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## **The Criminal Acts Of Using Forged Letters In The Sale And Purchase Of Land In The Jurisdiction Of The Jambi Regional Police From The Perspective Of Criminal Law And Islamic Law**

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### **ABSTRACT**

This research aims to examine the criminal act of using forged documents in land sale and purchase transactions within the jurisdiction of the Jambi Regional Police (Polda Jambi). This study is categorized as empirical legal research employing a qualitative approach, which seeks to explain issues by thoroughly and comprehensively examining the conditions and situations under investigation. The data collection methods used in this research include observation, interviews, and documentation. The results of the study indicate that, from the perspectives of criminal law and Islamic law, document forgery is a prohibited act because it violates the principle of justice and harms the property rights of others. Both legal systems share the same objectives, namely to provide a deterrent effect and legal protection, although they differ in their systems and forms of sanctions. The common modus operandi employed by perpetrators involves the use of land ownership documents that are inconsistent between physical data and juridical data, such as discrepancies in location, manipulation of land boundaries and area, and shifting of territorial coordinates. Preventive efforts focus on early prevention through education, data integration, and strengthening verification systems, thereby making forgery practices increasingly difficult for perpetrators to carry out. Meanwhile, repressive efforts focus on law enforcement actions against offenders, the application of strict criminal sanctions, and inter-agency coordination to strengthen the judicial process.

**Keywords:** Criminal Acts, Forged Letters, Criminal Law and Islamic Law

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## **INTRODUCTION**

The state enacts laws to create an orderly, safe, prosperous, and peaceful society, and laws that apply equally to everyone, from the lowest to the highest levels. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that Indonesia is a state based on the rule of law. Based on this, one of the important principles of a state based on the rule of law is the guarantee of an independent judiciary, free from the influence of other powers, capable of administering justice and upholding law and justice.

The function of law is to protect human interests by regulating human activities. Human interests are numerous and innumerable in number and variety. Human interests will evolve over time. Unclear legal regulations must be clarified, and incomplete ones must be supplemented by finding ways to apply the legal rules to the events in question, thereby achieving the desired legal decisions, namely those that contain aspects of justice, legal certainty, and expediency.

The desire to fulfill life's needs drives individuals to engage in excessive activities more frequently to meet these needs. Life's necessities can be influenced by social, natural, and other perspectives, particularly monetary ones. Therefore, as a matter of common business, criminals make decisions based on these perspectives, which can result in them being threatened with criminal penalties. Consequently, individuals may engage in activities that disregard the public interest simply to meet their daily needs, one example of which is document forgery. The crime of forgery, a crime involving a system of falsehood or deception, is considered a crime (a crime or offense) in the form of (a crime or offense). Forgery includes letters, deeds, documents, or the imitation of another person's signature, with the intent of granting rights, canceling debts, or using or instructing others to use the document as if it were genuine.

Indonesian law regulates document forgery, which is a form of crime included in the Criminal Code (KUHP). Forgery itself is regulated in Chapter XII Book II of the Criminal Code, the book states that forgery is only in the form of writings, including forgery of letters regulated in Articles 263-276 of the Criminal Code. Crimes that often occur are related to forgery of letters in standard or basic form regulated in Article 263 of the Criminal Code and Article 264 (forgery of authentic deeds and Article 266 of the Criminal Code (ordering to insert false information into an authentic deed). Forgery of letters as a process of making, adapting, imitating or objects, statistics, or documents, with the intention of deceiving.

The act of forging a document is the act of creating a document that previously did not exist, with all or part of its contents false. A forged document resulting from this act is called a forged document. Meanwhile, forgery is any act directed at an existing document by deleting, changing, or replacing any of its contents so that it differs from the original document. This document is called a forged document.

The crime of forgery was established with the aim of protecting the public's legal interest regarding the trustworthiness of the contents of four types of documents:

- 1) documents that create a right;
- 2) documents that issue an obligation;
- 3) documents that provide for the release of debt; and
- 4) documents created to prove a particular matter or condition.

Meanwhile, the prohibited acts for these two types of documents are forging a document (*valschelijk opmaaken*) and falsification (*vervalsen*).

One of the functions of criminal law is as a tool or means for resolving problems. Criminal law policy, as an effort to combat crime and improve the welfare of society, requires various policies to regulate society within a social policy process that aligns with broader goals. Adami Chazawi argues that among the various crimes occurring in society, forgery is one. The prevalence of forgery crimes today, in various forms and developments, demonstrates the increasing intellectual complexity of forgery crimes. Forgery is a crime that involves a system of falsehood or falsification of something (an object), which appears to be true from the outside, when in fact, it is the opposite.

This forgery is carried out consciously by the perpetrator and is not engineered, meaning the perpetrator is fully aware of the legal consequences that will occur if the forgery actually occurs. The subsequent act of forgery involves the removal of the original evidence or the forged object. This object can be a letter or document with economic value, such as a certificate. If the act has been committed, it is certain that the perpetrator has forged or destroyed the original evidence that was used. In the practice of evidentiary law, investigators vary widely in their investigative processes to determine whether or not the evidence used for forgery exists.

Forgery of documents is a common problem in society, where one or more parties can be harmed. This has led to the regulation of forgery and its classification as a crime. The emergence of the crime of forgery is due to restrictions that force people to refrain from actions that harm others. The discussion of forgery of documents, while seemingly trivial, can have social impacts and threaten the survival of society. Article 263 of the Criminal Code regulates forgery and the use of forged documents. This article prohibits the writing, falsification, or use of any document that could give rise to claims, obligations, debt settlement, or is intended as evidence of something. Forgery is an act that violates trust and truth for the purpose of gaining personal or other benefit. The expected orderly social life in an orderly and advanced society cannot exist unless the accuracy of letters and other documents is guaranteed.

The current rampant crime of document forgery is deeply concerning for victims, and the perpetrators are driven by the desire for profit. All these document forgery crimes have significant implications for both the victims and the wider

community, resulting in both material and non-material losses. In this advanced and orderly society, there is a need for assurance of the authenticity of documents held by individuals. To prove the forgery of a victim's signature, the victim must report it to the police, bringing both the original and the forged documents. Investigators will then conduct an investigation and prosecution based on the police report.

The crime of forgery is a crime involving falsehood or a system of falsehood, so that the object appears genuine from the outside, when in fact, it is not. This is what is known as forgery (a crime and a violation). A letter is a sheet of paper filled with writing, words, and sentences containing the meaning of someone's thoughts. Although the Criminal Code does not provide a clear definition of what is meant by a letter, a look at Article 263 of the Criminal Code provides an understanding of the meaning of a letter.

Using a forged letter is the act of intentionally using or exploiting a letter known or reasonably suspected to be false or falsified, as if the letter were genuine and authentic, with the intent to cause legal consequences or to gain an advantage for oneself or another person, which could result in harm to the other party. This act is a crime as regulated in Article 263 paragraph (2) of the Criminal Code (KUHP), which focuses on the use of the forged letter, not the act of falsifying the letter itself.

Article 263 of the Criminal Code stipulates that anyone who intentionally uses a fake or falsified document as if it were genuine, if the use of the document could cause harm, is subject to the same penalty. Therefore, the crime under paragraph (2) of Article 263 of the Criminal Code carries a maximum prison sentence of 6 (six) years.

The elements of Article 263 paragraph (2) of the Criminal Code are:

1. Anyone who;
2. Intentionally;
3. Uses a fake or falsified document as if it were genuine; and
4. If the use of the document could cause harm.

This crime involves intentionally using a fake document, the creation of which is punishable by Article 263 paragraph (2) of the Criminal Code.

Such legal regulations allow for the identification of unlawful acts and the reasons for committing an unlawful act, thereby generating social repercussions. Social reaction can also be described as an effort to achieve social order. This form of social reaction becomes increasingly apparent when problems and threats of crime increase in quantity and quality. Social control through law will confront individuals or members of society with alternative choices: adjustment or deviation. The most serious form of deviation or violation is a violation of criminal law, known as a crime.

The use of forged documents by perpetrators in the crime of document forgery does not necessarily result in harm. The loss does not need to be real or

actual; the mere possibility of such harm is sufficient to ensnare the perpetrator of the document forgery. Losses here are defined not only as material losses but also as immaterial losses to society, morality, honor, and so on.

The object of a crime is always closely related to a legal interest (rechtsebelang) that is intended to be protected by the crime in question. In document forgery, the object is the document. The establishment of Article 263 paragraph (2) of the Criminal Code has established legal protection for this legal interest, namely public trust in the truth of the contents of documents. Deviations from legal norms are part of the social problems facing society. These problems are symptoms of unhealthy desires that can lead to acts that violate applicable laws.

## **METHODOLOGY**

Referring to the background and focus of the research, this study is categorized as empirical legal research, empirical legal research, or socio-legal research, namely legal research that obtains data from primary sources. Empirical legal research focuses on the direct or real operation of law in society, and on whether existing laws and regulations are operating as intended.

The author's approach in this study is an empirical juridical qualitative approach, based on the sociology of law, focusing on analyzing the operation of law in society (law in action) by observing behavior, interactions, and gaps between legal norms (regulations) and social reality. This approach utilizes field studies, in-depth interviews, and observations to understand legal phenomena contextually, rather than merely speculatively.

This study utilizes a qualitative approach; the researcher not only collects data for its quality but also seeks to gain a deeper understanding of the phenomena under study. This is because qualitative research is closely related to social reality and human behavior. A qualitative approach aims to explore or construct a proposition or explain the meaning behind reality.

Empirical legal research is research that utilizes territorial facts in the form of specific factual bases, such as conclusions from interviews and observations. Empirical research is used to consider the right to be considered as social behavior that frequently occurs within a nation. Empirical research is essentially normative research that utilizes territorial facts obtained from citizen behavior. Verbal behavior is obtained through interviews, while actual behavior is obtained through direct observation. Experimental research can be used to examine explanations of human behavior, such as legacies and documents.

## **RESULT AND DISCUSSION**

### **Criminal Law and Islamic Law Perspectives on the Crime of Using Forged Documents in Land Sales**

In criminal law, the use of forged documents is the act of using or utilizing

documents containing false or falsified content, as if they were genuine and valid, with the intent to have legal consequences. What is prohibited is not only creating forged documents, but also using forged documents, even if the perpetrator is not the originator.

Land sales and purchases are civil legal acts that result in legal consequences in the form of the transfer of land rights, which must be proven by authentic documents (e.g., land title certificates, sale and purchase deeds/AJBs, powers of attorney, or title documents). Because the validity of land sales and purchases is highly dependent on documents, the use of forged documents in these transactions has the potential to cause significant losses and disrupt legal certainty, thus falling under the realm of criminal law.

The use of forged documents constitutes a form of deception or fraud. From a criminal law perspective, the use of forged documents is a crime regulated by the Indonesian Criminal Code, and perpetrators, both the originator and the user, can be punished with up to six years in prison. Meanwhile, in Islamic law, the use of fake letters is a form of lying or fraud (*al-kidzb* and *al-ghish*) and can be classified as a criminal act (*jarimah*) for which the punishment is determined by the authorities (*ta'zir*) because it can cause losses.

#### **a. Criminal Law Perspective**

Legal basis: Article 263 paragraph (1) of the Criminal Code: Forgery of a document with the intent to use it or instruct another person to use it is punishable by a maximum of 6 years' imprisonment.

Article 263 paragraph (2) of the Criminal Code: The same criminal penalties apply to those who intentionally use forged documents.

Article 264 of the Criminal Code: Forgery of an authentic document (deed) is punishable by a maximum of 8 years' imprisonment.

Article 266 of the Criminal Code: Instructing the insertion of false information into an authentic deed.

##### Elements of a Criminal Act

- a. Creating a forged document or falsifying a document
- b. Elements of a document that can give rise to rights or obligations
- c. Element of intent (*opzet/dolus*)
- d. Element of intent to use or instruct another person to use it

##### Criminal Liability

The principle of criminal liability requires that the perpetrator be capable of taking responsibility, have committed a mistake (intentional or negligent), and have no excuse or justification. Possible sanctions:

Primary penalty: maximum 6 years' imprisonment

Additional penalties: revocation of certain rights, confiscation of certain items.

- a. Direct perpetrator of forgery
- b. Person who uses a forged document with knowledge of its falsity
- c. Person who instructs another person to make/use it

May be subject to aggravation if committed by a public official. Criminal Sanctions

- a. Maximum imprisonment of 6-8 years depending on the type of document
- b. Additional penalties in the form of fines
- c. Revocation of certain rights
- d. Confiscation of evidence

### **b. Islamic Law Perspective**

In Islamic criminal law, the use of forged documents in land sales is not explicitly recognized as "document forgery" as in positive criminal law. However, the substance of the act has been accommodated in several concepts of jarimah (criminal offenses), particularly those related to fraud (al-ghishy), forgery (tazwīr), lying (kadzdzib), and cheating (tadlīs). The use of forged documents in land sales transactions essentially constitutes the act of intentionally conveying false information with the aim of gaining profit or unlawfully controlling the rights of others. This act contradicts the principles of honesty (ṣidq) and justice (ʿadl), which are the primary foundations of Islamic transactions.

### **Modus Operandi of Perpetrators Using Forged Documents in Land Sales and Purchases in the Jambi Regional Police Jurisdiction**

A modus operandi is a specific method, manner, or pattern used by a person systematically to commit an act, particularly an unlawful act. It reflects repeated habits, strategies, and techniques, and can therefore be used as an analytical tool to understand the characteristics of the act, identify the perpetrator, and connect one event to another in criminal law and criminology studies.

A modus operandi is the pattern by which a crime is committed; in other words, it can be defined as how a crime is carried out. These modus operandi vary, with some being carried out conventionally or more systematically.

The modus operandi of perpetrators using forged documents in land sales and purchases generally involves a series of actions designed to give the impression that the transaction is legitimate and in accordance with legal provisions. Perpetrators exploit weaknesses in land administration, a lack of caution on the part of the parties, and public trust in written documents.

In this research, which discusses the modus operandi of perpetrators of criminal acts using forged documents in land sales within the Jambi Regional Police jurisdiction, the author interviewed several informants who handled the cases, namely:

The results of an interview with Mr. Suparno, Acting Head of Unit 2, Sub-Directorate 2, Directorate of General Crimes, Jambi Regional Police, stated:

"The modus operandi of several cases involves the use of forged documents. Generally, the perpetrators use title deeds that do not match the physical data of the land with the legal data. For example, land in Village A is controlled using a document

that should be in Village B."

From the interview above, Mr. Suparno stated that the modus operandi of perpetrators generally involves using title deeds that do not match the physical data of the land with the legal data. This discrepancy includes location discrepancies, such as the example mentioned: land is physically located in Village A, but the perpetrator controls it using a document that should be valid for land in Village B. The perpetrator exploits weaknesses in the land administration system to commit this fraud. Another modus operandi frequently encountered by the Jambi Regional Police is falsifying the owner's identity. Perpetrators create letters using fake identities or those of others, forging the legitimate owner's signature in sales and purchase documents or transfers of rights. Manipulating land boundaries and areas, changing the size or boundaries of land in documents to make it appear larger and claiming land belonging to others by shifting the coordinates or boundaries of the area. And falsifying stamps and seals, falsifying official stamps, sub-district/village stamps, or authorized official stamps, making documents appear as if they have been authorized by an official agency.

### **How Can Preventive and Repressive Efforts Be Implemented to Prevent Criminal Acts Using Forged Documents in Land Sales and Purchases in the Jambi Regional Police Jurisdiction?**

Law enforcement certainly faces obstacles and efforts. Several obstacles to resolving criminal acts using forged documents in land sales and purchases are identified, including technical and administrative challenges, human resource challenges, inter-agency coordination challenges, community and legal culture challenges, and evidence challenges. Technical and administrative constraints include:

- a. Difficulty detecting the authenticity of land documents due to increasingly sophisticated forgery technology
- b. Weak document verification and validation systems in relevant agencies
- c. Land ownership databases that have not been digitally integrated
- d. Limited forgery document detection tools at the police level
- e. Human Resource Constraints:
- f. Lack of personnel with specialized expertise in identifying forged documents
- g. Lack of specialized training for investigators regarding document forgery
- h. Limited number of investigators compared to the number of cases

#### Inter-Agency Coordination Constraints

- a. Weak coordination with the National Land Agency (BPN)
- b. Lack of data synchronization between relevant agencies
- c. Complicated bureaucracy in the document verification process

#### Community and Legal Culture Constraints

- a. Low public awareness of document authenticity verification

- b. Persistent informal/customary land buying and selling practices
- c. Public lack of understanding of legal land buying and selling procedures

#### Constraints on Evidence

- a. Difficulty gathering sufficient evidence sufficient
- b. Witnesses who are difficult to find or uncooperative
- c. Suspects whose whereabouts are difficult to track

## **CONCLUSION**

From a positive criminal law perspective, the sanction for using forged documents is stipulated in Article 263 paragraph 2 of the Criminal Code, which carries a maximum prison sentence of six years. From an Islamic legal perspective, the sanction is ta'zir (reciprocal punishment). From the statements above, the author concludes that, from a positive criminal law and Islamic law perspective, both prohibit and punish forgery, with the aim of protecting the rights and property of others, prioritizing the principles of justice and truth, and providing deterrent sanctions.

A common modus operandi for perpetrators is using documents for rights that do not match the physical data of the land with the legal data. This discrepancy includes location discrepancies. Another modus operandi frequently encountered by the Jambi Regional Police is falsifying the owner's identity. Perpetrators create documents using a false identity or someone else's identity, forging the signature of the legitimate owner in sales or transfer documents. They also manipulate land boundaries and area, changing the size or boundaries in documents to make them appear larger, and claiming land belonging to others by shifting the coordinates or boundaries. Forgery of stamps and seals, falsifying official stamps, village/district seals, or authorized officials' stamps, and making documents appear to have been authorized by official agencies, are also commonplace. The best prevention is public legal awareness of the importance of land administration. A strong and integrated administrative system, firm law enforcement against perpetrators and individuals, and multi-layered verification in every land transaction are essential.

Preventive efforts are carried out through increased legal outreach to the public and strengthening the land administration system. Repressive efforts are implemented through firm law enforcement against perpetrators of crimes using forged documents, the application of effective legal sanctions, adequate handling of witnesses and evidence, and increased coordination between relevant agencies to expedite the process of proving and resolving cases. Preventive and repressive efforts in handling criminal acts of forgery or the use of forged documents are inseparable. Preventive efforts focus on early prevention through education, data integration, and strengthening verification systems, making

forgery increasingly difficult for perpetrators. Meanwhile, repressive efforts focus on taking action against violators, imposing strict criminal sanctions, and coordinating between agencies to strengthen the judicial process. These two approaches, if implemented in an integrated and consistent manner, have significant potential to prevent a repeat of the crime of using counterfeit documents within the Jambi Regional Police jurisdiction.

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