

**PENERAPAN ASAS *LEX SPECIALIS DEROGAT LEGI GENERALI*
DALAM PENYELESAIAN TINDAK PIDANA PEMALSUAN IJAZAH
OLEH CALON ANGGOTA DEWAN PERWAKILAN RAKYAT DAERAH
KABUPATEN LAMPUNG BARAT
(Studi Putusan Nomor: 43/Pid.B/2021/Pn.Liw)**

ABSTRAK

**Oleh:
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Pemalsuan ijazah yang dilakukan pejabat public merupakan kejahatan terhadap kepercayaan publik (*public trust crime*) yang berdampak rusaknya integritas sistem pendidikan dan delegitimasi lembaga publik. Praktiknya, perbuatan tersebut menimbulkan perdebatan hukum akibat tumpang tindih pengaturan diantara aturan hukum umum dan khusus. Inkonsistensi penerapan asas *lex specialis derogat legi generali* dalam penegakan hukum terhadap tindak pidana pemalsuan ijazah oleh calon anggota DPRD Lampung Barat Kondisi tersebut menimbulkan permasalahan mengenai bagaimana penerapan asas *lex specialis derogat legi generali* dalam menegakkan hukum terhadap tindak pidana penggunaan ijazah palsu, serta bagaimana dampak dari penerapan asas tersebut. Pendekatan konseptual, peraturan perundang-undangan dan studi kasus digunakan peneliti untuk menelaah data menafsirkan hukum secara sistematis, gramatikal dan teleologis penerapan asas *lex specialis* dan dampak dari penerapan asas *lex specialis*

Hasil penelitian menunjukkan bahwa penerapan asas *lex specialis derogat legi generali* dalam kasus penggunaan ijazah palsu dalam perkara Nomor 43/Pid.B/2021/PN.Liw belum konsisten. Hakim menggunakan Pasal 263 KUHP sebagai dasar hukum pemidanaan, yang secara substansi lebih tepat menggunakan Pasal 520 Undang-Undang Nomor 17 Tahun 2014 tentang Pemilu sebagai *lex specialis* dari KUHP. Akibatnya, terjadi ketidaktepatan dalam pemenuhan unsur delik, terutama unsur subjektif berupa kesengajaan (*mens rea*) dan unsur objektif berupa perbuatan menggunakan dokumen palsu dalam konteks politik. Pelaku dapat dimintai pertanggungjawaban sesuai kapasitas dan kesadaran hukum. Penerapan asas *lex specialis* yang tepat akan memperkuat keadilan substantif dengan memastikan bahwa pemidanaan tidak hanya menekankan pada aspek formal, mencerminkan kesalahan moral, sosial, dan politik pelaku. Penerapan asas *lex specialis derogat legi generali* dalam tindak pidana penggunaan ijazah palsu berperan penting untuk mewujudkan kepastian hukum, efektivitas pemidanaan, serta menjaga integritas sistem demokrasi di Indonesia.

Kesimpulannya, asas *lex specialis* diterapkan secara tepat agar penegakan hukum mencerminkan keadilan substantif dan melindungi integritas demokrasi. Penulis menyarankan perlunya harmonisasi antara KUHP, Undang-Undang Pemilu, dan regulasi pendidikan, serta peningkatan kapasitas aparat hukum dan KPU dalam validasi dokumen pendidikan untuk mencegah terulangnya kasus serupa.

Kata kunci: Asas, Ijazah, Penerapan, Penyelesaian,

**APPLICATION OF THE ASAS OF LEX SPECIALIS DEROGAT LEGI
GENERALI IN THE SETTLEMENT OF THE CRIMINAL ACT OF
MISCELLANEOUS TITLES BY A CANDIDATE FOR THE WEST
LAMPUNG**

(Study of Decision Number: 43/Pid.B/2021/Pn.Liw)

ABSTRACT

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The falsification of diplomas by public officials is a crime against public trust that damages the integrity of the education system and delegitimizes public institutions. In practice, this act has given rise to legal debate due to overlapping regulations between general and specific laws. Inconsistency in the application of the lex specialis derogat legi generali principle in law enforcement against the criminal act of diploma forgery by a candidate for the West Lampung Regional Representative Council This condition raises questions about how the lex specialis derogat legi generali principle is applied in law enforcement against the criminal act of using a fake diploma, as well as the impact of applying this principle. The researcher used a conceptual approach, legislation, and case studies to examine the data and interpret the law systematically, grammatically, and teleologically in the application of the lex specialis principle and the impact of its application.

The results of the study show that the application of the principle of lex specialis derogat legi generali in the case of the use of a fake diploma in case No. 43/Pid.B/2021/PN.Liw has not been consistent. The judge used Article 263 of the Criminal Code as the legal basis for punishment, which in substance is more appropriate to use Article 520 of Law Number 17 of 2014 concerning Elections as lex specialis of the Criminal Code. As a result, there was an inaccuracy in fulfilling the elements of the offense, particularly the subjective element of intent (mens rea) and the objective element of the act of using false documents in a political context. Nevertheless, the perpetrator can be held accountable in accordance with their capacity and legal awareness. The proper application of the lex specialis principle will strengthen substantive justice by ensuring that punishment does not only emphasize formal aspects but also reflects the moral, social, and political wrongdoing of the perpetrator. The application of the lex specialis derogat legi generali principle in criminal acts involving the use of fake diplomas plays an important role in realizing legal certainty, the effectiveness of punishment, and maintaining the integrity of the democratic system in Indonesia.

In conclusion, the principle of lex specialis must be applied appropriately so that law enforcement reflects substantive justice and protects the integrity of democracy. The author suggests the need for harmonization between the Criminal Code, the Election Law, and education regulations, as well as increasing the capacity of law enforcement officials and the General Elections Commission in validating education documents to prevent similar cases from recurring.

Keywords: Principles, Certificates, Application, Completion