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APPLICATION OF CORRUPTION CRIME SANCTIONS AGAINST PERPETRATORS OF ABUSE OF AUTHORITY AT BRI UNIT MUNDU

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Abstract. *This research focuses on banking crimes that may be categorized as corruption offenses. In this context, an important issue arises regarding the boundary between administrative violations in banking and corruption crimes, particularly when the act is committed by bank officials who misuse their authority for personal gain. The study examines two central problems: first, the reasons why banking crimes can be classified as corruption; and second, how the principle of* lex specialis derogat legi generali *is applied in banking crimes related to corruption. This study employs a positivist paradigm and uses both a statutory approach and a case approach through the analysis of court decisions. Legal materials were collected through document studies and analyzed descriptively and analytically. The results show that the abuse of authority committed by the bank officer fulfills all elements of a corruption offense because it involves misuse of authority that causes state financial losses. As BRI is a state-owned enterprise (BUMN) managing state finances, the bank's losses automatically constitute losses to the state. Therefore, the provisions under the Anti-Corruption Law are more appropriately applied than those under the Banking Law. In its legal consideration, the court applied the* lex specialis *principle by designating the Anti-Corruption Law as a more specific and comprehensive regulation, and further applied the* lex consumen *principle, absorbing the elements of banking offenses into Article 3 of the Anti-Corruption Law.*

Keywords: criminal act, banking, corruption

I. INTRODUCTION

Modern economic life cannot be separated from the existence of banking institutions as financial intermediaries that play a strategic role in maintaining national financial system stability. Banks function to collect public funds in the form of deposits and redistribute them through credit facilities to stimulate economic growth (Law No. 10 of 1998). Therefore, banks hold a central position in maintaining public trust in the national financial system (Hermansyah, 2020).

Nevertheless, this strategic role is vulnerable to abuses of authority by internal banking personnel. One concrete example is the case that occurred at Bank BRI Unit

Mundu, Cirebon Regency, in which a bank employee named Rona was proven to have manipulated credit documents by disbursing loan funds under fictitious debtor identities. This unlawful conduct resulted in significant financial losses to the bank. Given that Bank BRI is a State-Owned Enterprise (SOE) whose majority shares are owned by the state, such losses directly affect state finances (Cirebon District Court Decision No. 32/Pid.Sus-TPK/2022/PN.Cbn).

This phenomenon raises fundamental legal issues within the framework of criminal law, particularly regarding the legal classification of offenses committed by bank employees. The central question is whether abuses of authority in banking practices should be categorized solely as banking crimes or whether they may also be qualified as corruption offenses. Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes explicitly stipulates that any abuse of authority resulting in state financial losses constitutes a corruption offense, as regulated under Article 3.

This provision establishes a clear legal basis that the subject of corruption offenses is not limited to public officials in the classical sense. Any individual vested with authority in managing state finances who abuses such authority, thereby causing state financial losses, may be held criminally liable for corruption. In this context, employees of state-owned banks who possess authority in credit distribution can be regarded as relevant legal subjects under corruption law.

The fictitious credit case at BRI Unit Mundu demonstrates the intersection between banking law and corruption law. The perpetrator's actions not only violated banking regulations but also fulfilled the elements of abuse of authority causing state financial losses. This situation gives rise to legal debate concerning the application of fundamental criminal law principles, particularly *lex specialis derogat legi generali*, *lex specialis systematica*, and *lex consumen derogat legi consumtae*, which serve to determine the applicable legal norms when a single act is regulated by multiple statutory provisions (Moeljatno, 2018).

Banking Law constitutes a special legal regime (*lex specialis*) in relation to the Criminal Code, while the Corruption Eradication Law also functions as a *lex specialis* vis-à-vis the Criminal Code. Accordingly, in certain circumstances, the application of corruption law is justified when the perpetrator's conduct satisfies the elements of abuse of authority and results in state financial losses, even though the conduct occurs within the domain of banking activities (Hamzah, 2020). Based on the foregoing analysis, this study focuses on two principal research questions: (1) why perpetrators of abuse of authority in banking crimes may be subjected to corruption sanctions; and (2) how judges consider and apply corruption sanctions in cases of abuse of authority at Bank BRI Unit Mundu.

II. RESEARCH METHOD

This study adopts a positivist paradigm, which views law as a system of written norms, legal principles, and judicial decisions that can be objectively analyzed. This paradigm is based on the assumption that law should be examined through statutory structures and their implementation in judicial practice. Accordingly, law is positioned as

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a normative system whose consistency can be assessed through the analysis of legal norms and judicial reasoning. The research employs the following approaches:

1. Statutory Approach

The statutory approach is used to analyze all laws and regulations related to banking crimes and corruption offenses. In normative legal research, the examination of primary legal materials in the form of statutes and regulations constitutes the core of legal analysis (Soekanto, 2007). Through this approach, the study examines Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes, Law No. 10 of 1998 on Banking, Law No. 17 of 2003 on State Finance, Law No. 19 of 2003 on State-Owned Enterprises, as well as internal banking regulations such as credit standard operating procedures and the prudential banking principle. This approach aims to identify the elements of criminal offenses, examine the relationships among statutory provisions, and determine which norms function as *lex specialis* in regulating the relevant criminal conduct.

2. Case Approach

The case approach is conducted by analyzing court decisions as authoritative legal sources. This approach is essential to understand how judges apply legal norms in concrete cases (Marzuki, 2017). The objects of analysis in this study include the Bandung District Court Decision No. 85/Pid.Sus-TPK/2023/PN.Bdg and Constitutional Court decisions concerning the definition and scope of state finances. Through the case approach, this research examines judicial reasoning in qualifying abuse of authority as a corruption offense and analyzes the application of the *lex specialis* principle in judicial practice. This approach provides insight into the consistency and patterns of judicial interpretation when addressing overlapping legal regimes.

3. Legal Material Collection Technique

This research employs a document study technique, relying on secondary data in the form of legal materials, which is characteristic of normative legal research (Soekanto, 2007). The collected legal materials consist of:

a) **Primary Legal Materials**, including relevant laws and regulations such as the Corruption Eradication Law, the Banking Law, the State Finance Law, the State-Owned Enterprises Law, Bandung District Court decisions, Supreme Court jurisprudence, and Constitutional Court decisions.
b) **Secondary Legal Materials**, comprising textbooks on criminal law and banking law, national legal journals discussing corruption offenses and banking crimes, as well as scholarly articles and reports related to banking supervision.
c) **Tertiary Legal Materials**, including legal dictionaries, legal encyclopedias, and other interpretative sources that support the understanding of legal terms and concepts.

4. Legal Material Analysis Technique

Legal material analysis is conducted using a descriptive-analytical method. This method aims to describe legal facts contained in statutes and court decisions and subsequently analyze them using relevant legal norms and theories. The stages of analysis

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include identifying the elements of banking crimes and corruption offenses, distinguishing between administrative violations and criminal acts, analyzing the application of the *lex specialis* principle in judicial decisions, and assessing the consistency of judicial reasoning with existing jurisprudence.

Legal conclusions are drawn through juridical reasoning based on the patterns of judicial consideration reflected in court decisions. This analytical method is consistent with the view that normative legal research should connect legal norms with legal facts as manifested in judicial practice (Hadjon, 1997).

III. RESULTS AND DISCUSSION

1. Juridical Basis for Classifying Banking Crimes as Corruption Offenses

The classification of banking crimes as corruption offenses constitutes a crucial issue in special criminal law, given that not all violations of banking regulations may automatically be prosecuted under the Corruption Eradication Law. A comprehensive legal analysis is required, encompassing the elements of the offense, the institutional position of the financial entity involved, the relationship between the perpetrator and their official authority, as well as the impact of the conduct on state finances. In the context of BRI Unit Mundu, the fictitious credit scheme committed by a bank official cannot be regarded merely as internal maladministration but must be qualified as a corruption offense because it fulfills all elements stipulated in Article 3 of the Corruption Eradication Law.

1.1 Abuse of Authority as the Core Element of Corruption

a. The Concept of Abuse of Authority in Legal Doctrine

Abuse of authority (*abuse of power*) constitutes the core element of many official crimes (*officia crimes*). According to Pompe, abuse of authority occurs when a public official exercises the power vested in them in a manner inconsistent with the purpose for which the authority was granted. Hamzah (2020) further emphasizes that abuse of authority qualifies as an official offense that may escalate into a corruption offense when it results in state financial losses or personal gain.

b. Application in the BRI Unit Mundu Case

In the BRI Unit Mundu case involving Rona, abuse of authority was manifested through several acts, including granting credit without proper field verification, falsification and manipulation of credit application documents, disbursement of loans to ineligible parties, active involvement in preparing fictitious documentation, and violations of internal banking regulations such as credit standard operating procedures and the prudential banking principle. These actions satisfy the element of abuse of authority as regulated under Article 3 of the Corruption Eradication Law.

c. Linkage with Banking Law

Article 29 paragraph (2) of the Banking Law mandates banks to implement the prudential banking principle. Violations of this principle cannot merely be classified as administrative errors, as they may demonstrate the presence of *mens rea* and *actus reus* supporting criminal liability when conducted intentionally and systematically.

1.2 State Financial Loss as a Key Element

a. The Position of BRI as a State-Owned Enterprise

BRI is a state-owned enterprise managing funds that fall within the scope of state finances. Constitutional Court Decision No. 48/PUU-XI/2013 and Decision No. 21/PUU-XIV/2016 affirm that losses incurred by state-owned enterprises with separated capital remain classified as state financial losses, insofar as their functions and activities are related to state finances.

b. State Losses in the Fictitious Credit Scheme

In the BRI Unit Mundu case, the disbursed credit funds formed part of microcredit financing partially sourced from the state budget, were released based on falsified or unlawful documents, and were ultimately non-performing. Consequently, the loss arising from such fictitious credit constitutes a state financial loss.

c. Supreme Court Jurisprudence

The Supreme Court, through Decision No. 537 K/Pid.Sus/2014, explicitly affirmed that bank officials of state-owned enterprises who abuse their authority and cause losses to the bank may be prosecuted under the Corruption Eradication Law. Accordingly, fictitious credit schemes perpetrated by BRI officials qualify as corruption offenses.

1.3 Acts of Enriching Oneself or Others

The element of “enriching oneself or another person” under Article 3 of the Corruption Eradication Law does not require the perpetrator to directly receive funds. In banking-related corruption cases, this element is fulfilled when the perpetrator receives commissions, fees, indirect benefits, or provides unlawful benefits to related third parties. In the present case, indications reveal that part of the credit funds was used by the perpetrator, while the remaining portion benefited unauthorized parties, with no intention to repay the loan from the outset. Legally, these circumstances fulfill the element of unlawful enrichment.

1.4 Distinction from Administrative Violations

Not all banking violations constitute criminal offenses. Administrative violations typically involve clerical negligence, delays in data input, procedural errors without malicious intent, or inaccuracy absent personal gain. Such conduct lacks *mens rea* and therefore cannot be criminalized.

However, the conduct in the BRI Unit Mundu case exceeded administrative negligence. The perpetrator engaged in deliberate acts involving document fabrication, fictitious or ineligible debtors, collateral manipulation, and credit disbursement intended to enrich oneself or others. As noted by Hamzah (2020), when an abuse of office results in state financial losses, special criminal provisions must be applied. Accordingly, the acts in question constitute corruption rather than administrative violations.

2. Application of the *Lex Specialis*

The determination of the applicable law is critical in the criminal justice system. In cases of abuse of authority at BRI, judges applied the Corruption Eradication Law instead of the Banking Law, based on the *lex specialis* principle.

2.1 *Lex Specialis Derogat Legi Generali*

This principle dictates that special laws override general laws. While the Banking Law specifically regulates banking administration, the Corruption Eradication Law serves as a special statute governing all acts that cause state financial losses. Judges considered that the fictitious credit scheme resulted in state losses, involved abuse of authority, and contained elements of unlawful enrichment. Consequently, the Corruption Eradication Law was deemed the appropriate *lex specialis*.

2.2 *Lex Specialis Systematica*

According to Utrecht, the determination of *lex specialis* must consider the completeness of elements regulated within a statute. The Corruption Eradication Law explicitly regulates abuse of authority, unlawful enrichment, state financial losses, and aggravated sanctions, whereas the Banking Law does not comprehensively address these elements. Systematically, therefore, the Corruption Eradication Law functions as *lex specialis*.

2.3 *Lex Consumen Derogat Legi Consumtae*

This principle holds that a more comprehensive offense absorbs a less comprehensive one. In this case, banking violations involving procedural breaches are absorbed by the corruption offense, as all elements of banking misconduct are encompassed within the elements of corruption.

3. Application of the Lex Specialis Principle in Banking Crimes Related to Corruption

Determining which law to apply in prosecuting perpetrators is critical. In the BRI abuse of authority case, the judge opted to apply the Corruption Law, not the Banking Law, based on the lex specialis principle.

3.1 Lex Specialis Derogat Legi Generali

This principle holds that specific laws prevail over general ones. The question is which law is considered specific:

Banking Law = specific only in administrative banking matters
Corruption Law = specific for acts causing state financial losses

The judge concluded that fictitious credit caused state financial losses, involved abuse of authority, and aimed at enrichment. Therefore, the Corruption Law is lex specialis because the Banking Law does not regulate enrichment and state losses.

3.2 Lex Specialis Systematica

According to Utrecht, lex specialis is determined not only by scope but by the completeness of elements.

Element	Banking Law	Corruption Law
Abuse of authority	Not explicitly regulated	Explicitly regulated
Enrichment	None	Present
State financial losses	None	Present

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Aggravated sanctions	None	Present

The Corruption Law is more comprehensive, making it the lex specialis.

3.3 Lex Consumen Derogat Legi Consumtae

This principle implies that a more complete offense absorbs a less complete one. Banking offenses (SOP violations, negligence) are consumed by corruption offenses because all banking violation elements are encompassed in Article 3 of the Corruption Law.

3.4 Judicial Application

In Bandung District Court Decision No. 85/Pid.Sus-TPK/2023/PN.Bdg, the judge clearly stated:

The Corruption Law applies due to state financial losses.

The Banking Law is considered administrative guidance.

Criminal enforcement must follow the Corruption Law as lex specialis.

The judge also referenced Supreme Court Jurisprudence No. 537 K/Pid.Sus/2014: “Abuse of authority by state-owned bank officials constitutes corruption.”

4. Implications

This analysis shows that banking crimes involving fictitious credits in state-owned banks cannot be viewed solely as administrative errors. When combined with abuse of authority, enrichment motives, and financial losses to the state, these acts fall under corruption. This has implications for criminal prosecution, banking internal controls, and the enforcement of state financial accountability.

IV. CONCLUSION

Based on the analysis of legislation, criminal law doctrines, and the Decision of the Bandung District Court Number 85/Pid.Sus-TPK/2023/PN.Bdg, the conclusions are as follows:

1. Legal Basis for Categorizing Banking Crimes as Corruption Crimes

The fictitious credit committed by the official of BRI Unit Mundu is no longer merely an administrative violation of banking regulations but has fulfilled the criteria of corruption as regulated in Article 3 of the Corruption Eradication Law (UU Tipikor, 1999/2001), namely the abuse of authority, actions that enrich oneself or others, and causing state financial losses. Losses suffered by a state-owned bank are legally classified as state financial losses, as affirmed by the Constitutional Court and Supreme Court jurisprudence (Constitutional Court Decision No. 48/PUU-XI/2013; Supreme Court Decision No. 537 K/Pid.Sus/2014). These findings confirm that the abuse of authority in the credit approval process by bank officials managing state funds constitutes corruption, not merely administrative misconduct. Therefore, the application of criminal sanctions under the Corruption Law is legally appropriate, since the Banking Law does not explicitly regulate the elements of personal enrichment and state financial losses (Hamzah, 2020).

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2. Application of the Lex Specialis Principle in Banking Crimes Related to Corruption

In Rona's case, the judge applied the principle of *lex specialis derogat legi generali*, positioning the Corruption Law as the more specific and dominant legal framework compared to the Banking Law. The Corruption Law is considered more comprehensive in regulating the elements of the offense, including abuse of authority, state financial losses, and the intention to enrich oneself, making it more appropriate for criminalizing fictitious credit that affects state finances (Moeljatno, 2018). Furthermore, the judge applied the principle of *lex consumen derogat legi consumtae*, whereby banking offenses are considered absorbed by corruption offenses because all elements of banking violations are encompassed within Article 3 of the Corruption Law. With the application of these two principles, the Corruption Law is established as the primary legal basis for assessing and punishing the abuse of authority by officials of BRI Unit Mundu.

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