

## LEGAL STUDY ON THE VALIDITY OF AGREEMENTS MADE BASED ON FORGED DOCUMENTS OR LETTERS ACCORDING TO ARTICLE 263 OF THE CRIMINAL CODE

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### Abstract

This study aims to determine and analyze the legal regulations regarding the crime of forgery of documents or letters as regulated in Article 263 of the Criminal Code in the context of making agreements and a legal analysis of the validity of an agreement made based on forged documents or letters from the perspective of Article 263 of the Criminal Code and Civil Law. This research uses a normative research method with a legislative approach, a conceptual approach, and a comparative approach. The legal sources used are primary, secondary, and tertiary legal materials. The legal analysis will be conducted using a qualitative prescriptive approach. The results of this study are the Legal Regulations regarding the Criminal Act of Forgery of Documents or Letters as regulated in Article 263 of the Criminal Code in the context of making an agreement, namely Article 263 of the Criminal Code is classified as forgery of ordinary or general documents or letters and the criminal sanction is a maximum imprisonment of 6 years and the category of forgery related to agreements according to the provisions of Article 263 of the Criminal Code in legal activities can be in the form of Forgery of the signature of one of the parties in the agreement, Use of a false identity when making an agreement, Forgery of private deeds or authentic deeds (with the note that authentic deeds can also ensnare the notary if proven to be involved or if it involves officials or procedures for making deeds regulated by law) and Changes to the contents of the agreement unilaterally after it is signed and Legal Analysis of the Validity of an Agreement Made Based on Forged Documents or Letters According to the Perspective of Article 263 of the Criminal Code and Civil Law, namely in Article 263 of the Criminal Code does not automatically determine the validity or nullity of the agreement. However, a criminal decision stating that there is forgery of a letter can be used as strong evidence in a civil process to cancel or declare the agreement invalid and declare the invalidity of the forged document or letter regarding the agreement. Meanwhile, in the provisions of Civil Law, if the conditions in Article 1320 of the Civil Code do not comply with the agreement in which there is a forged letter or document, it is invalid and null and void by law, but it is not automatically void and must be canceled and decided by the court.

**Keywords:** *Validity, Agreement, Document, Letter, Forgery, Criminal Code*

### INTRODUCTION

Agreements are the main source of the birth of obligations in civil law, which requires a free agreement from the parties, as regulated in Article 1320 of the Civil Code (KUHPPerdata).<sup>1</sup> Agreements adhere to an open system where everyone has the freedom to enter into an agreement, both with whom they make the agreement and what is agreed upon. Documents or letters are often used as legal instruments to prove the existence of such an agreement. One of the important aspects in forming an agreement is the existence of a document or letter, which serves as written evidence as the basis for the agreement. In many legal activities such as land sales, financing,

<sup>1</sup> Muhammad Sabir Rahman. (2023). The Nature of Fines Due to Default in Construction Work Contracts. Makassar: Mitra Ilmu. P. 11

cooperation agreements, and transfers of rights, the existence of a valid and legal document is a fundamental and mandatory requirement for an agreement to obtain full legal force. This makes documents not only an administrative medium, but also an instrument that determines the validity of a legal action. However, the importance of this document role also creates vulnerabilities. However, it is not uncommon for practices to arise such as falsification of documents or letters to obtain certain benefits or to conceal the true situation. This act is expressly criminalized under Article 263 of the Criminal Code (KUHP), which regulates the forgery of documents or letters and the use of forged letters as if they were genuine. The reason is that the desire to fulfill life's needs drives people to commit acts that violate the law or provisions governing the public interest, including forging documents or letters. Forgery of documents or letters can have significant legal repercussions because these forged documents are often used as the primary basis for making an agreement that then binds the parties civilly.<sup>2</sup>

This phenomenon often creates tension between criminal and civil law provisions, or can be understood as creating a clash between the two main branches of law. In the criminal realm, the creator or user of a forged document is accountable for their actions under Article 263 of the Criminal Code. Meanwhile, in the civil realm, the injured party has the right to demand the cancellation of the agreement or compensation. However, there is no uniform understanding regarding the status of such agreements from a legal perspective in the field of civil law, especially when the forged document is only discovered after the agreement is in effect or has been partially implemented. It's not uncommon to find cases where agreements are formed based on falsified documents or letters. Falsification of these documents is a violation of the law and can lead to various complications, both civil and criminal. Falsification of documents or letters, as regulated by Article 263 of the Criminal Code (KUHP), is a serious crime because forged documents can manipulate facts and cause harm to both the parties involved and interested third parties.

Furthermore, the use of forged documents in agreements also raises questions about the protection of parties acting in good faith. Parties unaware of the forged documents often become victims of such transactions. Within the framework of legal protection, the state is obligated to provide a mechanism for redressing losses suffered by parties acting in good faith, whether through criminal, civil, or administrative channels. However, the effectiveness of this mechanism depends heavily on a proper legal understanding of the relationship between forged documents or letters and the validity of the agreement. The issue of the validity of agreements made based on forged documents or letters is not only a technical legal issue, but also concerns the integrity of the legal system, legal certainty, and the protection of the civil rights of the parties. This is because agreements must be implemented in good faith and a sense of mutual trust, which is one of the principles in this law of agreements to achieve one side of the legal objective, namely the side of justice and the side of legal certainty. The formulation of the problem in this research is how the legal regulations regarding the crime of forgery of documents or letters as regulated in Article 263 of the Criminal Code in the context of making an agreement and how the legal analysis of the validity of an agreement made based on a forged document or letter according to the perspective of Article 263 of the Criminal Code and Civil Law.

## **METHOD**

The type of research used is normative research. Normative legal research is also called doctrinal legal research, library research, or documentary study. It is called doctrinal legal research because it is conducted solely on written regulations or other materials. Normative research uses theoretical-rational methods with a deductive logical reasoning model (drawing conclusions from the general to the specific).<sup>3</sup> The approach used in this writing is the Analytical Legislation Approach (Statue Approach), Analysis Approach (Analytical Approach) and Comparative Approach.<sup>4</sup> Normative research utilizes deductive logical reasoning. Normative legal research utilizes logical and prescriptive analysis and argumentation. Normative legal research is generally qualitative in nature. Quantitative analysis and argumentation, such as statistical data in tables, diagrams, charts, and images, are also permitted as supplementary (secondary) research materials.<sup>5</sup>

<sup>2</sup> Akbar, I., Purba, H., & Suprayitno, S. (2025). The Position of Notaries/Ppat Subject to Tppu and Forgery Related to the Deeds They Made. (Study of Decision No. 248/Pid. B/2022/Pn. Jkt. Brt). *Journal Of Law And Nation*, 4(1), 24-49.

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<sup>4</sup> Juliardi, B., Runtuuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). *Legal Research Methods*. Padang: Gita Lentera.

<sup>5</sup> Syarif, M., Ramadhani, R., Graha, M. A. W., Yanuarua, T., Muhtar, M. H., Asmah, N., Syahril, M. A.F., ... & Jannah, M. *Legal Research Methods*. Padang: Get Press Indonesia.

## RESULTS AND DISCUSSION

### Legal Regulations regarding the Criminal Act of Forgery of Documents or Letters as regulated in Article 263 of the Criminal Code in the context of making agreements

Adami Chazawi said that the crime of forgery or abbreviated as forgery crime is a crime that contains elements of untruth or falsehood of something (object) that something appears from the outside as if it were true when in fact it is contrary to the truth. The crime of forgery of documents or letters is formed with the aim of protecting the public's legal interests regarding trust in the truth of the contents of 4 types of document or letter objects, namely letters that give rise to a right; letters that issue an obligation; letters that give rise to debt relief and letters made to prove a certain thing/condition.<sup>6</sup> Forgery of documents or letters in the preparation of agreements indicates a shift in the issue from the civil to the criminal realm. On the one hand, agreements made based on forged documents do not meet the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code, particularly the elements of agreement and capacity, and therefore can be canceled or void by law. However, on the other hand, the act of forgery itself contains elements of intent and bad faith that deserve criminal sanctions.

The provisions for falsifying documents or letters in Article 263 of the Criminal Code (KUHP) or Law Number 1 of 1946, the provisions for falsifying documents/letters are categorized as falsifying documents/letters in standard form or basic form (eenvoudige valsheid in geschriften), can be called falsifying documents or letters or documents in general. Article 263 of the Criminal Code reads as follows: (1) Whoever makes a false letter or falsifies a letter, which can issue a right, an agreement (obligation) or a debt relief, or which can be used as information for an act, with the intention of using or ordering other people to use the letters as if the letter were genuine and not falsified, then if using it can cause a loss, is punished for falsifying documents or letters, with a maximum prison sentence of six years. (2) Anyone who intentionally uses a fake or falsified letter as if it were genuine and not falsified, if the use can result in a loss, will be punished with the same punishment.

In the provisions of Article 263 of the Criminal Code, in its application, the following elements must be met: Element of Whomsoever, Element of making a false letter or falsifying a letter, Element of a letter that can give rise to rights, obligations, or debt relief and Element with the intention to use or order others to use and Element that can cause losses. By fulfilling these elements, falsification of agreements is no longer just a civil dispute, but has entered the realm of criminal acts. Forgery of Documents or letters or documents in the provisions of Article 263 of the Criminal Code is classified as forgery of ordinary or general documents or letters or documents because the forgery occurs between the parties themselves without being assisted or made by the parties themselves.<sup>7</sup>

From the explanation above, the context of forgery related to agreements according to the provisions of Article 263 of the Criminal Code in legal activities can be in the form of Forgery of the signature of one of the parties in the agreement, Use of false identity when making an agreement, Forgery of private deeds or authentic deeds (with the note that authentic deeds can also ensnare the notary if proven to be involved or if it involves officials or procedures for making deeds regulated by law) and Unilateral changes to the contents of the agreement after it has been signed. The author's analysis is based on the description above regarding the legal regulations regarding the crime of forgery of documents or letters as regulated in Article 263 of the Criminal Code in the context of making agreements, namely normatively, Article 263 of the Criminal Code has provided a strong legal basis to ensnare perpetrators of document forgery in making agreements, however, Article 263 of the Criminal Code is still oriented towards conventional forgery based on physical documents, while in modern practice, many agreements are made in electronic form.

In theory, Article 263 of the Criminal Code guarantees that agreements, as documents giving rise to rights and obligations, must be drawn up honestly and authentically. By criminalizing the creation and use of forged documents, this provision protects the parties' trust in agreement documents as valid evidence. This aligns with the theory of legal protection, which emphasizes the importance of legal certainty and security in civil relations. However, in terms of legal protection, Article 263 of the Criminal Code does not specifically regulate the mechanism for restoring the rights of victims of forged agreements, such as restoring the original situation or providing effective compensation. As a result, victims of forged agreements often have to undergo separate civil legal proceedings to obtain protection for their rights.

<sup>6</sup> Adam Chazawi. (2014). *The Crime of Forgery: A Crime that Attacks the Legal Interests of Public Trust Regarding the Truth of the Content of Written and Conveyed News*. Jakarta: Rajagrafindo.

<sup>7</sup> Hasbi, M., Lubis, M. D. A., & Sitompul, A. (2025). Analysis of Pretrial Decisions in Criminal Cases of Forgery of Documents and Forgery of Authentic Deeds in Medan City (Study of Pretrial Decision No. 22/Pid. Pra/2025/PN Mdn). *Law Journal*, 6(1), 71-81.

**Legal Analysis of the Validity of an Agreement Made Based on a Forged Document or Letter from the Perspective of Article 263 of the Criminal Code and Civil Law**

Agreements are the primary source of civil legal relations, creating the rights and obligations of the parties. In practice, agreements are often based on specific documents or letters, such as identity documents, land certificates, power of attorney, or letters of information.<sup>8</sup> Therefore, the agreement must meet the requirements of validity. Validity of an agreement is the fulfillment of legal requirements for an agreement to be valid and legally binding, as stipulated in Article 1320 of the Civil Code. The validity of an agreement according to Article 1320 of the Civil Code is as follows:<sup>9</sup>

1. An agreement, in its creation and implementation, must be based on the free will of the parties. It must also not involve any elements of error (misunderstanding), coercion, or fraud. Therefore, an agreement made due to these elements is void by law (Article 1321 of the Civil Code).
2. Capacity of the parties. It is important to understand that the parties must be legally competent to enter into an agreement, such as being adults (21 years of age or married) and not under guardianship (curatele). According to Article 1330 of the Civil Code, those who are not legally competent include minors, people under guardianship, and married women (in certain cases).
3. A certain thing (object of the agreement). The object of the agreement (performance: giving, doing, or not doing something) must be clear in type and can be traded.
4. For lawful reasons. The purpose or content of the agreement must not be contrary to law, morality, or public order.

If there are conditions in the agreement that are not met, for subjective conditions, namely the agreement of the parties and the capacity of the parties, cancellation can be requested (voidable) by one of the parties. Meanwhile, the objective conditions, namely the object of the agreement and the lawful cause, will be void by law (void from the beginning), meaning it is considered to have never existed in the first place.<sup>10</sup> In determining the validity of an agreement in which it is made based on a falsified document or letter, the first thing that must be known is the validity of a document or letter that has been falsified for an agreement from a criminal law perspective in the provisions of Article 263 of the Criminal Code because determining a problem of falsification of documents or letters by criminal law provisions can later strengthen a civil lawsuit related to this matter. The Criminal Code relates to the forgery of documents or letters, especially for agreements, in Article 263 of the Criminal Code from the previous discussion. Forgery of letters in standard form or basic form (simple forgery in writings), which is also known as general letter forgery where the object is a letter or document in general (a letter that can give rise to rights, obligations, debt relief, or be used as evidence).<sup>11</sup> Article 263 of the Criminal Code does not directly determine whether an agreement is valid or not, because criminal law does not regulate the valid conditions of an agreement.

However, the existence of the element of forgery of letters in making an agreement has important implications, namely that the Agreement loses legal legitimacy as a result of a criminal act, a forged agreement cannot be seen as valid evidence, because it contains elements of crime and the Agreement is factually based on an act against criminal law. In addition, the focus of Article 263 only assesses the act of forgery of documents or letters in their use, including in the agreement. Because it aims to protect public trust arising from the consequences of the forgery. Therefore, Article 263 of the Criminal Code does not clearly and in detail state the nullity of an agreement, the use of forged documents as the basis of the agreement causes the agreement to be legally tainted by the crime of forgery. Meanwhile, in the provisions of civil law related to the validity of the agreement in which it is made based on falsified documents or letters, seen from the provisions of Article 1320 of the Civil Code, regarding the valid conditions of the agreement, Forgery of documents can affect the subjective elements and objective elements of the agreement. Because the influence of fake documents or letters on the validity of the agreement can make the agreement invalid due to a defect in will. If one party gives consent because they are deceived by fake documents or do not know the actual facts, then fraud has occurred (bedrog) as regulated in Article 1321 and Article 1328 of the Civil Code. Therefore, from the provisions of these two articles, the

<sup>8</sup> Miru, A., & Pati, S. (2020). *Contract Law: Explanation of the Meaning of the Articles of the Contract Named in the Civil Code (BW)*. Jakarta: Sinar Grafika. p. 3.

<sup>9</sup> Siti Nur Azizah Ma'ruf. (2023). *Textbook of Contract Law*. Yogyakarta: Deepublish. P. 21.

<sup>10</sup> Auliah Ambarwati. (2024). *Contract Law: Theory and Practice*. Purbalingga: Eureka Media Aksara. P. 10.

<sup>11</sup> Sasongko, R., Prawesthi, W., & Amiq, B. (2025). The Criminal Act of Forgery of Letters or Documents in the Issuance of Land Ownership Certificates. *Fundamental Justice Journal*, 6(1), 85-100.

Agreement can be canceled (*vernietigbaar*) at the request of the injured party. Therefore, from the description and explanation above, it can be summarized that Article 263 of the Criminal Code does not automatically determine the validity or nullity of an agreement. However, a criminal decision stating that there has been a forgery of a letter can be used as strong evidence in a civil process to cancel or declare the agreement invalid and declare the invalidity of a forged document or letter regarding the agreement. Meanwhile, in the provisions of Civil Law, if the requirements in Article 1320 of the Civil Code do not comply with the terms and conditions, an agreement containing a forged letter or document is invalid and null and void by law, but it is not automatically void and must be canceled and decided by the court.<sup>12</sup>

The Author's Analysis of the Legal Analysis of the Validity of an Agreement Made Based on a Forged Document or Letter According to the Perspective of Article 263 of the Criminal Code and Civil Law, namely from the perspective of legal protection theory, Criminalization of the perpetrator of forgery of letters aims to provide a deterrent effect and prevent the use of forged documents as the basis for the birth of an agreement. Thus, Article 263 of the Criminal Code protects the legal interests of society in general, including parties who are harmed in an agreement. In addition, another form of legal protection in the provisions of Article 263 of the Criminal Code is that forged letters or documents, especially in agreements, are invalid from the start and cannot be used as evidence.

According to the theory of legal certainty, forged documents are the primary basis for the birth of an agreement, so the agreement must be able to be canceled or declared invalid in order to maintain legal certainty or if the forged document does not determine the substance of the agreement, then the agreement remains valid, while forgery is processed criminally. Therefore, this resolution provides clarity regarding the legal consequences of each act. Therefore, seen from the perspective of legal certainty, the validity of an agreement made based on a forged document or letter must be assessed proportionally and consistently. Article 263 of the Criminal Code provides legal certainty by criminalizing forgery of documents, while civil law maintains the stability of legal relations by not immediately canceling an agreement that has met the requirements for a valid agreement.

## CONCLUSION

Legal Regulations regarding the Criminal Act of Forgery of Documents or Letters as regulated in Article 263 of the Criminal Code in the context of making an agreement, namely Article 263 of the Criminal Code is classified as forgery of ordinary or general documents or letters and the criminal sanction is a maximum imprisonment of 6 years and the category of forgery related to agreements according to the provisions of Article 263 of the Criminal Code in legal activities can be in the form of Forgery of the signature of one of the parties in the agreement, Use of false identity when making an agreement, Forgery of private deeds or authentic deeds (with the note that authentic deeds can also ensnare the notary if proven to be involved or if it involves officials or procedures for making deeds regulated by law) and Changes to the contents of the agreement unilaterally after it is signed.

Legal Analysis of the Validity of an Agreement Made Based on Forged Documents or Letters According to the Perspective of Article 263 of the Criminal Code and Civil Law, namely in Article 263 of the Criminal Code does not automatically determine the validity or nullity of the agreement. However, a criminal decision stating that there is forgery of a letter can be used as strong evidence in a civil process to cancel or declare the agreement invalid and declare the invalidity of the forged document or letter regarding the agreement. Meanwhile, in the provisions of Civil Law, if the conditions in Article 1320 of the Civil Code do not comply with the agreement in which there is a forged letter or document, it is invalid and null and void by law, but it is not automatically void and must be canceled and decided by the court.

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<sup>12</sup>Gatot Efrianto & Danu Rahman. (2022). *The Criminal Act of Forgery in Authentic Deeds*. Malang: Literasi Nusantara. P. 50.

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