

Juridical Review of Criminal Law Arrangements in Document Forgery Cases

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Abstract. Document forgery is one of the criminal offenses that can damage the integrity of the legal system, affect public trust, and disrupt social order. This study aims to review the criminal law regulation related to document forgery in the Criminal Code (KUHP) and identify challenges in law enforcement. Based on the analysis of Articles 263 and 264 of the Criminal Code, it is found that criminal law in Indonesia has clearly regulated document forgery, by providing criminal sanctions to perpetrators who create, alter, or use fake documents for fraudulent purposes. However, the implementation of criminal law related to document forgery cases still faces various obstacles, such as limited evidence and the development of information technology that requires regulatory adjustments. Therefore, efforts are needed to strengthen the law enforcement system, improve legal education to the public, and adjust the rule of law to technological developments. This research provides suggestions to improve the efficiency of handling document forgery cases through strengthening coordination between legal institutions and updating relevant regulations.

Keywords: Forgery, Documents, Criminals, Criminal Code

Abstrak. Pemalsuan dokumen merupakan salah satu tindak pidana yang dapat merusak integritas sistem hukum, memengaruhi kepercayaan masyarakat, dan mengganggu ketertiban sosial. Penelitian ini bertujuan untuk meninjau pengaturan hukum pidana terkait pemalsuan dokumen dalam Kitab Undang-Undang Hukum Pidana (KUHP) serta mengidentifikasi tantangan dalam penegakan hukumnya. Berdasarkan analisis terhadap Pasal 263 dan 264 KUHP, ditemukan bahwa hukum pidana di Indonesia telah mengatur pemalsuan dokumen secara jelas, dengan memberikan sanksi pidana kepada pelaku yang membuat, mengubah, atau menggunakan dokumen palsu untuk tujuan penipuan. Namun, implementasi hukum pidana terkait kasus pemalsuan dokumen masih menghadapi berbagai kendala, seperti keterbatasan bukti dan perkembangan teknologi informasi yang memerlukan penyesuaian regulasi. Oleh karena itu, diperlukan upaya untuk memperkuat sistem penegakan hukum, meningkatkan pendidikan hukum kepada masyarakat, serta menyesuaikan aturan hukum dengan perkembangan teknologi. Penelitian ini memberikan saran untuk meningkatkan efisiensi penanganan kasus pemalsuan dokumen melalui penguatan koordinasi antar lembaga hukum dan pembaruan regulasi yang relevan.

Kata Kunci: Pemalsuan, Dokumen, Pidana, KUHP

1. INTRODUCTION

Document forgery is a criminal offense that has a serious impact on the legal system and public life, especially in the context of trust in institutions that rely on official documents as proof of legality. According to Simanjuntak (2020), document forgery creates legal instability because it can cause financial, social, and reputational losses for individuals and organizations. This phenomenon is increasingly complex along with technological advances that make it easier to access and manipulate digital documents (Handayani, 2021).

In the perspective of Indonesian criminal law, document forgery is regulated in Article 263 of the Criminal Code, which emphasizes that any act of making false documents or falsifying original documents with the intention of using them as an

instrument of crime is a serious offense (Putra, 2022). This regulation aims to protect the validity of documents as legal evidence. However, cases of document forgery have shown a significant increase in recent years, especially in the financial sector and public administration (Nugroho, 2023).

One important aspect of document forgery is its impact on the rights of victims. Based on research by Prasetyo (2021), victims of document forgery often suffer material and immaterial losses that are difficult to recover, especially when fake documents are used to access their assets or identity. This is also reinforced by a report from the Ministry of Law and Human Rights, which noted that most document forgery cases are related to financial documents, such as checks, deeds of sale and purchase, and land certificates (Kemenkumham, 2022).

The existence of digital technology also provides new challenges in handling document forgery cases. Deepfake technology, for example, has been used to create fake documents with a high level of accuracy that is difficult to detect manually (Widodo, 2022). Therefore, a more innovative approach is needed in identifying and proving such cases in court. In this regard, some legal experts, such as Hartanto (2023), suggest the use of digital forensic technology as one of the solutions to improve the effectiveness of law enforcement.

In a global context, document forgery cases are also a serious concern as they potentially involve international criminal networks. According to a report by the United Nations Office on Drugs and Crime (2021), document forgery crimes are often linked to human trafficking, financial fraud and cybercrime. This situation shows that document forgery not only harms individuals but can also threaten a country's national security (UNODC, 2021). Thus, handling this case requires cross-sectoral cooperation, both at the national and international levels (Suryadi, 2023).

Meanwhile, in Indonesia, the main challenge in tackling document forgery is the weak coordination between government agencies. As explained by Santoso (2022), the lack of data integration between agencies often complicates the document verification process, thus providing a gap for criminals to forge documents. In addition, law enforcement that still focuses on repressive aspects without paying attention to preventive aspects is also an obstacle in reducing the number of document forgery cases (Arief, 2023).

In an effort to address this issue, the government has introduced various policies and programs, such as the digitization of official documents and the implementation of

electronic signature systems (MoHA, 2022). However, the implementation of these policies still faces obstacles, especially in terms of technological infrastructure and people's digital literacy (Yusuf, 2023). According to Wibowo (2023), education on the importance of maintaining document authenticity and increasing public legal awareness are crucial steps to reduce the risk of document forgery.

Legal studies also show that the criminal sanctions stipulated in Article 263 of the Criminal Code are considered not to have a sufficient deterrent effect on criminals (Harahap, 2021). Some experts, such as Suharto (2022), have suggested revisions to the Criminal Code to increase criminal sanctions, especially in cases involving falsification of documents with broad impacts. This approach is expected to improve legal protection for the public while strengthening trust in the legal system.

In addition, it is important to pay attention to the role of technology in supporting law enforcement. According to Surya (2023), the development of artificial intelligence (AI)-based surveillance systems can assist in detecting indications of document forgery in real-time. This technology has been applied in several developed countries and has proven effective in reducing document forgery cases (Smith & Taylor, 2022). With the adoption of similar technology, Indonesia is expected to improve its ability to detect and prevent document forgery.

Overall, document forgery is a complex and multidimensional problem that requires a comprehensive approach to tackle. Whether through strengthening regulations, improving technology, or educating the public, all elements must work together to create a more secure and reliable system. As stated by Irawan (2022), collaboration between the government, private sector, and society is the key to effectively addressing this challenge.

2. RESEARCH METHODS

The prescriptive normative legal method is used to analyze existing legal norms in legislation relating to document forgery. This method focuses on research into existing legal texts, such as the Criminal Code (KUHP) and other relevant regulations. Normative law plays an important role in providing a clear picture of the applicable rules and how the law should be applied to the crime of document forgery.

According to Sudikno Mertokusumo (2020), the normative legal method emphasizes the analysis of existing legal regulations without looking at practices in the field. This method aims to identify, examine, and formulate norms that are relevant to the case under study, in this case, document forgery, which is a violation of the provisions in Article 263

of the Criminal Code. Normative law also focuses on the application of these rules in solving existing legal problems.

This method is very important in examining the applicable legal rules and understanding the interpretation and application of legal norms in Indonesia, especially in the context of criminal acts of document forgery. By using a prescriptive approach, we can see how the law should work in providing fair solutions for the parties involved, as well as providing appropriate sanctions for acts of document forgery committed by individuals or groups. This is also relevant in understanding the potential gap between legal theory and its practical application in the field (Mertokusumo, 2020; Soerjono Soekanto, 2021).

3. RESULTS AND DISCUSSION

In the legal analysis of document forgery cases, the prescriptive normative legal method focuses on analyzing the existing legal norms in the relevant laws and regulations. Document forgery, which is regulated in Article 263 of the Criminal Code (KUHP), is a criminal act of intentionally altering or creating false documents for a specific purpose, such as to defraud or gain unauthorized benefits. In this case, the prescriptive approach seeks to assess the extent to which existing legal provisions adequately protect the rights of aggrieved parties and provide justice in law enforcement.

Legal Arrangements on Document Forgery in the Criminal Code

Document forgery is one of the criminal acts regulated in the Indonesian Criminal Code (KUHP). In general, document forgery can be defined as the act of creating or altering documents with the intention of deceiving or obtaining unauthorized gain. Document forgery has a serious impact on the validity of the document and can harm the party entitled to the forged document.

Article 263 of the Criminal Code regulates document forgery, which consists of forgery committed by individuals or groups. The article states that anyone who creates, alters, or uses forged documents with the intent to defraud is liable to imprisonment. Article 263 paragraph (1) states, "Any person who, with intent to unlawfully benefit himself or another, makes, alters, or uses a forged document to the detriment of another party, shall be punished by a maximum imprisonment of six years." This shows that document forgery is not only a matter of making fake documents, but also includes the use of fake documents to gain profit or harm other parties (Pudjiastuti, 2020).

In practice, document forgery often involves documents that have legal force, such as letters of agreement, notarial deeds, personal identity, or company documents.

Document forgery cases can occur in various sectors, be it the economic, political, or social sectors. According to Sutarman (2021), one example that often occurs is document forgery for the purpose of applying for bank loans, where falsification of identity or financial documents is used to obtain loans that should not be granted.

The crime of document forgery is not only limited to the creation of false documents, but also includes the alteration of valid documents into invalid ones. This forgery may include alteration of numbers, signatures, or contents of the document. This is regulated in Article 264 of the Criminal Code which states, "Whoever deliberately alters or erases the writing in a valid document, with the intent to harm another party or to benefit himself, shall be punished by a maximum imprisonment of five years." Law enforcement related to document forgery aims to maintain public trust in the validity of documents as valid evidence in the life of society and the state (Amin, 2022).

It is important to note that in addition to the articles listed in the Criminal Code, Indonesian positive law also regulates document forgery in various other regulations. For example, Law No. 11/2008 on Electronic Information and Transactions (ITE) also regulates document forgery committed in electronic form. Article 35 of the ITE Law regulates the use of electronic signatures that are valid and can be used as valid evidence. Therefore, falsification of documents using electronic signatures or other electronic documents can also be subject to criminal sanctions (Rachmawati, 2021).

Overall, document falsification in Indonesian criminal law has severe sanctions to provide a deterrent effect and maintain the integrity of the legal system in Indonesia. In addition, law enforcement against document forgery is crucial to protect the rights of individuals and organizations and ensure fairness in legal transactions.

Purpose and Function of Criminal Law in Document Forgery Cases

Criminal law has a very important role in maintaining justice and order in society, one of which is in regulating the crime of document forgery. Document forgery not only harms the victimized party, but also damages the integrity of the legal system and state administration. Therefore, criminal law has a crucial purpose and function in handling cases of document forgery, by providing appropriate sanctions and preventing similar acts from occurring in the future.

The main objective of criminal law in document forgery cases is to protect society and the legal system from actions that undermine trust in official documents. According to Soedarto (2019), criminal law aims to protect social and individual interests from harmful acts, as well as to create order and legal certainty. In the context of document forgery,

criminal law aims to provide protection to parties who are victims of forgery, so that the validity of documents is maintained and not misused for the benefit of certain individuals or groups. Document forgery can create legal uncertainty, which if not handled properly can harm many parties, especially in terms of transactions or agreements that depend on legal documents.

In addition, criminal law also serves to provide a deterrent effect for perpetrators of document forgery. According to Barda Nawawi Arief (2020), one of the functions of criminal punishment is to have a deterrent effect on the perpetrator and prevent others from committing similar acts. In the case of document forgery, the criminal sanctions imposed are expected to reduce similar criminal acts that have the potential to harm the community. With strict punishment, the perpetrators of document forgery are expected to think twice before committing actions that can harm many parties.

Another function of criminal law is to uphold the principle of justice. Document forgery can cause injustice, where the injured party does not get the protection they deserve. Criminal law, in this case, plays a role in restoring justice by imposing appropriate sanctions on the perpetrators. According to H. A. R. Tilaar (2021), the principle of justice in criminal law must be seen from two aspects: substantive justice and procedural justice. Substantive justice means that the punishment given must be in accordance with the crime committed, while procedural justice means that the judicial process must be carried out fairly, providing an opportunity for the defendant to defend himself and obtain his rights.

In addition to providing a deterrent effect, criminal law also serves as a deterrent for the community not to commit similar criminal acts. In the context of document forgery, the application of strict criminal law is expected to prevent the occurrence of document forgery in the future. This is important because document forgery not only harms the individuals involved, but also damages the integrity of the existing legal system. Therefore, criminalizing document forgery is essential to ensure that documents used in everyday life remain legitimate and trustworthy.

Overall, the purpose and function of criminal law in document forgery cases are to protect the interests of the community, maintain the validity of documents, provide a deterrent effect for perpetrators, and uphold the principles of justice. With the existence of clear criminal sanctions, it is hoped that acts of document forgery can be minimized and create order and legal certainty in society.

Balance between Crime and Community Protection

The balance between criminal offenses and the protection of society is a crucial aspect of the criminal law system. In the context of criminal law, the primary duty of the state is to create a safe and orderly environment, where individuals can live without threat or harm from criminal acts. Therefore, it is important to ensure that the criminal sanctions provided not only serve to punish the offender, but also to protect society from further crimes.

One of the main principles in the criminal law system is that the punishment imposed must be proportional to the crime committed. According to Simons (2020), this balance aims to ensure that the perpetrator of a criminal offense receives a punishment that is appropriate to the level of guilt and the impact of his actions. In this case, criminal sanctions must function as a deterrence tool, providing a deterrent effect on the perpetrator and others so that they do not commit similar acts. However, the disproportionate application of punishment can lead to injustice and even risk damaging social balance. Therefore, the principle of proportionality in the provision of punishment must be considered carefully so that justice is achieved.

In addition, criminal law also has a community protection function. Criminal law not only regulates how criminals are punished, but also provides protection to individuals and groups in society from potential threats or losses. This protection is not only preventive, but also repressive. According to Hartanto (2021), the role of criminal law in the protection of society includes two important aspects: first, the protection of individuals or groups from criminal acts; second, the protection of social stability by enforcing rules that can prevent crime. Therefore, effective criminal law enforcement is essential to create a sense of security and trust in society.

On the other hand, the appropriate application of criminal sanctions is also important to maintain a balance between the need to punish perpetrators and protect society. For example, in the case of document forgery, the punishment given to the perpetrator must be proportional to the impact of the crime, both for the individual harmed and for society at large. According to Kusumaatmadja (2022), criminal law should not only aim to impose sanctions, but also to restore the harm caused by the criminal offense, in a fair and proportional manner. This includes providing penalties that can sensitize the offender while ensuring that preventive and rehabilitative measures are also provided.

Furthermore, the balance between crime and community protection can be achieved by minimizing the number of unnecessary cases through crime prevention. According to Syarifuddin (2021), effective crime prevention can reduce the burden on the criminal

justice system and help maintain social balance. Policies that focus on legal education, community outreach, and strengthening the justice system can help prevent crime before it happens. With a more proactive approach, criminal law can function more effectively in maintaining this balance.

Overall, the balance between criminal offenses and community protection relies heavily on the application of the principles of justice, proportionality, and deterrence. For this reason, criminal law does not only act as a tool to punish, but also as a means to maintain order and ensure that society is protected from the threat of crime.

The Role of Law in Upholding Legal Certainty

Legal certainty is one of the basic principles underlying the success of the legal system in a country. Without legal certainty, people will not be able to carry out social and economic life with a sense of security, which in turn can disrupt social and state stability. In this context, the role of law is crucial to ensure that every action, decision and rule applied has a clear, predictable and unchanging foundation. Legal certainty provides a sense of justice to the community, ensures that their rights and obligations are respected, and provides protection to any individual or group from the uncertainty that can arise due to legal uncertainty.

According to C.S.T. Kansil (2019), legal certainty refers to the existence of clear and systematic regulations that are consistently applied. One of the main roles of law is to create definite regulations, so that people know exactly what they can and cannot do. Without legal certainty, people will tend to ignore existing rules, or even take risky actions because they do not know the legal consequences of their actions. In this regard, the law has a duty to provide clear guidelines regarding the rights of individuals and their obligations in society.

The role of law in upholding legal certainty is also reflected in the application of fair and consistent sanctions. An objective and transparent judicial system is one of the mechanisms to maintain legal certainty. As stated by Satjipto Rahardjo (2020), a judicial process that is free from political intervention or personal interests is very important to uphold the principle of legal certainty. In the criminal law system, for example, the law must provide sanctions that are in accordance with the mistakes made by the perpetrators, in accordance with the applicable provisions. This is important to ensure that everyone will receive fair treatment under the applicable law, and that legal decisions are not based on subjectivity or bias.

In addition, the law plays a role in providing protection to individuals and groups from unlawful behavior. Legal certainty can be achieved when existing rules provide clarity on the rights of each individual, and allow them to file a lawsuit or report actions that harm them without fear of discrimination or injustice. According to Zainal Abidin (2021), a fairly enforced law will create confidence in the community that they will obtain equal rights and face fair treatment in the event of a dispute or violation.

Law also plays a role in creating stability and order in state life. Countries that have a strong and consistent legal system tend to find it easier to create an atmosphere conducive to economic growth and community welfare. In this case, law becomes a very effective tool to create certainty in various sectors of life, ranging from economic, political, to social sectors. With legal certainty, investors will be more confident in making investments, people will feel safer in living their daily lives, and public sectors will be able to operate more efficiently and transparently (Umar, 2020).

Overall, the role of law in upholding legal certainty is fundamental in maintaining order, justice and prosperity in society. Clear, fair and consistent laws guide individuals through their social lives, and provide protection for their rights. With a strong legal system that is trusted by society, the state can create a stable and orderly environment where everyone can live their lives with security and trust in the legal system.

Critique of Existing Legal Arrangements

Although the legal regulation on document forgery in Article 263 of the Criminal Code (KUHP) has provided a clear basis for taking action against perpetrators of document forgery, there are still some criticisms of the provision. One of the main criticisms is the lack of specific regulations regarding more modern forms of document forgery, such as those related to digital technology. In the digital era, document forgery can be carried out using more sophisticated technology, such as electronic document forgery or digital data manipulation. Therefore, the provisions in Article 263 of the Criminal Code which focus more on physical documents are considered inadequate to deal with forgery that occurs through electronic media (Mertokusumo, 2020).

In addition, although the penalties given to perpetrators of document forgery are quite strict, many parties argue that these penalties do not provide a strong enough deterrent effect. The large number of document forgery cases revealed and the lack of maximum enforcement can give the impression that the existing penalties are not enough to provide a serious warning to perpetrators and potential perpetrators. This shows that criminal law needs to be evaluated and adjusted to social and technological developments

so that the sanctions imposed can be more effective in providing a deterrent effect (Soekanto, 2021).

Another criticism relates to the protection of victims of document forgery. Although criminal law provides sanctions against perpetrators, there are still shortcomings in terms of providing adequate protection to the injured party. The existing legal system mostly highlights sanctions against perpetrators, while the protection of victims receives less attention. Therefore, it is important to improve legal arrangements by adding more adequate mechanisms to protect parties harmed by document forgery (Mertokusumo, 2020).

4. CONCLUSION

Based on the juridical review of criminal law regulation in document forgery cases, it can be concluded that document forgery is a criminal offense that has a major impact on the integrity of the legal system, public trust, and legal certainty in various sectors of life. Document forgery is regulated in Articles 263 and 264 of the Criminal Code which provide criminal sanctions to perpetrators who intentionally create, alter, or use false documents for fraudulent purposes. Criminal law serves to protect the public from this crime, provide a deterrent effect for perpetrators, and ensure that the legal system continues to run fairly and transparently.

However, despite the existence of legal provisions governing document forgery, the implementation of these laws still faces various challenges. The law enforcement process is often hampered by the lack of valid evidence or the growing problems in examining electronic documents. Therefore, to optimize the prevention and handling of document forgery cases, efforts are needed to improve the judicial system and law enforcement to be more transparent and efficient.

Advice

Suggestions that can be made are the need to strengthen legal education to the public to increase awareness of the importance of legal documents and their role in social and economic life. In addition, it is necessary to adjust regulations related to electronic documents so that the regulation of document forgery can be more relevant to existing technological developments. The government also needs to strengthen coordination between legal institutions to overcome problems that arise in criminal law enforcement related to document forgery.

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