



## Juridical Analysis of Identity Forgery in Obstructed Marriage Cases in Sukabumi City Based on the Criminal Code (KUHP)

Mutiara Kulsum A<sup>1\*</sup>, Haidan Angga Kusumah<sup>2</sup>

Faculty of Law Muhammadiyah University of Sukabumi

**Corresponding Author:** Mutiara Kulsum A [mutiarakulsum1919@gmail.com](mailto:mutiarakulsum1919@gmail.com)

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### ABSTRACT

Crime in society, including identity and document forgery, is regulated by Articles 263-276 of the Criminal Code. This research uses the juridical-normative method to assess the application of Articles 263, 266, and Article 97 of the Civil Administration Law in cases of identity and certificate forgery involving married individuals, focusing on police report LP/B/123/III/2023/POLRES SUKABUMI/POLDA WEST JAVA. Findings show that forgery laws are often not enforced when the parties are married, despite the potential for legal action. Additionally, village officials and KUA employees involved in such cases continue in their roles despite ethical breaches, raising concerns about future violations.

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## **INTRODUCTION**

Crime, including forgery, is a serious issue with various perspectives. Confronted with a widespread and profound symptom, which is embedded as a disease within the body of society, crime endangers life and at the very least causes harm (Prodjohamidjojo, 1997). Forgery of identities, securities, and important documents is regulated by Criminal Code (KUHP) Articles 263-276, covering types such as forgery of public documents, aggravated forgery, and false statements in authentic deeds. Article 263 of the Criminal Code addresses forgery of documents intended to appear genuine and create rights or cause harm. Despite penalties, forgery remains common, especially in non-authentic agreements like rental or sales contracts. Falsifying documents and using them is punishable under Articles 263 and 266 of the Criminal Code with a maximum prison sentence of six years. Additionally, falsifying personal data on an ID card is prohibited under the PDP Law, as specified in Article 66, which states: "Everyone is prohibited from creating false personal data or falsifying personal data with the intent to benefit oneself or others, causing harm to others." The act of creating or falsifying personal data carries a maximum prison sentence of 6 years and/or a fine of up to Rp6 billion. (Pasal 66 Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi, 2022)

Essentially, the crime of document forgery involves the element of falsification or fabrication of an object, making it seem outwardly genuine while, in reality, it contradicts the actual facts. This deceptive appearance is intended to mislead others into believing that the document is authentic and accurate, even though it contains false information (Chazaw & Ferdian, 2016). In fact, cases of identity forgery are very common in society, especially in the context of marriage. Many individuals engage in forging identities or creating false certificates to get married or to practice polygamy secretly, bypassing legal and societal norms. These fraudulent activities undermine the legal framework and ethical standards that govern marital relationships. It is important to note that a marriage is considered valid only if conducted according to the laws of each religion and belief system. Once a marriage is recognized legally by the respective religious or belief authority, it must then be registered with the relevant civil authorities to ensure its legal standing and recognition. This dual requirement of religious and civil validation is essential to maintain the integrity and legality of marital unions (Pasal 2 Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan, 1974). A husband who forges his identity for polygamy can face criminal charges. Firstly, remarrying without court permission is punishable under Article 279(1) of the Criminal Code, with a penalty of up to 5 years in prison, or 7 years if concealed (Pasal 279 Kitab Undang-Undang Hukum Pidana, 1946). Secondly, document forgery to facilitate remarriage can lead to charges under the Criminal Code, Civil Administration Law, and PDP Law, with penalties up to six years in prison or fines up to Rp50 million (Pasal 93 Undang-Undang Adminduk, 2013). The key element in forgery is intent, where the perpetrator aims to use false documents for personal gain or others' benefit. Research shows identity forgery is often due to duplicate identity cards and negligence by officials, affecting children's legitimacy but lacking shared assets.

Based on the data on the Number of Supreme Court Decisions of the Republic of Indonesia, the number of forgery cases increased each year. There was a significant rise in 2021 with 1,216 cases, compared to only 890 cases in 2020. However, in 2022 and 2023, the number of cases decreased each year. An example is a case in Sukabumi (reported with the police report number LP/B/123/III/2023/POLRES SUKABUMI/POLDA WEST JAVA) where the perpetrator colluded with various parties to forge a death certificate to remarry without the first wife's knowledge, collaborating with the prospective second wife, village officials, and KUA employees to forge a death certificate for the first wife. The perpetrator had duplicate ID cards and family cards with differing information. After being exposed by the first wife and reported to the Sukabumi Police, the investigation found the perpetrator and three others guilty. However, the perpetrator was only charged under the marriage impediment law (Article 279 of the Criminal Code), not for identity forgery or forgery of documents.

Despite the perpetrator being found guilty, only the marriage impediment charge was applied, not the identity forgery charge. Police data reveals that although the perpetrator violated Articles 263 and 266 of the Criminal Code, the investigation files only mention the marriage impediment charge. Researchers note that Articles 263 and 266 are often not applied if the complainant and accused are still married, though forgery could be addressed under Article 97 of the Civil Administration Law or Article 66 of the PDP Law. Village officials and KUA employees involved continue their work despite ethical breaches, risking future legal violations. The aim of this research is to assess the effectiveness of investigations in applying Articles 263 and 266 of the Criminal Code (KUHP) and Article 97 of the Population Administration Law (UU Adminduk) in cases of identity and certificate forgery, where the complainant and the reported party are still married, with a case study of police report number LP/B/123/III/2023/POLRES SUKABUMI/POLDA WEST JAVA.

## **THEORETICAL REVIEW**

### ***Theory of Legal Certainty***

Legal rules, both written and unwritten, provide general guidelines for individual behavior in society and set limits for societal obligations or actions against individuals. The existence and enforcement of these rules establish legal certainty. Thus, normative legal certainty is achieved when a regulation is clearly and logically formulated and enacted, avoiding ambiguity and allowing for predictability. Legal certainty ensures that human behavior—whether by individuals, groups, or organizations—is governed by established legal frameworks. This principle is crucial in the creation of legislation, as it underpins various aspects of the rule of law. According to M. Kordela (2008), "Legal certainty as the superior principle of the system of formal principles of the rule of law justifies the legal validity of a defined group of values." (Indratanto et al., 2020). Certainty implies a state of being definite and decided. Law must be both certain and just, serving as a fair guide for behavior and supporting a fair order. Legal certainty, addressed normatively, ensures regulations are clear and logical,

avoiding ambiguity and conflicts (Rato, 2017). According to Kelsen, law is a system of norms dictating what "ought" to be done. These norms guide individual behavior in society and set limits on societal obligations or actions towards individuals, creating legal certainty (Marzuki, 2008).

In a normative context, legal certainty refers to the establishment and implementation of regulations with clear and logical rules. For a regulation to be deemed "clear," it must avoid any ambiguity or multiple interpretations that could lead to confusion. "Logical" means that the regulation should integrate smoothly within a broader system of norms, aligning harmoniously with other existing rules to prevent conflicts and inconsistencies. Legal certainty implies that laws are applied in a manner that is transparent, consistent, and predictable, without being influenced by subjective or arbitrary factors. This ensures that individuals and entities can rely on the law to govern their behavior and expectations reliably. Certainty and justice are integral characteristics of effective legal systems, going beyond mere moral expectations. A law that fails to provide clarity or fairness is not only problematic from a normative perspective but also ineffective in achieving its intended objectives and maintaining societal order (Kansil et al., 2009).

According to Utrecht, legal certainty has two aspects. Firstly, general rules allow individuals to know what actions are allowed or prohibited. Secondly, it provides legal protection against government arbitrariness, as these rules clarify what the state can impose on or do to individuals (Syahrani, 1999). Legal certainty ensures justice within the law. Norms promoting justice must function effectively as rules that are obeyed. Gustav Radbruch posited that justice and legal certainty are essential components of the law, arguing that both must be considered and that legal certainty is crucial for maintaining state security and order. Positive law must always be obeyed. The theory of legal certainty aims to achieve justice and happiness (Ali, 2002). The law, enacted and established by authoritative bodies such as the government, must be clear and transparent to society. This ensures that people can understand the regulations or legal provisions set by these authorities.

## **METHODOLOGY**

This research utilizes the juridical-normative method, also known as normative legal research. This methodology focuses on conducting library-based legal research, which involves examining legal literature and secondary data rather than primary data or empirical evidence. The aim of this approach is to derive and interpret legal principles from both written and unwritten sources of positive law to gain a thorough understanding of the norms and regulations that govern specific legal issues (Mughtar, 2015). In applying the deductive reasoning method, the research draws general conclusions that have been established as true and applies these conclusions to specific cases. This systematic approach allows for a detailed examination of legal norms and their practical applications. By employing a qualitative approach to analyze the relevant legal objects, the research seeks to provide an in-depth understanding of how legal norms are articulated in legislation and other legal sources. This method ensures a

comprehensive and detailed analysis of legal principles and their implications in various contexts. It contributes to a nuanced insight into how laws function and are applied, facilitating a better grasp of their impact on specific legal scenarios.

## RESEARCH RESULTS

Identity forgery is classified as a criminal offense under the Criminal Code (KUHP), specifically addressed in Articles 263 (1) and (2), with further details provided in Article 264 regarding document forgery. The falsification of personal data under criminal law is covered by Article 378 of the Criminal Code. This article stipulates that anyone who uses a false name or title through deceit or falsehood for personal gain is committing a legal violation, punishable by imprisonment for up to 4 years. In practice, the legal requirements and principles are often seen as burdensome, which can lead some husbands to deceitfully pursue another wife. Dishonesty in this context might involve actions such as falsifying the status of their current wife. For example, a man may falsely claim to be single or even widowed to the marriage registrar, while still being legally married to someone else under both religious and state laws. This behavior contradicts the principle that a person who is already married cannot remarry without obtaining court permission. If there is a legal violation or a report of such a violation, an investigation will be conducted to ascertain the truth.

Investigation represents the initial phase in the law enforcement process, serving as the foundation for subsequent legal actions. Triggered when a victim reports an incident to the police, this process involves both investigation and inquiry by the police. An investigation comprises a series of methodical actions performed by an investigating officer, adhering strictly to legally regulated procedures to search for and collect evidence. The primary objectives are to clarify the details of the criminal act and to identify the suspect or perpetrator. By meticulously gathering evidence, the investigating officer builds a case that not only establishes the occurrence of the crime but also pinpoints the responsible individual(s). This evidence is crucial as it lays the groundwork for the prosecution and trial stages, ensuring that the criminal act is accurately documented and that sufficient evidence supports legal proceedings. Effective investigation upholds the principles of justice and due process, enabling law enforcement to pursue justice, protect victims' rights, and hold offenders accountable (Yulia et al., 2019).

The findings of this study are consistent with previous research, particularly in examining the complexities of identity fraud within the context of marriage. Such fraud can severely undermine the legitimacy and continuity of the marital relationship. In line with earlier studies, this research investigates how identity fraud in marriage is addressed under the Indonesian Criminal Code (KUHP), with a focus on the legal framework designed to prevent and punish these fraudulent activities. What sets this study apart is its in-depth exploration of the practical application of the relevant articles within the KUHP, specifically in cases where identity fraud in marriage is further complicated by the falsification of official documents. While previous research may have offered a broader overview, this study hones in on the effectiveness of law enforcement

agencies in enforcing these legal provisions. By thoroughly analyzing real-world cases of identity fraud, this research not only brings to light the challenges faced by the legal system but also provides valuable insights into potential areas for legal reform and improvement.

In a case studied by the author involving identity forgery in obstructed marriage scenarios, specifically the one with police report number LP/B/123/III/2023/POLRES SUKABUMI/POLDA WEST JAVA, an incident of identity forgery and/or certificate falsification occurred in Sukabumi Regency. The perpetrator aimed to marry another person without his first wife's knowledge. To achieve this, he conspired with his prospective second wife and enlisted the help of individuals from the village administration and the Office of Religious Affairs where his first wife lived. They forged a Death Certificate for his first wife, allowing him to legally marry his second wife according to both religious and state laws, all while keeping his first wife unaware. The perpetrator possessed dual Identity Cards and Family Cards with conflicting information. His deceit was uncovered by his first wife, who reported him to the Sukabumi Police. Following an investigation, the authorities found the perpetrator guilty of forgery. The case revealed that the perpetrator, his second wife, a village official, and an employee from the Office of Religious Affairs were involved in the criminal acts. Despite this, the perpetrator was only charged with obstructed marriage and not with additional crimes of identity forgery and/or certificate falsification. After the suspects were identified, they were detained. The author noted an issue with the enforcement of the law in this case

In the case of identity forgery involving the perpetrator (husband) who forged a Death Certificate for his legitimate spouse (wife), there are differing views on which legal provisions should be applied for charging identity forgery under Articles 263 and 266 of the Penal Code. In this instance, the perpetrator (husband) was indeed charged under these articles based on the evidence gathered during the investigation. The investigators opted to apply Articles 263 and 266 of the Penal Code in this identity forgery case. The investigation uncovered signs of violations covered by these articles. As a result, the perpetrator (husband) and several accomplices were charged under these specific provisions, reflecting the evidence collected throughout the inquiry. Based on an interview with Women and Children Protection Unit (PPA) of the Sukabumi Police, several reasons were provided to address the existing issues. However, before explaining the investigator's reasons, there was some discrepancies between the content of the Police Report and the Anatomy of Crime by the police:

1. The police report states that the perpetrator could be charged under Article 279 paragraph (1) 1e, 2e or paragraph (2) of the Penal Code Jo Article 55 paragraph (1) 1e, 2e of the Penal Code and/or Article 264 paragraph (1) 1e or paragraph (2) of the Penal Code and/or Article 266 paragraph (1) or paragraph (2) of the Penal Code. However, the article listed in the Anatomy of Crime only

mentioned Article 279 of the Penal Code regarding obstructed marriage.

2. If the perpetrator is only charged under Article 279 of the Penal Code, then the evidence obtained regarding the forgery of the Death Certificate, which was proven, and several related pieces of evidence, are disregarded in this case.

According to an interview with the staff of the PPA Unit of the Sukabumi Police, the investigator stated that they used Articles 279, 264, and 266 of the Penal Code in this case. Articles 264 and 266 were applied based on the following evidence:

1. Forgery of the Death Certificate for the victim (the wife).
2. The perpetrator (the husband)'s possession of dual Identity Cards.
3. The perpetrator (the husband)'s possession of dual Family Cards.
4. Involvement of a Village Official in issuing the forged Death Certificate for the victim (the wife).
5. Involvement of an Official from the Office of Religious Affairs.

In relation to Article 97 of the Population Administration Law, which specifies that any resident who intentionally registers as the head of multiple family cards or possesses more than one ID card is in violation, investigators provided an explanation for the omission of this article in the case, despite the presence of dual Identity Cards and Family Cards. According to this law, individuals are prohibited from holding multiple registrations or ID cards. In the case at hand, the dual documents were acquired under false pretenses, specifically by declaring the first legitimate wife as deceased. This deceitful action necessitated alterations in the relevant documents:

1. The original ID card listed the marital status as "Married." However, once the wife was fraudulently declared deceased, the status on the second ID card was subsequently changed to "Widowed."
2. The initial Family Card contained information on the husband, wife, and children. Following the false declaration of the wife's death, the updated Family Card was altered to show only the father and children.

These document changes were made possible by the forged "Death Certificate" for The victim (the wife), who was the perpetrator's legitimate first wife. This forgery enabled the perpetrator to secure duplicate Identity Cards and Family Cards, which facilitated the formal registration of his second marriage at the local Office of Religious Affairs. Despite the evidence of these fraudulent documents, the investigators chose not to apply Article 97 of the Population Administration Law. This decision raises questions about the criteria used to

determine which legal provisions are applicable in such cases and highlights potential gaps in the enforcement of population administration laws. One of the significant challenges encountered in conducting this research was the Anatomy of Crime documents are highly confidential, which are closely guarded by the police and thus not accessible for public review. Despite this substantial challenge, the research successfully achieved its primary objective: assessing the effectiveness of investigations in applying Articles 263 and 266 of the Criminal Code (KUHP) and Article 97 of the Population Administration Law (UU Adminduk) in cases involving identity and certificate forgery. These specific articles were scrutinized to understand their application in situations where the complainant and the reported party are still married.

The case study focused on the police report number LP/B/123/III/2023/POLRES SUKABUMI/POLDA WEST JAVA. This particular case provided a detailed examination of how the legal provisions were implemented and whether they were effective in addressing the issues of identity and certificate forgery within the context of an ongoing marriage. The research delved into the procedural aspects and the outcomes of applying these legal statutes. By overcoming the obstacle of restricted access to crime files, the research was able to provide valuable insights into the practicalities of law enforcement in such sensitive and complex cases. It highlighted the strengths and potential gaps in the current investigative and legal frameworks, thereby contributing to a better understanding of how legal provisions are enforced in real-world scenarios.

## **CONCLUSIONS**

Investigations into identity forgery and obstructed marriage cases are essential for ensuring justice and maintaining the integrity of legal processes. In the Sukabumi case (police report LP/B/123/III/2023), the police effectively utilized Articles 263, 264, and 266 of the Criminal Code (KUHP) alongside Article 97 of the Population Administration Law (UU Adminduk) based on substantial evidence of forgery. This evidence included forged documents and dual identity cards, which were crucial in confirming the criminal activities involved. The case underscored the importance of rigorous investigation and the need for comprehensive legal measures to address all aspects of the crime. It also pointed to the necessity for legal reforms to ensure that all individuals involved in such criminal activities, especially public officials who abuse their positions, are held fully accountable under the law. This would help close gaps in enforcement and enhance the overall effectiveness of the legal system in dealing with cases of identity forgery and obstructed marriage.

## **RECOMMENDATIONS**

To improve the handling of identity forgery and obstructed marriage cases, law enforcement agencies should adopt a more integrated approach. This includes providing enhanced training for authorities to better detect and investigate such crimes and pursuing legal reforms to address gaps in enforcement. Ensuring that all individuals involved, particularly public officials,

are held fully accountable is crucial. Strengthening inter-agency collaboration between law enforcement, the judiciary, and civil registration offices will lead to a more coordinated response. Additionally, public awareness campaigns are necessary to educate citizens about the legal consequences of identity forgery. Implementing stricter oversight and accountability mechanisms for public officials will deter abuses of power and ensure effective prosecution of those involved in criminal activities.

### **ADVANCED RESEARCH**

This study has its limitations and is not perfect. Future research could focus on identifying the gaps in law enforcement concerning the application of Articles 263, 264, and 266 of the Criminal Code (KUHP). Specifically, studies should delve into the reasons behind the inconsistent application of these articles, especially in cases involving public officials. Additionally, research should assess the effectiveness of ethical training programs for officials and examine how restricted access to crucial investigation documents affects legal outcomes. Such research will offer a comprehensive understanding of the challenges faced and guide improvements in legal and investigative processes.

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### **REFERENCES**

- Ali, A. (2002). *Menguak tabir hukum: suatu kajian filosofis dan sosiologis*. Toko Gunung Agung.
- Chazaw, A., & Ferdian, A. (2016). *Tindak pidana pemalsuan : tindak pidana yang menyerang kepentingan hukum terhadap kepercayaan masyarakat mengenai kebenaran isi tulisan dan berita yang disampaikan* (2nd ed.). Rajawali Pers.
- Indratanto, S., Nurainun, N., & Kleden, K. (2020). ASAS KEPASTIAN HUKUM DALAM IMPLEMENTASI PUTUSAN MAHKAMAH KONSTITUSI BERBENTUK PERATURAN LEMBAGA NEGARA DAN PERATURAN PEMERINTAH PENGGANTI UNDANG-UNDANG. *DiH: Jurnal Ilmu Hukum*, 16, 88–100. <https://doi.org/10.30996/dih.v16i1.2729>
- Kansil, C. S. T., Kansil, C. S. T., Palandeng, E. R., & Mamahit, G. N. (2009). *Kamus Istilah Aneka Hukum*. Jala Permata Aksara.
- Marzuki, P. M. (2008). *Pengantar Ilmu Hukum*. Kencana.

- Muchtar, H. (2015). Analisis Yuridis Normatif Sinkronisasi Peraturan Daerah Dengan Hak Asasi Manusia. *Humanus: Jurnal Ilmiah Ilmu-Ilmu Humaniora*, 14(1), 80–91.
- Pasal 2 Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan, Pub. L. No. Tahun 1974 (1974).
- Pasal 279 Kitab Undang-Undang Hukum Pidana, (1946).
- Pasal 66 Undang-undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi, Pub. L. No. Tahun 2022 (2022).
- Pasal 93 Undang-undang Adminduk, (2013).
- Prodjohamidjojo, M. (1997). *Memahami dasar-dasar hukum pidana Indonesia 2*. Pradnya Paramita.
- Rato, D. (2017). *Pengantar filsafat hukum : mencari, menemukan dan memahami hukum*. Laksbang Pressindo.
- Syahrani, R. (1999). *Rangkuman intisari ilmu hukum*. Citra Aditya Bakti. <https://books.google.co.id/books?id=7CQktwAACAAJ>
- Yulia, R., Herli, D., & Prakarsa, A. (2019). Perlindungan Hukum Terhadap Korban Kejahatan Pada Proses Penyelidikan Dan Penyidikan Dalam Sistem Peradilan Pidana. *Jurnal Hukum & Pembangunan*, 49(3), 661. <https://doi.org/10.21143/jhp.vol49.no3.2193>