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Forgiven of Administrative Documents as A Official The Criminal Action Of Corruption at The Mataram Corruption Court

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ABSTRACT

The fundamental question from legal observers is why the offense of forgery contained in Article 416 of the Criminal Code (Book of the Criminal Law) is transformed into a Corruption Crime offense as contained in Article 9 of Law no. 31 of 1999 Jo. UU no. 20 of 2001 concerning the Eradication of Corruption Crimes. The approach method used in writing this journal is a normative juridical approach or commonly called normative legal research. This study also uses an empirical juridical approach, this is done to determine the validity of a norm in court decisions, especially in cases of applying article 9 in the decision at the Mataram Corruption Court. This research was conducted to find out the basic philosophy of the transformation in order to have a strong basis/footing in the application of a legal norm, besides that the author proposes a futuristic proposal to change Article 9 of the Anti-Corruption Law into a material offense with the addition of elements of forgery that are detrimental to state finances/the state economy.

ABSTRAK

Pertanyaan yang mendasar dari pemerhati hukum adalah mengapa delik pemalsuan yang ada didalam pasal 416 KUHP (Kitab **Undang-Undang** Hukum Pidana) ditransformasi menjadi delik Tindak Pidana Korupsi sebagaimana dimuat dalam Pasal 9 UU No. 31 tahun 1999 Jo. UU No. 20 tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi. Adapun metode pendekatan yang dipergunakan dalam penulisan jurnal ini adalah pendekatan yuridis normatif atau lazim disebut penelitian hukum normatif. Penelitian ini juga menggunakan pendekatan yuridis empiris, hal ini dilakukan untuk mengetahui berlakunya suatu norma dalam putusan pengadilan khususnya terhadap kasus penerapan pasal 9 dalam putusan di Pengadilan Tipikor Mataram. Penelitian ini dilakukan untuk mengetahui dasar filosofi transformasi tersebut agar memiliki dasar/pijakan yang kuat dalam keberlakuan suatu norma hukum, selain itu penulis mengajukan usulan futuristik untuk merubah pasal 9 UU Tipikor manjadi delik materiil dengan penambahan unsur pemalsuan yang merugikan keuangan negara/perekonomian negara.

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I. INTRODUCTION

Talking about corruption is not a new thing, since the Dutch colonialism in Indonesia until now corruption has existed and is real, From the notes of Alfred Rusel Wallace, a naturalist who also worked as an explorer in the 1855 - 1856 range, he visited Lombok which was known as a producer of rice which was exported to Indonesia. Hong Kong, Singapore to Australia. From the results of his visit to Lombok, he wrote an article with the title Malay Archipelago which tells about the efforts of

the King of Lombok to break the chain of corruption in his country. The king of Lombok, who was in power at that time, was confused by the fact that there was a reduction in the yield of tax payments in the form of rice to the kingdom. To find out the cause of where the leakage of the rice deposit tax was located, an idea emerged from the King using the strategy of meditating on Mount Rinjani in order to find an idea, which was conveyed to the royal courtiers and the wider community. After the King had completed his austerities, it was announced to the public that the King had received an idea for each citizen to collect pins to be handed over to the King. With the collection of a number of pins, the King knew the actual population in each region and the obligation to deposit the proceeds of the rice tax to the Kingdom. With the philosophy of the needle, it reveals the veil of the existence of royal courtiers who commit corruption because they enrich themselves and do not pay the rice tax to the King, this is known from the number of residents associated with the collected pins.

During the colonial era of the Dutch East Indies in Indonesia, corruption cases had existed and were found since the VOC era as seen from VOC reports on corruption in various regions carried out by the Regent or people who sat in the colonial government. Corruption in this era is political in nature, starting with spreading corruption issues to be replaced by the regent chosen by the authorities, but there is also corruption by accepting gratuities from landlords.

In the era of the old order, the government was panicking in eradicating corruption, the government no longer believed in civilian instruments but with the involvement of military instruments by issuing the Central War Authority Regulation of the Army Chief of Staff dated April 16, 1958 No. Prt/Perpu/013/1958 (BN No. 40 of 1958) which also applies to residents within the naval territory through the Decree of the Chief of Naval Staff No. Prt/Z.1/1/7 dated April 17, 1958. In the midst of the panic in eradicating corruption, the New Order government viewed corruption as an emergency situation, so the government enacted Law no. 24 (PRP) of 1960 concerning the Eradication of Corruption. This norm is in the form of a government regulation in lieu of Law which was later ratified into Law Number 1 of 1961.

From the historical record of eradicating corruption, in the New Order era, it was a fairly long order of about 30 (thirty) years so that the most regulations related to corruption were issued, including:

1. Law no. 3 of 1971 concerning the Crime of Corruption.
2. Presidential Decree No. 52 of 1971 concerning Tax Reporting for Officials and Civil Servants.
3. Presidential Instruction No. 9 of 1977 concerning Control Operations (Opstib).
4. Law no. 11 of 1980 concerning the Crime of Bribery.

Even though in the New Order era many legal products were issued regarding the eradication of corruption, they were still unable to do much in overcoming corruption and even the rampant corruption caused the collapse of the New Order regime which was replaced by the Reform Order.

The long and winding journey in eradicating corruption in the reform order has received a breath of fresh air with the enactment of Law no. 31 of 1999 as amended by Law no. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, along with it was also born in this era a super body institution that has the authority to tap, investigate, investigate and prosecute called the Corruption Eradication Commission (KPK). In addition, there was also an institution called the Corruption Court, which is part of the General Court domiciled in Jakarta. 46 of 2009 the position of the Anti-Corruption Court is not only in Jakarta but throughout the Provinces of the Republic of Indonesia, and based on Article 6 of the Law, the Anti-Corruption Court has the authority to examine, hear and decide cases:

a. Corruption crime;
b. The crime of money laundering whose original crime is a criminal act of corruption.
c. Criminal acts that are expressly stipulated in other laws are criminal acts of corruption.

The birth of Law no. 31 of 1999 as amended by Law no. 20 of 2001 concerning the Eradication of Corruption Crimes as a material criminal law of corruption if examined carefully there is nothing radical in eradicating corruption, but the articles contained are combined (combined) of the Criminal

Code (Book of Criminal Law) and Law No. . 3 of 1971 concerning the Eradication of Corruption Crimes which has been in effect since the new order, but according to Adami (2018), there are different things:

1. Even though the formulation is different, the substance of the crime as formulated in Article 1 paragraph (1) points a and b of Law no. 3 of 1971 is the same as the formulation of a crime in Articles 2 and 3 of Law no. 21 of 2001. The difference is in the criminal acts formulated in Article 2 of Law no. 31 of 1999 can be sentenced to the death penalty if it is carried out in certain circumstances.
2. Law no. 31 of 1999 as amended by Law no. 20 of 2001 withdrew the existing provisions of 19 articles in the Criminal Code. The striking differences are:
    a. In Law no. 20 of 2001 no longer mentions the articles of the Criminal Code which were withdrawn as criminal acts of corruption (for 13 articles, namely articles 209, 210, 387, 388, 415, 416, 417, 418, 419, 420, 423, 425 and 435) were made a new formulation by adopting the formulation of these articles.
    b. For articles 220, 231, 421, 429 and 430 which were withdrawn as criminal acts of corruption in Article 32 of Law no. 3 of 1971 remains the same by mentioning the articles of the Criminal Code, but does not formulate the criminal acts concretely in Article 23 of Law no. 31 of 1999. These articles amend the threat of fines and change the punishment system from cumulative-alternative imprisonment with fines to cumulative-imperative with fines and include specific minimum criminal threats that are not known in Law no. 3 in 1971.
    c. There is a change in criminal threats that differ in severity, for fines tend to be heavier than according to the old law, in Law no. 31 of 1999 recognizes the minimum threat in addition to the maximum
3. In Law no. 20 of 2001, a new formulation of a crime that is not known in Law no. 3 of 1971, namely the crime of corruption receiving gratification (article 12 B).

The Corruption Eradication Commission (KPK) has published a Pocket Book entitled Understanding To Exterminate, in this book the KPK maps corruption crimes into 30 (thirty) forms/types of corruption which are grouped into 7 (seven) namely (KPK, 2006):

1. State financial losses (Articles 2, 3).
2. Bribery (Article 5 paragraph (1) letter a, b, Article 13, Article 5 paragraph (2), Article 12 letter a, b, Article 11, Article 6 paragraph (1) letter a, b, Article 6 paragraph (2), Article 12 letter c, d.).
3. Embezzlement in office (Article 8, 9, Article 10 letters a, b, c).
4. Extortion (Article 12 letters e, g and f).
5. Cheating (Article 7 paragraph (1) letters a, b, c and d, Article 7 paragraph (2), Article 12 letter h).
6. Conflict of interest in procurement (Article 12 letter i).
7. Gratification (Article 12 B Jo, 12 C).

Based on the classification of Corruption Crimes according to the KPK, Article 9 of Law No. 31 of 1999 as amended by Law no. 20 of 2001 is classified as a criminal act of corruption, embezzlement in office. The formulation of Article 9 of the Anti-Corruption Law reads as follows:

Sentenced to a minimum imprisonment of 1 (one) year and a maximum of 5 (five) years and a minimum fine of Rp. 50,000,000, - (fifty million rupiah) and a maximum of Rp. 250,000,000.- (two hundred and fifty million rupiahs), Civil Servants or other than Civil Servants who are given the task of running a general position continuously or temporarily, intentionally falsify books or lists specifically for administrative examination. .

If studied from the perspective of science about norms (normology), the formulation of norms in Article 9 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption is hypothetical (conditional) consisting of the first

proposition or statement relating to a condition or condition, while the second proposition or statement deals with consequences. Consequences can be imposed when conditions or conditions have been met.

Article 9 of the Anti-Corruption Law, especially on the conditions or conditions that must be met, the elements seem to be a pure general crime of the Criminal Code, namely falsifying committing a criminal act of falsifying administrative documents in the form of books or records, if grouped into a criminal act of corruption in the clump of embezzlement. in office there is no normative content which states that the object of embezzlement in office committed by criminal acts is in the form of money or securities which results in loss to the state or the state economy, although the formulation of norms in Article 9 of the Anti-Corruption Law is a living norm. and grouped into criminal acts of corruption which according to the KPK version are included in the clump of embezzlement in office. Based on the explanation as described in the Preliminary Chapter above, the main issues that arise are: Why are the provisions of Article 9 of the Anti-Corruption Law which contains falsification of administrative documents classified as Corruption Crimes? and How futuristic is the application of Article 9 of the Anti-Corruption Law in the judge's decision?

II. METHOD

The approach method used in writing this journal is a normative juridical approach or commonly called normative legal research. Normative juridical research is an approach method used to determine the legal norms contained in the legislation (Soekanto, 2007). This study also uses an empirical juridical approach, this is done to determine the validity of a norm in court decisions, especially in cases of applying article 9 in the decision at the Mataram Corruption Court.

The entire data obtained from the results of the study were analyzed using descriptive analytical methods, namely research by reviewing and analyzing articles, especially Law no. 31 of 1999 Jo. UU no. 20 of 2001 concerning the Eradication of Corruption Crimes. The data sources in this study consist of primary and secondary data. Primary data is a source of data obtained not through intermediary media or obtained directly from sources. Primary data can be in the form of opinions, observations, events or activities and test results. Secondary data is data sourced from library research whose legal materials come from primary legal materials and secondary legal materials.

Collecting data in this study requires data originating from literature and doctrine books from legal experts related to this research or from other sources in the field to support the success and effectiveness of the research.

The data analysis method used in this legal research is normative qualitative because this research is based on existing regulations as positive legal norms, while qualitative means that data analysis is carried out starting from the endeavor to find principles, legal concepts by examining the contents of the regulations. legislation and secondary data obtained.

III. RESULTS AND DISCUSSION

1. Position Case

As described in the Preliminary Chapter of Law no. 31 of 1999 which was amended by Law no. 20 of 2001 concerning the Crime of Corruption is a combined (combination) between the Criminal Code and Law no. 3 of 1971, where in particular the norms related to Article 9 of the Anti-Corruption Law is a complete transformation of the norm provisions contained in 416 of the Criminal Code.

From the literature search that the author did, at the time of Law no. 31 of 1999 was discussed in the DPR RI which was later amended by Law no. 20 of 2001 the author does not find a philosophical basis why article 416 of the Criminal Code which contains norms regarding forgery was adopted into article 9 of the Anti-Corruption Law even though the article only contains the offense of falsification of administrative documents in the form of books or lists that are specifically needed for examination.

administration. In the explanation of article by article, especially Article 9 of the Anti-Corruption Law, it is stated quite clearly even though according to the author, the absence of a detailed explanation of the existence of Article 9 of the Anti-Corruption Law is a violation of the Lex Certa principle (the formulation of the criminal offense must be clear and Lex Stricta (the criminal formulation must be interpreted firmly without any analogy).

One of the objectives of the implementation of the Anti-Corruption Law and the establishment of the Anti-Corruption Court is to completely eradicate corruption to its roots because corruption has penetrated into the joints of people's lives, so that by only adopting articles on document falsification without any element of the forgery it causes state losses, making The Tipikor Court becomes redundant because it tries the forgery offense which should be the domain of the general court, not the special court.

In relation to the application of Article 9 of the Anti-Corruption Law, Jo. Article 55 of the Criminal Code in the judge's decision, the Corruption Court at the Mataram District Court once tried the case for the rehabilitation of slum houses, case register no. 47/Pid.Sus-TPK/2015/PN.Mtr dated March 23, 2016 with the defendants WWAN FERDIAN KUSUMAH, SH., and EKO WIDIANTO transferring the case from the Dompu District Attorney to the Mataram Corruption Crime District Court. The decision of this case has permanent legal force because it has been strengthened by the Supreme Court of the Republic of Indonesia, while the position of the case is as follows:

Defendant 1. WWAN FERDIAN KUSUMAH, SH. as Community Assistance Personnel/TPM of Kwangko Village and the Defendant 2. EKO WIDIANTO, as Community Facilitator/TPM of Lanci Jaya Village in the Activities of the Dompu Regency Self-Help Housing Stimulant Assistance Program in 2013 based on the Decree of the Regent of Dompu Number: 050/114/Bappeda and Litbang/2013 December 2013 Regarding the Appointment of Community Assistance Personnel for the Self-Help Housing Stimulant Assistance Program (BSPS) of Dompu Regency in 2013, as those who carried out or participated in carrying out, on days that cannot be determined with certainty between December 2013 and February 2014, or at least at times in 2013 and 2014, located in Kwangko Village, Manggelewa District, Dompu Regency or at least in a place that is included in the Legal Area of the Corruption Court at the Mataram District Court based on Article 3 point 12 of the Decision Chief Justice of the Supreme Court of the Republic of Indonesia Number: 022/KMA/-SK/II /2011 dated 7 February 2011, Those who are given the task of running a general office continuously or temporarily, intentionally falsify books or registers specifically for administrative examination.

Defendant 1 Wawan FERDIAN KUSUMA in the implementation of the 2013 Kwangko Village BSPS, initially provided assistance to community members in the process of opening or creating an account at Bank BRI, which would later be used to collect aid money before being overbooked to the designated store account.

Defendant 1 submitted the Detailed List of Purchases of Building Materials (DRPB2), which was used as a condition for disbursement of aid funds, but the Defendant did not know who drafted DRPB2 because his presence as an assistant was only at the end of the activity replacing Adi's role as the previous assistant.

Defendant 1 and Defendant 2, jointly compiled or made an accountability report for BSPS activities or work for Kwangko Village, Manggelewa District in 2013, which was carried out by Defendant 1 asking for help from Defendant 2, related to how to compile the report, then Defendant 2 notify Defendant 1, regarding the preparation of the report, in which the report must contain DRPB2, a memorandum of goods expenditure for each recipient and also a photo of the progress of work/home photo, starting from 0%, 30% and 100%, then the Defendant Defendant 1 and Defendant 2 took a photo shoot at residents' homes, or conducted a field survey, then Defendant 1 and Defendant 2 prepared an accountability report, with all document formats for making DRPB2 and a memorandum of expenditure for goods, which was given by Defendant 2, then Defendant 1 inputted or include photos of residents' houses in the accountability report, because T Defendant 1 did not understand how to make a memorandum of purchase for goods, this was done by Defendant 2, with

the unit price of goods obtained from the UPK or from the store, then inputted or entered in a table with the volume/number of goods received by the recipients/MBR adjusted only with Ms format. Excel, so that the total value of the expenditure of these goods can meet the amount of Rp. 3.750.000,- (three million seven hundred fifty thousand rupiah), for stage 1, while for the signature of the recipient citizen/MBR and also the signature of the KPB/KPB Chair in the accountability report document, several people were asked to sign by asking UPK assistance, while others who have not signed, have their signatures falsified by Defendant 1, so that the accountability report can be immediately reported or subsequently disbursed for phase 2, besides Defendant 1 and Defendant 2, they also made fake stamps from the UD shop. RINJANI, which was made by the Defendant at the kiosk where the front stamp of the Dompu Grand Mosque was made, after all the reports were completed, the consultants asked for a signature before they were reported to Bappeda or Consultants from the Ministry of Industry.

the accountability report made by Defendant 1 together with Defendant 2, is not in accordance with the implementation of BSPS work, in the event that the number of goods/building materials for BSPS assistance contained in the report does not match the building materials from BSPS assistance received by the beneficiaries/ MBR, whose value is not as much as Rp. 7.500.000, - (seven million five hundred thousand rupiah) for each citizen.

For each resident's house/beneficiary, no proof of receipt of building materials or receipts from the shop has ever been made regarding the building material assistance they have received.

2. Case Analysis

Indictment case no. 47/Pid.Sus-TPK/2015/PN.Mtr dated March 23, 2016 with the defendants WWAN FERDIAN KUSUMAH, SH., and EKO WIDIANTO. 46/Pid.Sus-TPK/2015/PN.Mtr., on behalf of the Defendant Ruslan et al who by the Prosecutor/Public Prosecutor indicted the Defendants with multiple articles, namely the indictment of subsidiary (Primair Article 2, Subsidiary, Article 3 and more Subsidiary Article 9 of the Law) Tipikor Jo. Article 55 of the Criminal Code). Since the indictment is prepared on a subsidiary basis, the Panel of Judges must consider the primary indictment first, if it is proven then the subsequent indictment does not need to be proven again and if the primary charge is not proven the Panel will consider the subsidiary indictment, and so on.

The panel of judges who heard the case considered that the primary and subsidiary indictments were not proven legally and convincingly by reasoning, from the facts revealed at the trial that the presence of Defendant 1 was at the end of the activity to replace ADI as TPM who resigned so that the responsibility of the Defendant was limited to the final accountability report. it turned out that the figures were engineered together with Defendant 2 so that they did not match the actual situation, while those who carried out the initial activities as Chair and Secretary of the UPK were Ruslan and Damrun who disbursed money, distributed goods to the people of Kwangko Village but the goods delivered were not in the amount of Rp. . 7.500.000,- (seven million five hundred thousand rupiah) thus the voltooid (the criminal act has been completed) carried out by Ruslan together with Damrun while the Defendants are only responsible for the accountability report at the end of the activity, so based on that reason Defendant 1 and Defendant 2 is not proven to enrich/benefit oneself, another person or a corporation;

3. Discussion of Elements of Article 9 of the Anti-Corruption Law

a. Elements of Civil Servants or Persons Other Than Civil Servants Who Are Assigned To Run A General Position On A Continuous Or Temporary Term

From a historical point of view, it can be seen from several decisions of the Hoge Raad (Dutch Supreme Court) through its decisions dated 30-1-1911, 25-10-1915, 26-5-1019 which stated that in essence Civil Servants are those appointed by the Government to carry out state duties or equipment and are given jobs of a general nature (Adami Chazawi, 2022). Referring to the Hoge Raad's view which only means that Civil Servants are to carry out state duties and are given general duties, it will not reach Civil Servants who are given special tasks for a while.

Referring to article 92 of the Criminal Code, providing the parameters/measures referred to as Civil Servants are:

a. People who are elected in elections held by general rules.
b. People who are not due to election become members of the law-making body.
c. Members of government bodies, or people's representative bodies formed by the government.
d. Member of the People's Council.
e. All heads of the original Indonesian people and the heads of foreign eastern groups who exercise legitimate power.

The characteristics and parameters of the meaning of Civil Servants as stated in the Criminal Code are in accordance with the style and system of government that prevailed when Indonesia was under Dutch occupation.

After Indonesia's independence, the Supreme Court in its decision dated 22-12-1953 followed Hoge Raad's opinion and the characteristics of the parameters of civil servants contained in the Criminal Code interpreting a Civil Servant as an appointment by the government to carry out a public office that is part of the government's own duties or from its tools. the equipment.

In Article 1 point 1 of Law no. 43 of 1999 which is an amendment to Law no. 8 of 1974 concerning the Basics of Personnel, formulating the Civil Servants are:

"Every citizen of the Republic of Indonesia who has met the requirements that have been determined, is appointed by an authorized official, assigned a task in a state office or entrusted with other state duties and is paid based on an applicable statutory regulation."

Thus, prior to the enactment of the Employment Law as described above, there was no norm that defined what a Civil Servant was but only referred to the jurisprudence and doctrine of scholars.

After the enactment of Law no. 31 of 1999 concerning Corruption, the definition of Civil Servants is listed in 1 point 2, namely:

a. Civil Servants as referred to in the Law on employment.
b. Civil Servants as referred to in the Criminal Code.
c. People who receive wages from state or regional finances.
d. People who receive wages or salaries from corporations that receive assistance from state or regional finance.
e. People who receive wages or salaries from other corporations that use capital or facilities from the state or society.

If you look closely, the definition of Civil Servant contained in the Anti-Corruption Law does not mention specifically through the formulation of norms, but provides a general understanding by prioritizing the characteristics/parameters which are the broomstick of the universe because of the elaboration of the existing definition of Civil Servant according to Hoge Raad's view, the Criminal Code, the Court's Decision. Supreme and the Employment Act.

In connection with the case of the Defendants Wawan Ferdian Kusumah and Eko Widianto according to the facts revealed at trial, the defendants were confirmed as the Community Assistance Team (TPM) for the 2013 Self-Help Housing Stimulant Assistance Program (BSPS) based on the Regent's Decree Number: 050/114 /BAPEDA AND RITBANG/2013 dated December 31, 2013, with the following duties and responsibilities:

a) Participate in the socialization and briefing of BSPS activities carried out by consultants for data collection, supervision and monitoring.
b) Survey and select shops/factories/wholesale building materials (at least 3 alternatives)
c) Coordinate with the Village head / Lurah in the Work area.
d) Assisting KPB (Aid Recipient Group) / MBR in making DRPB2 (Detailed List of Goods Expenditure Usage)
e) Monitor the distribution of materials to KPB/MBR.
f) Assisting beneficiary groups / KPB / MBR in receiving assistance in accordance with the existing DRPB2.

g) Inspecting the development of physical activities of 30% and 100%.
h) Collect photos of physical activities of 30% of each PK (Activity Process) / PB (Building Work) activity.
i) Collect photos of physical activities 100% of each PB/PK activity.
j) Make reports of 50% and 100% withdrawals.
k) Provide reports on progress and problems on a regular basis (weekly) which are submitted to the KMTPM Leader team and the District Satker.

With these considerations, the legal subjects of corruption in this case are Wawan Ferdian Kusumah and Eko Widianto who were appointed by the Regent of Dompu as the Community Assistance Team (TPM) which is tasked with providing temporary assistance and in carrying out their duties as TPM they receive an honorarium from the state, thus elements of Civil Servants or other than Civil Servants have been fulfilled in the defendant.

b. Elements Deliberately Falsifying Books or Registers Specially For Administrative Examination

Theoretically the meaning of the word deliberate (dolus) as an awareness where the perpetrator of a crime ultimately understands the legal consequences that will occur from his actions, this is different from negligence (culpa) as a lack of caution or neglect, so that in the case of culpa the burden of liability is lighter than intentional.

According to P.A.P Lamintang in his book entitled Special Offenses for Occupational Crimes and Crimes in Certain Positions as Corruption Crimes, he stated that (Adami Chazawi, 2022):

Making fakes includes both the entire contents of the books or registers as well as the signatures printed on these books or registers, to be able to fake a signature, the perpetrator does not need to copy the signature of someone who is correct. -really exists.

Relevant to the act of counterfeiting in case No. 47/Pid.Sus-TPK/PN.Mtr conducted by Defendant 1 Wawan Ferdian Kusumah and Defendant 2 Eko Widianto compiled an accountability report, with all document formats for making DRPB2 and a memorandum of expenditure for goods, which was given by Defendant 2, then Defendant 1 input or enter photos of residents' houses in the accountability report, whereas because Defendant 1 did not understand how to make a memorandum of goods shopping, Defendant 2 did this, with the unit price of goods obtained from the UPK or from the store, then inputted or entered in the table the volume/number of goods received by the recipients/MBR is adjusted according to the Ms. Excel, so that the total value of the expenditure of these goods can meet the amount of Rp. 3,750,000,- (three million seven hundred fifty thousand rupiah), for stage 1. As for the signature of the recipient citizen/MBR and also the signature of the KPB/KPB Chair in the accountability report document, several people were asked to sign by asking UPK assistance, while others who have not signed, have their signatures falsified by Defendant 1, so that the accountability report can be immediately reported or subsequently disbursed for phase 2, besides Defendant 1 and Defendant 2, they also made fake stamps from the UD shop. RINJANI, which was made by the Defendant at the kiosk where the front stamp of the Dompu Grand Mosque was made, after all the reports were completed, the consultants asked for a signature before they were reported to Bappeda or Consultants from the Ministry of Industry.

The accountability report made by Defendant 1 together with Defendant 2, is not in accordance with the implementation of BSPS work, in the event that the amount of goods/building materials for BSPS assistance contained in the report does not match the building materials from BSPS assistance received by the beneficiaries/ MBR, whose value is not as much as Rp. 7.500.000,- (seven million five hundred thousand rupiah) for each citizen, with the narrative of considerations as described above, the Panel of Judges concludes that the element of intentionally falsifying books or lists for administrative examination is fulfilled according to law.

From the explanation of the elements of Article 9 of the Anti-Corruption Law, it is related to the review of case no. 47/Pid.Sus-TPK/2015 on behalf of the Defendant Wawan Ferdian Kusumah et al. shows that Article 9 of the Anti-Corruption Law is identical to ordinary counterfeiting cases but what needs to be underlined is the distinctive characteristic of the forgery that the perpetrator must be a

civil servant or other than a civil servant affiliated to the state (carry out government affairs) and receive salaries from the government and the falsified books or lists are for administrative purposes.

By simply unraveling the elements of acts of counterfeiting without being accompanied by elements of the consequences of the act of falsifying books or lists resulting in losses to the state or the state economy as is the hallmark of corruption, this shows that the offense of Article 9 of the Criminal Code is a formal offense, namely an offense that is deemed to have been violated. completed (Voltooid) by carrying out actions that are prohibited and threatened with punishment by law.

There is nothing in the official explanation in the Anti-Corruption Law regarding the philosophy of formal offenses in Article 9 whose substance on counterfeiting was adopted from Article 416 of the Criminal Code into the Anti-Corruption Law. Then is it still relevant to be maintained?. According to the author, for the future, the elements of Article 9 of the Anti-Corruption Law need to be a material offense with the addition of elements of counterfeiting that can harm state finances/the state economy.

IV. CONCLUSION

From the description that has been described previously and is the answer to the main problem, it can be concluded that it is not in the official explanation of Law no. 31 of 1999 as amended by Law no. 20 of 2001 concerning the Eradication of the Criminal Acts of Corruption, the background of why the formal offense of Article 9, which contains the substance of counterfeiting, was adopted from Article 416 of the Criminal Code into the Anti-Corruption Law. For the future, the elements of Article 9 of the Anti-Corruption Law need to be a material offense with the addition of elements of counterfeiting that can harm state finances/state economy.

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Undang-Undang Republik Indonesia Nomor 46 Tahun 2009 Tentang (TIPIKOR) Pengadilan Tindak Pidana Korupsi

Putusan Perkara No. 47/Pid.Sus-TPK/2015/PN.Mtr, atas nama Terdakwa Wawan Ferdian Kusumah Dkk.