 2004 Number 118*, *Supplement to the State Gazette of the Republic of Indonesia Number 4433*, hereinafter referred to as the "Fisheries Law"). Illegal fishing includes practices such as poaching, fish bombing, poisoning, the use of *tiger trawls*, and other destructive activities that may lead to overfishing. These offenses are regulated under Chapter XV, Articles 84 to 105 of the Fisheries Law.

In addressing illegal fishing cases, Chapter XIV of the Fisheries Law specifically regulates the enforcement process—from investigation conducted by *Civil Servant Fisheries Investigators*, the *Indonesian Navy*, and the police, to prosecution handled by public prosecutors appointed by the Attorney General after receiving specialized training in fisheries law. The judicial process is conducted by *Career Fisheries Court Judges* and *Ad Hoc Judges* appointed through the Decree of the Chief Justice of the Supreme Court. Article 71 of the Fisheries Law states:

1. With this Law, a *fisheries court* is established with the authority to examine, try, and decide on criminal acts in the fisheries sector.

2. The *fisheries court* as referred to in paragraph (1) is part of the general court system.

Furthermore, Article 71A of the Fisheries Law affirms: *The fisheries court has the authority to examine, try, and decide on criminal cases in the fisheries sector that occur within the fisheries management area of the Republic of Indonesia, whether committed by Indonesian citizens or foreign nationals.*

Based on the above, it is evident that both corruption law and fisheries law are categorized as *special criminal laws*, whose specificity lies in their distinct *material* and *formal* legal frameworks. In practice, the legal principle of *lex specialis derogat legi generali* (a special rule overrides a general rule) is frequently applied when enforcing *special criminal law*. For example, if an act of corruption falls under Article 3 of the Corruption Law, the legal process will be governed by the *Corruption Law* and not by the Criminal Code (*KUHP*), and the procedural law will follow the *Corruption Court Law* instead of the Criminal Procedure Code (*KUHAP*). This principle facilitates clarity for law enforcement in determining which legal rules apply. However, challenges arise when a single act falls under more than one *special law*.

Such complexity is illustrated in the case of former Minister of Marine Affairs and Fisheries, Edhy Prabowo, who was apprehended in a *sting operation* (*Operasi Tangkap Tangan*, *OTT*) conducted by the *Corruption Eradication Commission* (*KPK*) on Tuesday, November 24, 2020. Edhy was arrested along with several officials upon arrival at Soekarno-Hatta Airport in Jakarta after a working visit to Honolulu, Hawaii, United States. Following the investigation, on Wednesday, November 25, 2020, the KPK named Edhy a suspect in a corruption case involving the receipt of gifts or promises related to permits for aquaculture, business activities, or the management of fisheries commodities. Alongside Edhy, six other individuals were named as recipients of bribes: Safri (Edhy's special staff), Siswadi (administrator of PT Aero Citra Kargo), Ainul Faqih (staff to Edhy's wife), Andreau Pribadi Misata (another special staffer), Amiril Mukminin, and Suharjito, Director of PT Dua Putra Perkasa, who was suspected as the bribe-giver.

This case raises significant legal questions, as the acts committed fall within two distinct *special criminal laws*. On one hand, the corruption act is regulated by the *Corruption Crime Law*, which mandates enforcement through the *Corruption Court*. On the other hand, the act also pertains to the fisheries sector, governed by the *Fisheries Law*, which mandates adjudication by the *Fisheries Court*. This dual applicability requires law enforcement officers to carefully evaluate which legal framework should be applied, as both are special laws with their own jurisdictions. In such situations, the straightforward application of the *lex specialis derogat legi generali* principle becomes insufficient.

Previous research has explored jurisdictional dynamics in *special criminal courts*. Hiariej (2018) analyzed the distinction between *lex generalis* and *lex specialis* in Indonesian criminal law but did not address overlaps between two *special* legal regimes. Soemitro (2020) advocated for the supremacy of the *Anti-Corruption Court* in all corruption-related cases, while Luthan (2019) examined jurisdictional clashes between *military* and *general courts* in corruption proceedings. However, no prior research has specifically addressed the intersection of jurisdiction between the *Fisheries Court* and the *Anti-Corruption Court* within overlapping *lex specialis* frameworks.

This reveals a clear *research gap* in current Indonesian legal scholarship. Existing literature generally focuses on a single *special court* or examines broad jurisdictional theories

without addressing conflicts between two sector-specific legal regimes. Since both fisheries and corruption are governed by distinct *special laws*, the traditional *lex specialis derogat legi generali* principle is inadequate. A more nuanced doctrine—*lex specialis systematica*—is needed to resolve legal conflicts where both laws are *equally special*.

This research is urgent due to the need for legal clarity and consistency in judicial practice. Jurisdictional ambiguity can lead to procedural defects, ineffective enforcement, and violations of *due process*. A court decision made outside its jurisdiction may be annulled, potentially resulting in a miscarriage of justice. Thus, this study is crucial for guiding law enforcement officials, prosecutors, and judges in confidently handling corruption cases within the fisheries sector under a consistent legal framework.

The novelty of this research lies in the application of the *lex specialis systematica* principle to analyze jurisdictional conflicts between two *special criminal courts*. Unlike the widely-used *lex specialis derogat legi generali*, the *systematica* approach emphasizes coherence, scope, and legislative intent within the broader structure of criminal law. This methodological innovation offers a more robust framework for resolving jurisdictional overlaps.

The main objective of this study is to examine the jurisdictional authority of the *Fisheries Court* in adjudicating corruption cases within the fisheries sector. It seeks to determine whether *lex specialis systematica* provides a valid legal basis for asserting jurisdiction in such cases. Additionally, it aims to propose procedural and legislative reforms to mitigate jurisdictional conflicts and ensure consistency in law enforcement.

This study contributes theoretically to the development of comparative criminal law in Indonesia, especially in addressing overlapping special jurisdictions. Practically, it provides legal guidance for judicial actors and legislators to clarify mandates, reduce jurisdictional disputes, and uphold procedural integrity in complex criminal matters. It also adds to the discourse on how specialized courts should operate within Indonesia's increasingly fragmented legal system.

The implications of this research include the need for legislative amendments or clarifications within both the *Fisheries Law* and the *Corruption Court Law*. Furthermore, it suggests that the *Supreme Court* issue technical guidelines (*SEMA*) to harmonize procedural practices in corruption cases within the fisheries domain. Ultimately, this study supports the establishment of a more coherent and effective justice system where jurisdictional clarity enhances both legal accountability and fairness.

RESEARCH METHODS

The research methods used in this study are divided into five components: the type of research, the problem approach, sources of legal materials, techniques for collecting legal materials, and the analysis of legal materials. This study employs a *normative juridical* (legal research) approach. The *normative juridical* type of research is based on prevailing laws and regulations (*positive law*) to discover the truth in a formal legal manner.

The problem approach in *normative legal research* uses a *statutory approach* (*statute approach*), which involves examining all laws and regulations related to the legal issue being addressed. It also adopts a *conceptual approach*, which begins with legal views, doctrines, and principles that have developed in legal science.

The sources of legal materials used in this research consist of *primary legal materials*, such as laws and regulations, and *secondary legal materials*, which include all legal publications that are not official documents. These *secondary legal materials* include textbooks, legal dictionaries, legal journals or articles relevant to the research, and commentaries on court decisions.

The technique of collecting legal materials involves gathering and inventorying both *primary* and *secondary legal materials* relevant to the study. These materials are then selected and classified according to the formulation of the problems discussed in this research. After classification, the two types of legal materials are processed with the aim of refining and sharpening the legal analysis. Following this refinement, the next step is to connect the two sources of legal material and conduct a review to develop a systematic explanation.

The analysis of legal materials is carried out by examining the inventoried and classified *primary* and *secondary legal materials* using both a *legislative approach* and a *conceptual approach*. This analysis is aimed at determining whether *military courts* have the authority to adjudicate *criminal acts of corruption*.

RESULTS AND DISCUSSION

Fisheries Court Has No Authority to Try Corruption Crimes in the Fisheries Sector.

The principle of legal principles as a foundation and critical assessment, so if there is a conflict in the legal system, the legal principle plays a role in resolving the conflict as will be discussed regarding the authority of which special court, the corruption court in the general court environment or the fisheries court in the general court environment to examine, try, and decide a case of corruption violation committed by officials in the fisheries sector. Based on the conflict above, it is necessary to explain the part of the principle of legal preference known in legal science including the principle of lex postior derogat legi priori, the principle of lex superior derogat legi inferior, and the principle of lex specialis derogat legi generalis, as follows:

1) Lex Posterior derogat legi priori.

The principle of lex posterior derogat legi priori means that new rules take precedence over old rules, so that new rules in their implementation are prioritized over the validity of old rules that regulate the same basic matters, if the new law regulates the revocation of old laws and regulations.

Peter Mahmud Marzuki stated that the principle of lex posteriori derogat legi priori has the following meaning:

New laws and regulations override old laws and regulations and the use of this principle is limited when faced with 2 (two) laws and regulations in the same hierarchy.

Sudikno Mertokusumo argues that the meaning of the principle of lex posteriori derogate legi priori emphasizes the principle that new laws and regulations must be equal or at least higher than old laws and regulations and that old laws and regulations regulate the same aspects.

Peter Mahmud Marzuki clarifies the philosophical basis of the principle of lex posterior derogat legi priori that:

If the form of legislation contained in the old legislation does not conflict with the philosophical basis of the new legislation, then the legislation remains in effect in accordance with the transitional regulations in the new legislation.

2) lex superior derogat legi inferior.

Lex superior derogat legi inferiorihas the meaning that higher regulations are prioritized in their implementation than lower laws. For example, laws are prioritized over government regulations, presidential regulations, ministerial regulations, provincial regulations, district/city regulations and so on, Bagir Manan argues:

Higher statutory regulations override lower statutory regulations, except when the substance of the higher statutory regulations regulates matters which are determined by statutory regulations to be within the authority of the lower statutory regulations.

Article 7 paragraph (1) of Law No. 12 of 2011 concerning the Formation of Legislation confirms that the types and hierarchy of these legislation are:

First, there is the 1945 Constitution, second, the MPR Decree, third, the Law (UU)/Government Regulation in Lieu of Law (Perpu), fourth, the Government Regulation (PP), fifth, the Presidential Regulation (Perpres), sixth, the Provincial Regulation (Perda Provinsi), and the Regency/City Regulation (Perda Kabupaten/Kota).

Based on Article 8 of the Law on the Formation of Legislation in the case of regulations such as regulations stipulated by the DPR, DPD, MA, MK, BPK, KY, BI, Ministers, agencies, institutions, or commissions of the same level which are formed by Law or the Government on the orders of Law, Regency/City DPRD, Regent/Mayor, Village Head or those of the same level, they will have binding legal force as long as they are ordered by higher legislation or formed based on authority.

3) Lex Specialis Derogat Legi Generalis.

Lex specialis derogat legi generalishas the meaning that special statutory regulations take precedence over general statutory regulations so that provisions of a general nature can be set aside by more specific statutory provisions that regulate the same thing.

Peter Mahmud Marzuki stated that:

Special events must be subject to a law that mentions the event, although for these special events a law can also be enacted that mentions a more general event that can cover the special event.

The principle of lex specialis derogat legi generalis is regulated in Article 63 Paragraph (2) of the Criminal Code which regulates that if an act falls under a general criminal provision, but is also included in a special criminal provision, then only the special criminal regulation is applied. This principle describes the existence of 2 (two) laws and regulations that have the same position in terms of level, but the scope of the substance between the laws and regulations is not the same, namely one is a special regulation of the other regulation. As an example of the application of this principle, if there is a criminal act of child abuse, then the act falls under 2 (two) criminal regulations, Article 351 Paragraph (1) of the Criminal Code and Law No. 35 of 2014 concerning Child Protection. So in this case, law enforcement officers must use the criminal provisions in the Child Protection Law because in terms of substance, the material specifically regulates the subject of children, so that the general criminal provisions of the Criminal Code as lex generalis are set aside. The provisions found in general legal rules remain valid, unless there are any specifically regulated in other special legal rules, then lex specialis must be equal to the provisions of lex generalis, meaning that it must be a law with a law, such as the provisions in the Criminal Procedure Code with the provisions of the Child Criminal Justice System Law. and the last is that lex specialis must be in the same legal environment

(regime) as lex generalis in this case such as the Military Justice Law with the Corruption Court Law.

4) Systematic Specialist Lex

Moving from the view of the principle of legal preference, the essence of the existence of legal principles is useful for solving problems such as those above. The three legal principles include the principle of lex postiori derogate legi priori, the principle of lex superior derogate legi inferior, and the principle of lex specialis derogate legi generalis each have their own uses. However, sometimes there are times when the use of these three legal principles does not resolve a legal problem faced by law enforcement officers. For example, the application of the principle of lex specialis derogate legi generalis can be applied when an event occurs that falls into 2 (two) general and special legal rules, the special rule used is, but what if there is a legal event that is equally regulated in 2 (two) special legal rules, such as a case of corruption committed by an official in the fisheries sector, in determining which court has the authority to try, considering that the conflict of authority of a court often occurs because of the many special laws or regulations as lex specialis which of course will not be free from legal problems in applying it, thus raising a question mark if an act is suspected of being a criminal act as discussed in the problem above, where Law of the Republic of Indonesia Number 45 of 2009 concerning Fisheries which regulates the procedural law and authority of the fisheries court with Law Number 46 of 2009 concerning the Corruption Court, both of which are lex specialis from the provisions of Law Number 8 of 1981 concerning the Criminal Code (KUHAP).

In the development of legal science including criminal law, according to Eddy OS Hiarej the principle of lex specialis derogat legi generalis cannot resolve legal disputes when an act or legal event occurs that is threatened and falls into more than one provision of the legislation, each of which is qualified as a special offense or special crime. Based on the description above, which legal rule should be used considering that the conflicting laws are both lex specialis. Jan Remmelink stated:

The two conflicting laws will affect the enforcement of criminal law because the formal laws regulated by these laws are different, therefore another principle is needed to resolve the problem of the conflict of authority regarding criminal acts of corruption committed by officials, namely by using the principle of lex specialis systematica as a derivative or derivative of the use of the principle of lex specialis derogat legi generalis.

The principle of lex specialis systematica in the Netherlands is better known as juridical speciality or systematic speciality, in addition to logical speciality. Examples of the application of the principle of lex specialis systematica can be seen as follows:

Someone carries out illegal logging in a protected forest area so that the result of his actions causes environmental damage. On the one hand, the act violates the environmental management law and on the other hand also violates the provisions of the forestry law, but if examined more deeply in the case, the provisions of the regulations in the forestry law must be used because they are regulated more completely and in detail in the framework of special criminal provisions. Therefore, the forestry law is lex specialis systematica.

Starting from the two laws and regulations described above, in the Republic of Indonesia Law Number 45 of 2009 concerning Fisheries which regulates the procedural law and the establishment of the fisheries court and the Republic of Indonesia Law Number 46 of 2009 concerning the Corruption Court, both of which are lex specialis systematica, are laws and

regulations that are both lex specialis of the provisions of the Criminal Procedure Code, however, if there are laws and regulations that more specifically regulate the specificity of acts of corruption, then they are still subject to the corruption crime court which has absolute authority in the law that the only court that has the authority to try perpetrators of corruption committed by officials even if it occurs in the fisheries sector. This is caused by several things. Firstly, there is a specialization of material law which sui generis applies to acts of corruption, namely criminal law on corruption and general criminal law.

CONCLUSION

The authority of the *Fisheries Court* under the *Fisheries Law* is to adjudicate criminal acts within the fisheries sector. Therefore, the provisions in the *Fisheries Law* serve as *special provisions* that override the general procedural rules found in the *Criminal Procedure Code*, as they also regulate procedural law. Similarly, the provisions in the *Corruption Court Law* are also *special provisions* of the *Criminal Procedure Code*.

If a public official is suspected of committing a criminal act of corruption within the fisheries sector, then based on the principle of *lex specialis systematica*, the perpetrator will still be tried in the *Corruption Court* as one of the *special courts* within the general court system—even though the *Fisheries Court*, also a special court within the same system, possesses jurisdiction. This interpretation ensures coherence within the legal system by prioritizing the substantive nature of the crime (i.e., corruption) over the sectoral domain (i.e., fisheries), thereby reinforcing the application of *lex specialis systematica* in resolving jurisdictional overlaps.

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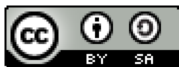

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