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Disputes in the Civil Realm as a Justification for Eliminating Criminal Acts from The Perspective of The New Criminal Code

(Study of Decision Number 225/Pid.B/2019/PN. Btl)

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Abstract

This research investigates significant changes in the criminal law approach to disputes in the civil realm, specifically focusing on the justification for excluding certain criminal acts under the new Criminal Code. This shift reflects the evolution of criminal law towards a more equitable and human rights-oriented system of law enforcement. The main objective of this research is to analyze the implications and changes introduced by the new Criminal Code concerning the recognition of civil disputes as a justification for eliminating criminal acts. Additionally, the research aims to understand the impact of these changes on criminal law practice and their effect on justice within the legal system. This study employs normative legal research methods, involving the analysis of laws, legal regulations, court decisions, and relevant legal literature. A qualitative approach is used to examine and understand the changes in the new Criminal Code and their practical implications for criminal law enforcement. The findings indicate that the new Criminal Code provides greater recognition of civil disputes as a valid justification for eliminating criminal liability. This change reflects efforts to create a criminal law system that is more inclusive and sensitive to ethical values, morality, and justice. In practice, this shift alters the approach to law enforcement in cases involving civil disputes, aligning the criminal law system more closely with principles of fairness and human rights.

Keywords

Disputes in the Civil Realm; Justification; Criminal Acts; New Criminal Code.

I. Introduction

Since ancient times, law has been a pillar of society in maintaining order, justice and regulating relationships between individuals. In the context of criminal law, a criminal act is a violation of the law which is given sanctions in the form of punishment to the perpetrator of the criminal act[1]. However, criminal law is not static, it always develops along with social, cultural changes and growing demands for justice in society.

One of the significant developments in criminal law is the understanding of disputes in the civil realm as a justification that can eliminate criminal acts. Civil disputes, which in this context refer to disputes or conflicts between parties in the civil realm, such as business agreements, contracts, or property rights, have become the subject of deep debate and thought in the field of criminal law[2].

Justification of criminal acts functions as one of the principles of criminal law that has existed for many years. This reflects the philosophy of criminal law which not only has a criminal aspect, but also pays attention to circumstances that can reduce or eliminate the criminal responsibility of the perpetrator. In this case, disputes in the civil realm can be considered as one of the factors that might justify a criminal act being committed.

The most important change in the understanding of disputes in the civil domain as justifiable reasons lies in the adoption of the perspective of the National Criminal Code. This National Criminal

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[1] Apri Yanto, "Implementasi Pasal 29 Undang-Undang Nomor 36 Tahun 2009 Tentang Kesehatan Terkait Upaya Penyelesaian Sengketa Medis," *Jurnal Hukum Pelita* 4, no. 1 (2023): 67–78, https://doi.org/10.37366/jh.v4i1.2378.

[2] Rutabuz Zaman, "Pergeseran Makna Sifat Melawan Hukum Dalam Tindak Pidana Korupsi," *Industry and Higher Education* 3, no. 1 (2021): 1689–99, http://journal.unilak.ac.id/index.php/JIEB/article/view/3845%0Ahttp://dspace.uc.ac.id/handle/123456789/1288.

Code is the result of criminal law reform that focuses on justice, protection of human rights, and response to rapid social change. One thing that the author will discuss in this article is the change in views in the National Criminal Code regarding disputes in the civil domain being considered as a justification that can eliminate criminal acts as regulated in Article 35 of the National Criminal Code.

In the view of the National Criminal Code, justification for criminal acts is not only formal, but also takes into account material aspects related to civil disputes. This creates a legal dynamic that is more inclusive and sensitive to the social, cultural and economic context that is developing rapidly in modern society. For example, in this article the author will discuss decision number 225/Pid.B/2019/PN Btl where the decision states that the Defendant is proven to have committed the act charged but is not a criminal act and releases the Defendant therefore from all legal charges by the reason that the Defendant's actions are legal acts in the civil domain, the decision states that the existence of a dispute in the civil domain can be considered as a justification that eliminates the criminal responsibility of the perpetrator[3].

The National Criminal Code is also considering a more balanced approach between punishment and rehabilitation. In some cases, when civil disputes can be considered a strong mitigating factor, criminal penalties can be avoided or reduced, by focusing on rehabilitation efforts and social reintegration of criminals into society. In this context, it is important to understand how disputes in the civil domain are applied as a justification that eliminates criminal acts from the perspective of the

[3] Fifink Praiseda, "KAJIAN YURIDIS MEDIASI PENAL SEBAGAI UPAYA PENYELESAIAN TINDAK PIDANA PENCEMARAN NAMA BAIK MENURUT HUKUM PROGRESIF," *Jurnal Hukum Dan Perundang-Undangan* 3, no. 2 (2023): 31–41.

National Criminal Code[4]. This allows criminal law to be more in line with the values of justice, humanity and ongoing social developments.

Thus, this research aims to dig deeper into the concept of disputes in the civil domain as a justification that has been emphasized in Article 35 in the context of the National Criminal Code. Through an in-depth understanding of this matter, it is hoped that it can provide a clearer view of the assessment of law enforcement officials, especially judges, in determining disputes in the civil realm as a justification for criminal acts in the future.

II. Method

The method used in this paper will be the key to understanding in depth the concept of disputes in the civil realm as a justification for eliminating criminal acts from the perspective of the National Criminal Code. This paper will adopt a normative legal research approach. This approach is a writing method that tends to focus on analysis of legal regulations and relevant legal literature to understand legal concepts related to the writing topic. Using this method, the writing will carry out an in-depth review of legal regulations, court decisions, views of legal experts, and other legal sources that are relevant in the context of disputes in the civil realm as justification for eliminating criminal acts.

This article will also involve comparative legal research (comparative legal research) to compare the approach of the old Criminal Code with the National Criminal Code towards the concept of disputes in the civil realm as a justification for criminal acts. In this way, the author will try to understand to what extent the approach of

[4] Nur Rima Cessio Magistri, "Tinjauan Yuridis Terhadap Perlindungan Hukum Korban Tindak Pidana Penusukan Dalam Peradilan Pidana," *Jurnal Pembangunan Hukum Indonesia* 2, no. 1 (2020): 82–101, https://doi.org/10.14710/jphi.v2i1.82-101.

the National Criminal Code is consistent with the development trend of criminal law in Indonesian society. With a combination of normative legal research approaches and comparative legal analysis, it is hoped that this article will provide in-depth and comprehensive insight into the understanding of disputes in the civil domain as a justification for eliminating criminal acts from the perspective of the National Criminal Code.

III. Theory of Justifying Reasons

According to the theory of justificatory and forgiving reasons are fundamental concepts in criminal law which relate to legal considerations regarding actions that violate legal norms[5]. These two concepts have an important role in regulating the extent to which a person can be considered responsible for the criminal acts they commit. Justifying reasons are elements of criminal law that eliminate the unlawful nature of a criminal act. This means that even if someone commits an act that formally violates the law, the act is considered legal and does not trigger criminal sanctions because there is adequate justification. This concept reflects the principle that in some situations, criminal acts can be justified for certain reasons.

In the National Criminal Code, the justification reasons are regulated in Articles 31 to Article 35, apart from the reasons outlined in these articles, in Article 35 of the National Criminal Code which states that "There is no unlawful nature of criminal acts as intended in Article 12 paragraph (2) is a justifying reason" This article makes a change in the view of the justification for criminal acts outside the law. In the

[5] Khilmatin Maulidah and Muhammad Rizqi Hengki, "Tinjauan Yuridis Terhadap Pembelaan Terpaksa Sebagai Alasan Penghapus Pidana," *Jurnal Penelitian Serambi Hukum* 16, no. 02 (2023): 89–100, https://doi.org/10.59582/sh.v16i02.718.

absence of this provision, justification reasons outside the law are only found in judicial practice and doctrine, so that with the provisions of Article 35 of the National Criminal Code, civil disputes as a justification reason become clearer in legal certainty but in practice it will become clearer. complex and complicated because civil disputes, especially in the context of breach of contract, have very little contact with criminal acts.

The application of criminal law justifications often involves law enforcement officials, especially judges, in considering various factors to make fair decisions. Judges usually examine evidence that supports or ignores justification or excuse reasons in a case, for example in decision number 225/Pid.B/2019/PN Btl the judge in his consideration stated that the defendant's actions met the elements of a criminal offense but were not a criminal offense because There is a justification for canceling the crime, namely a dispute in the civil realm so that the defendant must be released from all legal charges[6].

It is important to note that the use of justificatory reasons is a reflection of the social and cultural values in a society. Society and legal regulations can influence how these two concepts are applied and the extent to which they play a role in determining justice in criminal law. In the National Criminal Code, judges are required to be more thorough and objective in applying justificatory reasons in considering their decisions. In the National Criminal Code, judges have also been given sentencing guidelines when making decisions that emphasize the values of justice that exist in society. Recognition of the absence of unlawfulness as a justification needs to be applied carefully, lest this provision be used as a way to manipulate the law or release perpetrators of criminal acts from responsibility for their actions. By considering various factors such as the perpetrator's motivation, intention and

[6] Ali Masyhar Mursyid, "Criticize the Use of Analogy Prohibition in Criminal Law," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 1 (2015): 155, https://doi.org/10.22146/jmh.15903.

condition, the judge can ensure that the sentence given is appropriate to the actual situation.

Understanding and recognition of justificatory reasons also reflects changes in the view of criminal law which is more humanistic and human rights oriented. In line with the basic idea of establishing the National Criminal Code, more flexible sentences and recognition of factors that can reduce criminal responsibility can help in minimizing injustice in the criminal justice system. However, it is also important to maintain a balance between providing protection to perpetrators of criminal acts who have justifiable reasons and ensuring that justice for victims is also met. Therefore, using the understanding of law enforcement officers is very necessary for the realization of the principles of justice and community security[7].

The theory of justificatory reasons is an integral component in the criminal law system that provides justice, protection and balanced law enforcement. The recognition of justificatory reasons in the National Criminal Code allows actions to be justified by law even though they formally violate regulations. In modern criminal law which focuses on human rights and justice, this concept has an important role in ensuring that the punishment given is in accordance with actual circumstances and prevailing social values[8].

[7] Adhari Ade, "Batasan Pelaksanaan Perintah Jabatan Sebagai Alasan Pembenar Dalam Syarat Pemidanaan," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 10, no. 2 (2023): 1–14.
[8] Beni Puspito, "Dynamics Of Legality Principles in Indonesian National Criminal Law Reform," *Journal Of Law and Legal Reform* 4, no. 1 (2023).

IV. The Teaching of the Nature of Contradicting Formal and Material Laws

Discussion of the teachings about the nature of formal and material unlawfulness is an important part of understanding the concept of criminal law. In the context of criminal law, these two teachings refer to approaches in assessing criminal acts and consideration of whether an action is considered to violate the law. The doctrine of the nature of being against formal law is a criminal law concept that assesses an action as criminal based on its formal aspect, namely whether the action formally violates certain legal regulations. In this context, the formal aspect refers to the question of whether the action violates legal norms established by law or legal regulations.

If the law states that a certain action is illegal, then in the formal unlawfulness doctrine, the action is considered a criminal act if it violates the provisions of the law, without taking into account contextual factors or the perpetrator's intentions. In this view, the assessment of criminal acts is based on formality testing, namely whether the act is in accordance with what is regulated in written law. This approach is often considered too mechanical and rigid. This is because it does not consider other factors such as the perpetrator's intentions or special circumstances that can change the assessment of an action. Therefore, there is criticism of this approach because it is considered less sensitive to the real context in criminal cases[9].

Meanwhile, the teaching of material unlawfulness is a more contextual concept and recognizes that the assessment of criminal acts must consider material and contextual aspects. In this view, actions are not only assessed based on formal aspects, but also based on material

[9] Cahya Wulandari, "Dinamika Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia," *Jurnal Jurisprudence* 10, no. 2 (2021): 233–49, https://doi.org/10.23917/jurisprudence.v10i2.12233.

aspects, namely whether the action actually violates the principles of ethics, morals or justice that underlie the law. In the teaching of the nature of violating material law, consideration of the perpetrator's intentions and the consequences of the action becomes more important. For example, if someone commits an act that formally violates the law, but the act is done for good purposes and without malicious intent, then the act may not be considered a criminal act in this view[10].

This approach is more flexible and allows judges to consider contextual factors in assessing criminal acts. However, it can raise ethical questions about the extent to which judgments of criminal conduct should rely on subjective interpretations of what is right and wrong. In criminal law practice, the application of the doctrine of formal and material unlawfulness can vary based on legal jurisdiction and applicable legal principles. Some jurisdictions may be more inclined to follow the doctrine of formal unlawfulness, while others may consider more material aspects in the assessment of criminal acts.

The understanding and application of these teachings can change over time and is related to the development of social and cultural values. Modern criminal law often tries to find a balance between these two approaches, recognizing that a fair assessment of criminal actions must take into account both formal and material aspects. The doctrine of the nature of formal and material unlawfulness are key concepts in understanding criminal acts in criminal law. While the teaching of the nature of formal unlawfulness emphasizes formal aspects and compliance with written law, the teaching of the nature of material unlawfulness recognizes the complexity and context of criminal acts. In

[10] M M S Wijaksana, "Perkembangan Ajaran Sifat Melawan Hukum Dalam Tindak Pidana Korupsi Di Indonesia (Sebuah Perspektif Yuridis," *Jurnal Rechtcsvending*, 2020, 1–7, https://rechtsvinding.bphn.go.id/jurnal_online/PERKEMBANGAN AJARAN SIFAT MELAWAN HUKUM DALAM TINDAK PIDANA KORUPSI DI INDONESIA (SEBUAH PERSPEKTIF YURIDIS).pdf.

modern criminal law practice, the use of these two approaches reflects efforts to achieve balanced justice and social security.

V. The Teaching of the Nature of Contrary to Material Laws in Positive Functions and Negative Functions

The doctrine of the nature of violating material law in a positive function is an approach to criminal law which places emphasis on actions that are not regulated in statutory regulations, but if these actions are considered reprehensible according to the laws in force in society or are not in line with the sense of justice. Meanwhile, the teaching of the nature of unlawfulness in its negative function is an approach to criminal law which places emphasis on an act that fulfills the elements of the offense formula but does not conflict with the sense of justice in society. The act cannot be punished, in this case a dispute in the civil realm that is in contact with the act of the crime. Crime usually creates problems for law enforcement officers in determining their attitude to assess whether a person's actions have actually committed a criminal act or whether the act is a civil law act which can eliminate its unlawful nature.

The doctrine of the contrary nature of material laws in a negative function can have significant implications in some situations. In the case of decision number 225/Pid.B/2019/PN Btl, which contains a connection between the criminal act of embezzlement and civil legal acts in the form of breach of contract, if someone commits a criminal act and fulfills all the elements in the article in which he is accused, he cannot necessarily be punished, one of which is the existence of justification reasons that are regulated outside the National Criminal Code which can eliminate the unlawful nature of violating the law. In

this view, criminal law functions as a tool to achieve justice and legal certainty, not just as a means to punish. In many jurisdictions, the teaching of material unlawfulness in a negative function is implemented through the application of legal values that exist in society, with the recognition of law that lives in society and the existence of the teaching of unlawfulness in a negative function in the National Criminal Code, it is hoped that enforcement officers will In addition to considering the perpetrator's intentions and the moral reasons behind the criminal act committed, the judge, in particular, considers whether the act is truly a criminal act[11].

Although the teaching of unlawfulness in this negative function is stricter in assessing actions, it also has an important role in maintaining justice and legal certainty. This is because it emphasizes that criminal law must be based on clear and measurable legal regulations, and not only on subjective assessments of morality.

The use of the doctrine of material unlawfulness in both positive and negative functions has significant implications in modern criminal law. The positive function reflects the aspiration to achieve substantial justice and the protection of human rights in the assessment of criminal acts. However, it is also important to strike a balance with the negative function, which helps maintain legal certainty and avoid abuse of the law. In criminal law practice, the implementation of the doctrine of material unlawfulness can vary based on jurisdiction and concrete cases. Judges often have to make a careful assessment of the facts and evidence available in assessing criminal acts.

The doctrine of the unlawful nature of material law in both positive and negative functions is a complex concept in criminal law. The positive function emphasizes the importance of good intentions

[11] Ryzky Yan Deriza, "Analisis Yuridis Putusan Mahkamah Konstitusi Nomor 003/Puu-Iv/2006 Tentang Ajaran Sifat Melawan Hukum Dalam Pemberantasan TIPIKOR," *SRIUSIN : Jurnal Ilmu-Ilmu Sosial* 1, no. 1 (2022): 55–76.

and moral reasons in assessing criminal acts. For those who adhere to the teaching of the nature of being against formal law, the justification can only be taken from positive law or written law, while for adherents of the teaching against material law, the justification can only be taken from positive law or written law. from outside written law.

The formulation of Article 2 paragraph (1) of the National Criminal Code shows that the National Criminal Code adheres to the teaching of material unlawfulness, both in positive and negative functions[12]. and the provisions of Article 12 paragraph (3) of the National Criminal Code make the teaching of unlawfulness in its negative function a written norm[13].

VI. Analysis of Decision Number 225/Pid.B/2019/PN Btl regarding Justifying Reasons from the Perspective of the National Criminal Code

Reasons from the Perspective of the National Criminal Code

The theory of criminal abolition is a criminal law concept that refers to the reasons that can eliminate the unlawful nature of a criminal act. In the National Criminal Code, there are significant changes in the way justificatory reasons are applied in criminal law. This discussion will

[12] SANTOSO, Topo. *Asas-asas hukum pidana: dilengkapi uraian KUHP nasional*. Edisi 1, cetakan ke-2 Depok: Rajawali Pers, 2023. 179

[13] Eva achjani zulfa, dkk. *Perkembangan asas-asas hukum pidana (Persandingan buku l kuhp lama baru)*. Ed. 1, cet. 1 Depok: Rajawali Pers, 2023.

discuss the reasons justifying criminal acts in decision number 225/Pid.B/2019/PN Btl.

In the old Criminal Code, the provisions regarding justificatory and forgiving grounds were regulated in one chapter, while in the National Criminal Code, the justifying and forgiving reasons were separated into two different chapters[14].

The position case in decision number 225/Pid.B/2019/PN Btl started with the Defendant Sutoto Hermawan and the Victim Bernadetta Rita Dwi Prasetyaningsih entering into a house sale and purchase agreement and the Defendant offering to sell the house if the Victim Bernadetta Rita Dwi Prasetyaningsih was willing to build a house using the Defendant's services, then the Defendant was willing to pay for the house at Rp. 750,000,000 (seven hundred and fifty million rupiah), but the Defendant only paid Rp. 670,000,000 (six hundred and seventy million rupiah), meanwhile the remaining money is Rp. 80,000,000 (eighty million rupiah) was combined into the down payment for the work on building Victim Bernadetta Rita Dwi Prasetyaningsih's house which would be carried out by the Defendant Sutoto Hermawan, then the Defendant and Victim Bernadetta Rita Dwi Prasetyaningsih mutually agreed on the price of the work amounting to IDR 600,000,000, 00 (six hundred million rupiah) and a written agreement was made on March 29 2018 at the Notary's office, the contents of the draft work contract were, among other things, that the implementation of the construction of the house for 180 (one hundred and eighty) days starting 6 (six) days after the signing of the agreement by means of payment for carrying out work worth IDR 600,000,000.00 (six hundred million rupiah) divided into 4 (four) terms, namely a down payment of 50% (five twenty percent) of the

[14] Eva achjani zulfa, dkk. *Perkembangan asas-asas hukum pidana (Persandingan buku l kuhp lama baru)*. Ed. 1, cet. 1 Depok: Rajawali Pers, 2023.

contract value or IDR 300,000,000.00 (three hundred million rupiah) paid after signing the employment contract by both parties[15]. Termyn I is 25% (twenty five percent) of the contract value or IDR 150,000,000 (one hundred and fifty million rupiah) paid on performance work reaches at least 75%, Termyn II at 20% (two twenty percent) of the contract value or Rp. 120,000,000 (one hundred and twenty million rupiah) paid on work performance reaching at least 100%, Termyn III is 5% (five percent) of the contract value or IDR 30,000,000 (thirty million rupiah) Paid after completion of the maintenance period for 30 (thirty) days or handover of work. That the victim, Bernadetta Rita Dwi Prasetyaningsih, submitted a down payment of Rp. 300,000,000.00 (three hundred million rupiah) and was accepted by the defendant. However, around April 2018, a check was carried out to check that the process of building the house had not been completed. Victim Bernadetta Rita Dwi Prasetyaningsih had a meeting with the Defendant and asked if work had not been carried out on the grounds that the Defendant had difficulty finding construction workers. About a week later, after the meeting between Victim Bernadetta Rita Dwi Prasetyaningsih and the Defendant, the first stone was laid in July 2018, then there was no further work and it stopped. That as a result of the defendant's actions, Victim Bernadetta Rita Dwi Prasetyaningsih suffered cash losses totaling IDR 300,000,000.00 (three hundred million rupiah). For these actions, the Defendant was charged by the Public Prosecutor with Article 372 of the Criminal Code (embezzlement) or 378 of the Criminal Code (fraud)[16].

[15] Cahya Wulandari, "Kedudukan Moralitas Dalam Ilmu Hukum," *Jurnal Hukum Progresif* 8, no. 1 (2020): 1–14, https://doi.org/10.14710/hp.8.1.1-14.

[16] Gita Nuzula Allamah and Ali Masyhar, "Indonesian Penal Reform: Concept and Direction of Thought," *Journal of Law and Legal Reform* 2, no. 2 (2021): 295–310, https://doi.org/10.15294/jllr.v2i2.46628.

In decision Number 225/Pid.B/2019/PN Btl, the Panel of Judges in its consideration stated that the Defendant's actions had fulfilled all the elements in Article 372 (Embezzlement) and then considered whether the Defendant's actions constituted a mistake which was of a contrarian nature and the facts found that there had been a transfer of money from the victim Bernadetta Rita Dwi Prasetyaningsih in the amount of Rp. 300,000,000.00 (three hundred million rupiah) which was intended for financing the 50% down payment of the work contract for the construction of a 2 (two) storey residential house which was the object of the contract agreement work on March 29 2018 which had been agreed upon by the Defendant and the victim Bernadetta Rita Dwi Prasetyaningsih, but the construction was not carried out as agreed so that the Defendant and the victim Bernadetta Rita Dwi Prasetyaningsih had entered into a legal relationship in the form of a work agreement, so the Defendant's actions constituted an unlawful act. contrary to the law, which in this case is the law arising from civil relations, so the Judge stated that the Defendant's actions were proven as charged by the Public Prosecutor, but these actions were not a criminal act but rather a civil relationship and the Defendant must be adjudicated free from all legal charges.

In this decision, the Defendant's actions constituted a civil relationship with the victim Bernadetta Rita Dwi Prasetyaningsih, the existence of an agreement between the Defendant and the victim Bernadetta Rita Dwi Prasetyaningsih which ended with the Defendant not fulfilling the contents of the agreement was an act called breach of contract. In criminal justice practice, it is quite often found that there is an intersection between default and criminal acts, especially fraud, default and the criminal act of fraud as regulated in Article 378 of the Criminal Code have almost the same characteristics as each other, namely failure to fulfill an achievement, this depends on the malicious intent that is carried out. arise from these actions. To find out acts of

breach of contract and criminal acts of fraud lie in "someone's intentions" if before the contract is closed/signed there are bad intentions then it is fraud, if the contract has been closed/signed bad intentions appear then it is a breach of contract[17]. However, in practice now, where society has developed very rapidly and the practice of making agreements is increasingly sophisticated and modern, so to know whether there is evil intent (mens rea) from someone's actions, it is not enough whether or not the contract has been signed, but it is also necessary to initiate action (actus reus). done by that person. In this case, the initiation of action (actus reus) in the case example above needs to be more carefully considered by Law Enforcement Officials, especially Judges, in terms of assessing the Defendant's actions. In the case of eliminating the nature of being against the law on the grounds that there is a civil relationship which is a justification, the judge must carefully and carefully assess whether the act is truly a civil act or whether the defendant wanted to deceive the victim from the start. An assessment of the Defendant's actions in this case is not enough just to assess the Defendant's evil intentions (mens rea), but it is necessary to assess the stages of the Defendant's actions in carrying out his actions in detail so that later the Defendant's actions can be seen when there is a relationship between evil intentions (mens rea). rea) with action (actus reus), whether they support each other or even negate each other. Thus, the Defendant's actions can be categorized as a form of breach of contract/civil act or a form of fraud/criminal act.

[17] Dr Yahman SH, MH. *karakteristik wanprestasi dan tindak pidana penipuan yang lahir dari hubungan kontraktual*. Edisi 1, cetakan ke-3 Jakarta: Prenadamedia Group, 2016. 259

VII. Conclusion

With the enactment of the National Criminal Code, which has a relationship between the formulations of Articles 2 paragraph (1), 12 paragraph (3) and 35 of the National Criminal Code, it shows that there is a teaching of the nature of being against the law which is material, both in positive and negative functions and makes the teaching of the nature of being against the law in a negative function. become a written norm in the National Criminal Code. Therefore, the application of justifications outside the Criminal Code is no longer based solely on doctrine or practice so that this can create legal certainty for the community. With this legal certainty, it is hoped that in its implementation Law Enforcement Officials can be more careful, careful and thorough in implementing these provisions so that justice and benefits can be created for the community.

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Facinus quos Inquinat

Aequat