

## **Criminal Responsibility for Perpetrators of the Crime of Diploma Forgery**

**Sumiarti Dwipayanti<sup>1)</sup> & Denny Suwondo<sup>2)</sup>**

<sup>1)</sup> Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-mail: [denny@unissula.ac.id](mailto:denny@unissula.ac.id)

<sup>2)</sup> Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-mail: [sumidwipay00@gmail.com](mailto:sumidwipay00@gmail.com)

**Abstract.** *The aim of the research is to examine and analyze criminal liability for perpetrators of the crime of falsifying authentic deed documents. Normative juridical approach method, the approach taken is based on the main legal material by examining theories, concepts, legal principles and statutory regulations related to this research using the Theory of Criminal Responsibility and Legal Certainty. The research results show that criminal liability for perpetrators of the crime of falsifying authentic deed documents in the form of a crime contains an element of untruth or falsehood for something that appears from the outside as if it were true even though it is actually contrary to the truth.*

**Keywords:** *Accountability; Crime; Document; Falsification.*

### **1. Introduction**

Power without law has no authority, while law without sanctions is difficult to enforce. In this relationship, the law legitimizes the state, while the state positives, creates, confirms and enacts law enforcement. So, what characterizes the rule of law is the relationship between the state and law.<sup>1</sup>The two are interrelated and complement each other.

---

<sup>1</sup>Widya Hari Sutanto and Umar Ma'ruf. The Role of State Attorney Prosecutors to Restore State Financial Losses in Criminal Actions of Corruption to Make Justice, Law Development Journal Volume 3 Issue 1, March, 2021 URL: <http://jurnal.unissula.ac.id/index.php/ldj/article/view/11497/4946> Accessed August 10, 2023.

One of the crimes that often occurs in society is the crime of counterfeiting. Forgery comes from the word fake, which means an act that violates the law and harms others, both oneself and others, to seek profit.<sup>2</sup>An act is not considered a criminal act if the act is not expressly stated in the Criminal Code (KUHP) or other criminal provisions. Until now, this principle has been used as a basis for ensuring legal certainty.<sup>3</sup>

Provisions regarding forgery of letters (*valscheid in geschriften*) are regulated in Chapter XII Book II of the Criminal Code, Articles 263 to 276, which take the following forms:

- a. Forgery of letters in standard form or principal form (*eenvoudige valscheid in geschriften*), which is also referred to as forgery of letters in general (Article 263).
- b. Aggravated forgery of documents (*gequalificeerde valscheid in geschriften*) (Article 264).
- c. Ordering to include false information in an authentic deed (Article 266).
- d. Falsification of doctor's certificates (Articles 267 and 268).
- e. Forgery of certain documents (Articles 269, 270 and 271).
- f. Falsification of official certificates regarding property rights (Article 274).
- g. Storing materials or objects for falsifying documents (Article 275).

Articles 272 and Article 273 have been revoked through Stb. 1926 No. 359 in conjunction with 429. Meanwhile, Article 276 does not contain the formulation of criminal acts, but rather provisions regarding the possibility of additional penalties being imposed on makers who forge documents in articles 263 to 268, in the form of revocation of certain rights based on article 35 No. 1-4.<sup>4</sup>

Articles 263 and 264 of the Criminal Code threaten criminal penalties against anyone who forges documents. Article 263 of the Criminal Code contains the intention of providing protection or public trust in the letter or deed in question.

---

<sup>2</sup>Himawan Aji Angga and Ira Alia Maerani. Parental Responsibility Towards Criminal Actions Of Traffic Accidents By Children Who Sustained Others' Death. *Law Development Journal* Volume 2 No 3, September (2020). P.265. URL:<http://jurnal.unissula.ac.id/index.php/ldj/article/view/11497/4946> Accessed August 10, 2023.

<sup>3</sup>Musdalifa R, 2013, *Juridical Review of the Criminal Act of Using Fake Bachelor's Diplomas*, Faculty of Law, Unhas, p.1.

<sup>4</sup>Adami Chazawi, 2002, *Crimes Against Counterfeiting*, Raja Grafindo Persada, Jakarta, p.13.

Meanwhile, the crime of forgery of documents is regulated in Articles 263 to 276 of the Criminal Code (KUHP). Article 266 of the Criminal Code which states:

- 1) Any person who orders to insert false information into an authentic deed regarding something the truth of which must be stated by the deed, with the intention of using or ordering another person to use the deed as if the information is in accordance with the truth, is threatened, if such use could cause loss, with a maximum prison sentence of seven years.
- 2) The same penalty is threatened with anyone who deliberately uses the deed as if its contents are in accordance with the truth, if this use can cause harm.<sup>5</sup>

The provisions of the Criminal Code for falsifying diplomas are included in falsifying letters, namely Article 263 of the Criminal Code which regulates/determines:

- 1) Any person who makes a fake document or falsifies a letter which can issue a right, an agreement (obligation) or a debt relief, or which may be used as information for an action, with the intention of using or ordering another person to use the document as if it were a letter. it is genuine and not falsified, so if you use it you can cause harm, you will be punished for falsifying documents, with a maximum prison sentence of six years.
- 2) With the same punishment, anyone who deliberately uses a fake or falsified document as if the document were genuine and not falsified, if using it could cause harm.

In Article 263 of the Criminal Code, it is known that in paragraph one it is specifically addressed to the makers of fake letters, while in paragraph two it is specifically addressed to the users. The elements of letter falsification based on article 263 paragraph (1) above are:

- 1) Making a fake letter or falsifying a letter, means making one whose content is not what it should be (not true), or falsifying a letter by changing it so that the contents are different from the original, namely by:
  - a) Reducing or adding to the contents of the deed.
  - b) Change the contents of the deed.
  - c) Change the signature on the contents of the deed.

---

<sup>5</sup>Moeljatno, 2009, Criminal Code, Cet. 28th, Bumi Aksara, Jakarta, p.97

This first element is the objective element which means the act of making a fake letter and falsifying a letter.

2) In the explanation of this article, it is stated that those threatened with punishment in this article are people who make fake letters or falsify letters, namely:

- a) Who can issue something rights
- b) Who can issue a debt.
- c) Which can free you from debt.
- d) Which can be used as evidence in something, with the intention of using or ordering someone else to use the letter as if the letter were genuine and not falsified, if the use of the letter could cause loss.

This second element is classified as an objective element.

3) Deliberately using a fake letter or a forged letter, as if the letter were genuine and not forged. This means that the act of falsifying a letter as if it were a genuine letter must be done with the intention of using it or ordering someone else to use it. This third element is classified as a subjective element.

4) Harm other people who use the letter.

Meanwhile, the elements in Article 263 paragraph (2) of the Criminal Code are:

- 1) The objective elements are:
  - a) The action is to use.
  - b) The objects are fake letters and forged letters.
  - c) Using this letter can be detrimental.
- 2) Subjective elements on purpose

The provisions of Article 264 paragraph (1) and paragraph (2) of the Criminal Code state:

- 1) Those guilty of falsifying documents will be punished with imprisonment for a maximum of 8 (eight) years, if the act is committed against:

- a) Official proof letter (authentic deed).
  - b) Debt securities or debt tokens from a country or part of it or from a legal institution.
  - c) Sero or debt letter or certificate of ownership or certificate of debt from a foundation association, company or airline.
  - d) Talon or certificate of profit share (dividend) or letter of interest on money from one of the letters described in letters b and c or regarding a letter of evidence issued as a replacement letter for that letter.
  - e) A letter of credit or trade letter provided for circulation.
- 2) This criminal offense is also subject to anyone who deliberately uses a fake letter or a forged letter as mentioned in paragraph (1), as if the letter were genuine and not forged. If you use the letter, it could result in losses.

The elements of crime in paragraph (1) are:

- 1) The objective elements are:
  - a) The act was making fake and falsifying letters.
  - b) The object is the letter as stated in paragraph (1) letters "a" to "e".
  - c) It could result in losses from using the letter.
- 2) The subjective element is: with the intention of using or ordering other people as if the content is true and not fake. The elements of the crime in paragraph (2) above are:
  - a) The objective elements are:
    - (1) The action is to use.
    - (2) The objects are the letters as mentioned in paragraph (1).
    - (3) This usage is as if the content is true and not fake.
  - b) The subjective element is intentional.

The elements of letter falsification based on article 263 paragraph (1) above are:

1) Making a fake letter or falsifying a letter, means making one whose content is not what it should be (not true), or falsifying a letter by changing it so that the contents are different from the original, namely by:

- a) Reducing or adding to the contents of the deed.
- b) Change the contents of the deed.
- c) Change the signature on the contents of the deed.

This first element is the objective element which means the act of making a fake letter and falsifying a letter.

2) In the explanation of this article, it is stated that those threatened with punishment in this article are people who make fake letters or falsify letters, namely:

- a) Who can issue something rights
- b) Who can issue a debt.
- c) Which can free you from debt.
- d) Which can be used as evidence in something, with the intention of using or ordering someone else to use the letter as if the letter were genuine and not falsified, if the use of the letter could cause loss.

This second element is classified as an objective element.

e) Deliberately using a fake letter or a forged letter, as if the letter were genuine and not forged. This means that the act of falsifying a letter as if it were a genuine letter must be done with the intention of using it or ordering someone else to use it. This third element is classified as a subjective element.

- f) Harm other people who use the letter.

Meanwhile, the elements in Article 263 paragraph (2) of the Criminal Code are:

3) The objective elements are:

- a) The action is to use.
- b) The objects are fake letters and forged letters.

c) Using this letter can be detrimental.

d) Subjective elements on purpose

The provisions of Article 264 paragraph (1) and paragraph (2) of the Criminal Code state:

1) Those guilty of falsifying documents will be punished with imprisonment for a maximum of 8 (eight) years, if the act is committed against:

a) Official proof letter (authentic deed).

b) Debt securities or debt tokens from a country or part of it or from a legal institution.

c) Sero or debt letter or certificate of ownership or certificate of debt from a foundation association, company or airline.

d) Talon or certificate of profit share (dividend) or letter of interest on money from one of the letters described in letters b and c or regarding a letter of evidence issued as a replacement letter for that letter.

e) A letter of credit or trade letter provided for circulation.

2) This criminal offense is also subject to anyone who deliberately uses a fake letter or a forged letter as mentioned in paragraph (1), as if the letter were genuine and not forged. If you use the letter, it could result in losses.

The elements of crime in paragraph (1) are:

3) The objective elements are:

a) The act was making fake and falsifying letters.

b) The object is the letter as stated in paragraph (1) letters "a" to "e".

c) It could result in losses from using the letter.

d) The subjective element is: with the intention of using or ordering other people as if the content is true and not fake. The elements of the crime in paragraph (2) above are:

4) The objective elements are:

- a) The action is to use.
- b) The objects are the letters as mentioned in paragraph (1). Use them as if their contents were true and not fake.

The subjective element is intentional.

The act of falsifying a diploma is a material offense, that is, if the offense causes consequences that are prohibited by law and can cause losses from its use and can be punishable by crime.<sup>6</sup>A diploma is a form of authentic certificate. Based on the provisions of Article 1868 of the Civil Code, an authentic deed is a deed made in the form determined by law by or in the presence of a public official authorized to do so in the place where the deed was made.<sup>7</sup>So what needs to be understood is that the formulation of the offense contained in 263 and 264 of the Criminal Code and has fulfilled the formulation in that article, the application of articles 263 and 264 of the Criminal Code for perpetrators of counterfeiting is appropriate. Thus, the basis for a criminal act is the principle of legality, while the basis for the perpetrator being punished is the principle of error. This means that the perpetrator of a criminal act will only be punished if he is guilty of committing the criminal act.<sup>8</sup>

Forgery can be categorized as a crime of fraud, but not all acts of fraud are forgery. The act of forgery is included in the group of crimes of fraud if someone gives a description of the condition of an item (letter) as if it were genuine or that they had the truth.<sup>9</sup>Because of this description, other people are deceived and believe that the condition described in the item (letter) is true or genuine.<sup>10</sup>The incident of forgery of authentic deed documents that occurred at the Tamiang Layang District Court with decision Number: 43/Pid.B/2022/Pn Tml. The aim of this research is criminal responsibility for perpetrators of the crime of falsifying authentic deed documents, namely diplomas.

## 2. Research Methods

---

<sup>6</sup>Eddy OS Hiariej, 2012, Theory and Law of Evidence, Erlangga, Jakarta, p.7.

<sup>7</sup>Nur Khasanah and Umar Ma'ruf. The Law Enforcement in Implementation of Diversion on Children in Confrontation with the Law. Law Development Journal Volume 2 No 2, June (2020). P.60. URL:<http://jurnal.unissula.ac.id/index.php/ldj/article/view/11436/4486> Accessed August 10, 2023.

<sup>8</sup>Mujahid and Sri Kusriyah, Implementation of Restorative Justice in Criminal Cases at Investigation Level, Law Development Journal Volume 2 No 2, June, 2020, URL :<http://jurnal.unissula.ac.id/index.php/RH/article/view/2610/1993> Accessed August 10, 2023.

<sup>9</sup>Achmad Budi Waskito. Implementation of the Criminal Justice System in an Integration Perspective. Journal of Legal Sovereignty Vol. 1. No. March 1 (2018). URL:<http://jurnal.unissula.ac.id/index.php/RH/article/view/2648/1992> Accessed August 10, 2023.

<sup>10</sup>Moch Anwar, 1980, Special Part of Criminal Law (KUHP Book II), Alumni, Bandung, p.23



The approach method uses a normative juridical approach. Approach The normative juridical approach is an approach based on the main legal material by examining theories, concepts, legal principles and statutory regulations related to this research. This approach is also known as the bibliographic approach, namely by studying books, laws and regulations and other documents related to this research.<sup>11</sup> The specifications used are descriptive analytical in nature, providing a systematic, logical explanation, analyzing them in order to review applicable literature, legislation, legal norms and analyzing them to draw conclusions.<sup>12</sup>The data sources used for secondary data consist of primary legal materials in the form of legislation related to the legal research carried out.

Data collection method with the main activity being literature study, reviewing, reviewing and processing literature, statutory regulations, judge's decisions and articles or writings related to the problem to be researched. The data analysis method was carried out qualitatively using a data analysis method by grouping and selecting data obtained from literature study.

### 3. Results and Discussion

A human act (*menselijke handelingen*) by *handeling* is meant not only an act, but an act that ignores the act must be carried out by someone who can be held accountable. Because this act is prohibited and punishable by law, according to what has been formulated in the Criminal Code (KUHP) which is a legacy of the Dutch colony, which was previously known as *Wetboek Van Straftrecht (WvS)* after World War II. <sup>13</sup>

The provisions in the Criminal Code consist of three systematic provisions, the first is about general provisions, the second is about crimes and the third is about violations. The existence of the Criminal Code as a general guideline in the examination of criminal cases is still legally valid and binding on every citizen.<sup>14</sup>

One type of crime known in the Criminal Code is the crime of forgery of authentic letters or documents, where initially the formation of this criminal regulation was aimed at protecting public legal interests regarding confidence in the truth of an authentic letter or deed. The crime of forgery is a crime that contains a system of untruth or falsehood regarding something that appears

---

<sup>11</sup>Zainudin Ali, 2014, *Legal Research Methods*, Sinar Graphics, Jakarta, p.105.

<sup>12</sup>Amirudin and Zainal Asikin, 2004, *Introduction to Legal Research Methods*, Raja Grafindo Persada, Jakarta, p.118.

<sup>13</sup>Satochid Kartanegara, 2007, *Criminal Law*. Student Lecture Hall, Jakarta, p.74.

<sup>14</sup>Rendy Surya Aditama, Umar Ma'ruf and Munsharif Abdul Chalim. Criminal Law Policy Against Children as Perpetrators of Psychotropic Crimes in the Magelang Police Department. *Journal of Legal Sovereignty* Vol. 1. No. March 1 (2018). URL:<http://jurnal.unissula.ac.id/index.php/RH/article/view/2625/1974> Retrieved 10 August 2023.

from the outside as if it were true, even though in fact it is contrary to the truth.<sup>15</sup> Meanwhile, forgery can also be interpreted as an act of intentionally copying someone else's work for a specific purpose without the permission of the person concerned, which is illegal/violates another person's copyright.<sup>16</sup>

The regulations regarding the criminal act of forgery in the Penal Code were also influenced by the regulation of the same criminal offense in Roman Law. According to Roman Law, what is seen as *de elgenlijke falsum* or some actual criminal acts of counterfeiting are counterfeiting securities and counterfeiting currency, and only then are added a number of criminal acts which cannot actually be seen as forgery, so that these criminal acts are included in Doctrine is also called *quasi falsum* or *pseudo-falsification*.<sup>17</sup>

The Criminal Code does not explain whether the letter was written on paper, cloth or stone, what is explained is only the type of writing, namely whether the letter was written by hand or printed using a printing machine. A letter is a piece of paper or more used to carry out written communication. The contents of the letter can be in the form of: statements, information, notifications, reports, requests, rebuttals, demands, lawsuits and so on.<sup>18</sup> In criminal law, it is understood that counterfeiting something is a form of criminal act that is regulated in the Criminal Code, because counterfeiting will result in harm to a person or other interested party. This is what makes the crime of counterfeiting regulated and included as a criminal act.

Indonesian law regulates that forgery of something is a form of criminal act, including a crime in the Criminal Code (KUHP), which includes forgery only in the form of writings, including forgery of documents as regulated in Articles 263-276 of the Criminal Code. The crime that often occurs is related to Article 263 of the Criminal Code (making fake letters or falsifying letters). Concerning forgery of letters (*valscheid in geschriften*) is regulated in Chapter XII Book II of the Criminal Code, Articles 263 to 276, which take the following forms:

a. Forgery of letters in standard form or principal form (*eenvoudige valscheid in geschriften*), which is also referred to as forgery of letters in general (Article 263).

---

<sup>15</sup>Ismu Gunadi et al, 2011, Quickly and Easily Understanding Criminal Law, Achievement Pustaka, Jakarta, p. 89.

<sup>16</sup>Manage Qolbu, Crime Against Counterfeiting, <http://www.qolbu27.blogspot.com>, accessed 10 August 2023.

<sup>17</sup>PAF Lamintang & Theo Lamintang, 2009, Special Offenses for Crimes Against Property, Sinar Graphics, Jakarta, p. 1.

<sup>18</sup>Lamintang, PAF, 2009, Special Offenses: Crimes that Endanger Public Trust in Letters, Payment Instruments, Evidence and Justice, Sinar Graphics, Jakarta, p. 9.

- b. Aggravated forgery of documents (gequalificeerde valsheid in geschriften) (Article 264).
- c. Ordering to include false information in an authentic deed (Article 266).
- d. Falsification of doctor's certificates (Articles 267 and 268).
- e. Forgery of certain documents (Articles 269, 270 and 271).
- f. Falsification of official certificates regarding property rights (Article 274).
- g. Storing materials or objects for falsifying documents (Article 275).

Articles 263 of the Criminal Code and 264 of the Criminal Code threaten criminal penalties for anyone who forges documents. Article 263 of the Criminal Code contains the intention of providing protection or public trust in the letter or deed in question.<sup>19</sup> Meanwhile, the crime of forgery of documents is regulated in Articles 263 to 276 of the Criminal Code (KUHP). Article 266 of the Criminal Code which states:

- 1) Any person who orders to insert false information into an authentic deed regarding something the truth of which must be stated by the deed, with the intention of using or ordering another person to use the deed as if the information is in accordance with the truth, is threatened, if such use could cause loss, with a maximum prison sentence of seven years.
- 2) The same penalty is threatened with anyone who deliberately uses the deed as if its contents are in accordance with the truth, if this use can cause harm.<sup>20</sup>

The crime of falsifying documents is very disturbing to the public, including falsifying documents in the form of diplomas, including forgery of letters. The case that has received a decision from the Tamiang Layang District Court with decision number: 43/Pid.B/2022/Pn Tml.

According to Adami Chazawi, the crime of forgery or abbreviated as the crime of forgery is a crime that contains an element of untruth or falsehood in that something appears from the outside as if it were true even though in fact it is contrary to the truth.<sup>21</sup> Apart from that, there are also fake documents made by someone who claims that the document was made by a certain person, rather

---

<sup>19</sup>Edi Sutomo. Law Enforcement on Merger of Indemnity Claims in Criminal Persecution Cases. Law Development Journal Volume 2 No 2, June (2020). URL:<http://jurnal.unissula.ac.id/index.php/ldj/article/view/11521/4560> Accessed 10 August 2023.

<sup>20</sup>Moeljatno, 2009, Criminal Code, Cet. 28th, Bumi Aksara, Jakarta, p.97.

<sup>21</sup>Adami Chazawi, 2000, Crimes Against Counterfeiting, Rajawali Pers, Jakarta, p.3.

than using the real name of the document maker. This kind of falsification is called "material falsification" (*materiale valschied*). The fakeness of a document lies not in the side of the document but in the name of the person, including the signature of the person who wrote the letter which appears to have been made by the person whose real name is in the letter.<sup>22</sup> The act of creating a fake document is the act of creating a document that previously did not/does not exist, some or all of the contents of which are fake. Meanwhile, the act of falsifying is a deliberate act of any action directed at an existing letter, by deleting, changing or replacing one of the contents of the letter so that it is different from the original letter. This letter is called a forged letter.<sup>23</sup>

The Defendant's actions were submitted to the Court with alternatively prepared charges, namely the first indictment, Article 266 Paragraph (1) of the Criminal Code or the second, Article 266 Paragraph (2) of the Criminal Code or the third, Article 263 Paragraph (2) of the Criminal Code. So a person can be said to be a perpetrator if his actions fulfill all the elements of the criminal act charged. Based on the testimony of witnesses and supported by the statements of the Defendants and at trial the Defendant confirmed his identity as stated in the indictment. During the examination of the defendant during the trial, no justification or excuse was found for the actions he committed.<sup>24</sup> The things that must be proven regarding the act of making include, among other things, the form, including how, of the act of making. In law, evidence does not recognize and is not subject to presumption, but must be proven to at least meet the minimum requirements for proof. The law of evidence was created to guarantee legal certainty and justice for everyone in this country, and to avoid arbitrariness by judges in handing down decisions or verdicts in cases they handle.<sup>25</sup>

Regarding the issue of responsibility for a position, according to Krenenburg and Vegtig, there are two underlying theories, namely:

- a) *Fautes Personelles* theory, namely a theory which states that third party losses are borne by officials whose actions have caused losses. In this theory the burden of responsibility is shown to humans as individuals.
- b) *Fautes de Services* theory, namely a theory which states that third party losses are borne by the official agency concerned. According to this theory,

---

<sup>22</sup>Adami Chazawi and Ardi Ferdian, 2014, *Crime of Counterfeiting*, PT Raja Grafindo, Persada, Jakarta, p.139.

<sup>23</sup>*Ibid.*

<sup>24</sup>Wilddan Auliya and Jawade Hafidz. *Law Enforcement against Criminal Action with Fingerprint. Evidence. Law Development Journal* Volume 2 Issue 3, September (2020) URL :<http://jurnal.unissula.ac.id/index.php/ldj/article/view/11928/4950> Accessed August 10, 2023.

<sup>25</sup>Andi Ahmad Suhar Mansyur, 2013, *Normative Juridical Analysis of Forgery of Authentic Deeds Committed by Notaries*, Journal of the Faculty of Law, Brawijaya University, p.2.

responsibilities are assigned to positions. In its application, the losses incurred are also adjusted to whether the error committed is a serious error or a minor error, where the severity and severity of an error has implications for the responsibility that must be borne.<sup>26</sup>

The principle of no crime without fault or the principle of error implies that a person has committed an act contrary to applicable criminal law regulations and cannot be punished because there is no fault in his or her actions.<sup>27</sup>This principle is manifested in article 6 paragraph (2) of Law no. 4 of 2004 concerning Judicial Power, which stipulates that: "No one can be sentenced to a crime, unless the court, because of legal evidence according to law, is convinced that a person who is deemed to be responsible is guilty of the act for which he or she is charged." ". So that the application of the Principle of Error is an absolute principle in criminal law, as a basis for imposing a crime.<sup>28</sup>But how does this principle affect someone's punishment? Even though the principle of error is the basis for accountability. Meanwhile, error is the mental state of the maker and the inner relationship between the maker and his actions. If someone makes a mistake, that person can be blamed.<sup>29</sup>

Regarding the mental state of a person who commits an act, it is what is commonly referred to as the ability to be responsible. This is what the defendant did, namely by falsifying a diploma, which is a material offense, if the offense causes consequences that are prohibited by law and can cause losses due to its use and can be punishable by crime. Thus, there were no criminal exceptions found that could eliminate the Defendant's criminal responsibility. In their decision, the panel of judges at the Tamiang Layang District Court concluded that the Defendant had been legally and convincingly proven guilty of committing a criminal act. There are 2 things in criminal law that need attention, namely regarding committing criminal acts (*actus reus*) relating to the subject or perpetrator of a criminal act, and regarding errors (*mens rea*) relating to criminal liability issues. In relation to the principle of criminal law, namely "Geen straf zonder schuld, actus non facit reum nisi mens sir rea", that "not to be punished if there is no mistake", then "criminal act" is separate from what is meant by "responsibility for criminal act". A criminal act only refers to the prohibition and threat of that act with a crime, then whether the person who commits the act is

---

<sup>26</sup>Roeslan Saleh, 2015, Criminal Responsibility System Development and Implementation, PT. Rajawali Press, Jakarta, p.21.

<sup>27</sup>Sudarto, Hanafi Amrani and Mahrus Ali, 2015, Criminal Responsibility System Development and Implementation. Jakarta: Rajawali Press, p.22.

<sup>28</sup>Muladi & Dwidja Priyatno, 2012, Corporate Criminal Liability, Kencana Prenada Media Group, Jakarta, p.105.

<sup>29</sup>Muhammad Dani Hamzah, Law Enforcement in Cases of Criminal Traffic Accidents That Cause the Loss of People's Lives, Journal of Sovereign Law Vol. 1. No. March 1, 2018, URL :<http://jurnal.unissula.ac.id/index.php/ldj/article/view/14224/5406> Accessed August 10, 2023.

also sentenced to a crime as has been threatened will really depend on the question of whether in carrying out the act the perpetrator also made a mistake.<sup>30</sup>Meanwhile, the basis for responsibility is the fault found in the perpetrator's soul in relation to his behavior which can be punished and based on his mental state, the perpetrator can be blamed for his behavior. In other words, only with this inner connection can the prohibited act be held accountable to the perpetrator. This guilty mind (guilty mind, mens rea) is a mistake which is the subjective nature of a criminal act because it is within the perpetrator, therefore guilt has two aspects, namely the psychological aspect and the normative aspect.

The act of doing or not doing something that has an element of error or intention is an act that is prohibited and punishable by crime, where the imposition of a crime against the perpetrator is for the sake of maintaining legal order and guaranteeing the public interest.<sup>31</sup>In the Criminal Code (Criminal Wetboek) of 1809 it was stated: "Intentionally is the will to do or not to do acts that are prohibited or ordered by law". In the Minister of Justice's *Memorie van Toelichting* (MvT) when submitting *Criminiel Wetboek* in 1881 (which became the Indonesian Criminal Code in 1915), it was explained: "intentionally" is defined as: "consciously with the intention of committing a certain crime". The defendant must be found guilty of this and punished in accordance with the criminal provisions governing the defendant's actions.

Based on the provisions of Article 188 paragraph (1) of the Criminal Procedure Code, what is meant by Instructions are acts, events or circumstances which, because of their correspondence, either with each other or with the criminal act itself, indicate that a criminal act has occurred and who the defendant is. When related to the above provisions with witness statements, the statements of the Defendants, which have been revealed before the trial, have shown a correspondence between one another and with the criminal act itself. In the public prosecutor's indictment, which was prepared alternatively, it was in accordance with Article 266 Paragraph (2) of the Criminal Code which had been completely fulfilled. So the form of error committed by the defendant if qualified is intentional. In this case,

#### 4. Conclusion

Criminal Liability for Perpetrators of the Crime of Forgery of Authentic Deed Documents in the form of a crime which contains an element of untruth or falsehood for something that appears from the outside as if it were true even

---

<sup>30</sup>Scribd, Information Technology Crime Prevention Policy Through Criminal Law, <http://www.scribd.com>, accessed 06 August 2023.

<sup>31</sup>PAF Lamintang, 2001, *Basics of Indonesian Criminal Law*, PT. Citra Aditya Bakti, Bandung, p.16.

though in fact it is contrary to the truth. So that during the examination at trial, the defendant could not find any justification or excuse for the actions he committed. The principle of no crime without fault is that a person has committed an act contrary to applicable criminal law regulations. The application of absolute criminal responsibility is in criminal law, as a basis for imposing a crime.

## 5. References

### Journals:

- Achmad Budi Waskito. Implementation of the Criminal Justice System in an Integration Perspective. *Journal of Legal Sovereignty* Vol. 1. No. March 1 (2018).
- Andi Ahmad Suhar Mansyur, 2013, Normative Juridical Analysis of Forgery of Authentic Deeds Committed by Notaries, *Journal of the Faculty of Law, Brawijaya University*.
- Edi Sutomo. Law Enforcement on Merger of Indemnity Claims in Criminal Persecution Cases. *Law Development Journal Volume 2 No 2, June (2020)*.
- Mujahid and Sri Kusriyah, Implementation of Restorative Justice in Criminal Cases at Investigation Level, *Law Development Journal Volume 2 No 2, June, 2020*.
- Muhammad Dani Hamzah, Law Enforcement in Cases of Criminal Traffic Accidents That Cause the Loss of People's Lives, *Journal of Legal Sovereignty Vol. 1. No. March 1, 2018*.
- Nur Khasanah and Umar Ma'ruf. The Law Enforcement in Implementation of Diversion on Children in Confrontation with the Law. *Law Development Journal Volume 2 No 2, June (2020)*.
- Himawan Aji Angga and Ira Alia Maerani. Parental Responsibility Towards Criminal Actions Of Traffic Accidents By Children Who Sustained Others' Death. *Law Development Journal Volume 2 No 3, September (2020)*.
- Rendy Surya Aditama, Umar Ma'ruf and Munsharif Abdul Chalim. Criminal Law Policy Against Children as Perpetrators of Psychotropic Crimes in the Magelang Police Department. *Journal of Legal Sovereignty Vol. 1. No. March 1 (2018)*.
- Widya Hari Sutanto and Umar Ma'ruf. The Role of State Attorney Prosecutors to Restore State Financial Losses in Criminal Actions of Corruption to Make Justice, *Law Development Journal Volume 3 Issue 1, March, 2021*.
- Wild and Auliya and Jawade Hafidz. Law Enforcement against Criminal Action with Fingerprint Evidence. *Law Development Journal Volume 2 Issue 3, September (2020)*

### Books:

- Amirudin and Zainal Asikin, 2004, Introduction to Legal Research Methods, Raja Grafindo Persada, Jakarta.

- Adami Chazawi, 2002, *Crimes Against Counterfeiting*, Raja Grafindo Persada, Jakarta.
- Eddy OS Hiariej, 2012, *Theory and Law of Evidence*, Erlangga, Jakarta.
- PAF Lamintang & Theo Lamintang, 2009, *Special Offenses for Crimes Against Property*, Sinar Graphics, Jakarta.
- Ismu Gunadi et al, 2011, *Quickly and Easily Understanding Criminal Law, Achievement Pustaka*, Jakarta.
- Lamintang, PAF, 2009, *Special Offenses: Crimes that Endanger Public Trust in Letters, Payment Instruments, Evidence and Justice*, Sinar Graphics, Jakarta.
- Musdalifa R, 2013, *Juridical Review of the Criminal Act of Using Fake Bachelor's Diplomas*, Faculty of Law, Unhas.
- Muladi & Dwidja Priyatno, 2012, *Corporate Criminal Liability*, Kencana Prenada Media Group, Jakarta.
- Moeljatno, 2009, *Criminal Code, Cet. 28th*, Bumi Aksara, Jakarta.
- Moch Anwar, 1980, *Special Part of Criminal Law (KUHP Book II)*, Alumni, Bandung.
- Roeslan Saleh, 2015, *Criminal Responsibility System Development and Implementation*, PT. Rajawali Press, Jakarta.
- Satochid Kartanegara, 2007, *Criminal Law. Student Lecture Hall*, Jakarta.
- Sudarto, Hanafi Amrani and Mahrus Ali, 2015, *Criminal Responsibility System Development and Implementation*. Jakarta: Rajawali Press.
- Zainudin Ali, 2014, *Legal Research Methods*, Sinar Graphics, Jakarta.