



Criminal Law Study on Forging Birth Certificates for Inheritance Claims

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Abstract— *A crime is an act prohibited by law and accompanied by a threat of sanction in the form of a criminal penalty. One example of such a crime is the forgery of a birth certificate for the purpose of obtaining an inheritance. The focus of this study is to analyse the legal aspects of the crime of falsifying birth certificates to gain inheritance rights. To address this issue, the research employs normative legal methods (also known as normative juridical research) conducted through library research. The aim is to understand how the law views and analyzes the crime of falsifying birth certificates with the intent to obtain inheritance. The findings indicate that cases involving birth certificate forgery must be thoroughly investigated, as such actions can cause harm to others. Therefore, it is essential for judges to take clear and decisive action in order to uphold justice. Failure to do so may result in injustice and harm to those who rightfully deserve the inheritance.*



Keywords— *Criminal, Birth certificate forgery, Inheritance*

I. INTRODUCTION

Greed is the primary motivation behind many forgery crimes. Criminal acts represent deviant behaviour that persistently exists within society, much like recurring phenomena such as diseases and death, which continue cyclically like changing seasons. Forgery is a crime characterized by elements of falsehood or untruth, involving an object that outwardly appears genuine but is, in reality, contrary to the truth. This deception causes confusion among many individuals who struggle to distinguish between what is authentic and what is counterfeit, as perpetrators often employ various methods that trap victims in such conditions. From a law enforcement perspective, the crime rate is often viewed as positively correlated with a country's level of progress and technological advancement. Today's scientific and social developments are vast, and the higher the civilization level of a nation, the more advanced its science becomes. However, if scientific progress is not balanced with humanistic values, it may lead to negative consequences, including various criminal acts that disrupt peace and order, causing significant material and immaterial losses to

society and the nation. Forgery laws were established to protect the public's legal interests, specifically to maintain trust in the authenticity of four categories of documents: those granting rights, imposing obligations, granting debt relief, and documents made to prove certain facts or conditions. The prohibited acts regarding these documents include creating forged documents (*valschlijk opmaaken*) and falsification (*vervalsen*). Creating forged documents involves producing letters that never previously existed, or where some or all content is fabricated—these are known as fake letters. Falsification, on the other hand, involves altering, deleting, or replacing content in an existing document, resulting in a falsified letter that differs from the original. Among the various issues related to forgery crimes, identity forgery has become increasingly complex. The rise in identity forgery is linked to social and cultural factors, where some communities perceive this crime as commonplace rather than illegal. This perception has contributed to the resurgence of identity forgery practices. Such acts undermine public trust in authentic documents and constitute an affront to the dignity of the law. A person's status or identity should accurately reflect their individuality. Thus, the impact of forgery crimes is

profound, causing both material and immaterial harm. If left unaddressed, these crimes could severely damage the moral fabric and quality of future generations, thereby tarnishing the reputation of the nation's educational and social institutions. The public's trust in authentic documents is paramount, and therefore, the authenticity of such documents must be guaranteed. The purpose of the law is to maintain peace by ensuring legal certainty and justice within society. To achieve this, existing regulations must be enforced firmly. Criminal law serves as a vital tool to resolve such issues and provide appropriate solutions. Legal development, especially in criminal law, must be enhanced and integrated to effectively address various criminal problems. This includes codification, harmonization of legal fields, and the enactment of new legislation necessary to respond to the evolving challenges posed by increasing crime rates and developments in criminal behaviour.

Problem Identification: Based on the above discussion, this research focuses on analysing the legal aspects of the crime of falsifying a birth certificate for the purpose of obtaining inheritance.

II. THEORETICAL FRAMEWORK

1. Understanding Criminal Acts and Elements of Criminal Acts

The term criminal act comes from the language known in Dutch criminal law, namely "Strafbaar feit". Literally, the word "straf" means criminal, "baar" means can or may and "feit" means act. In relation to the term "Strafbaar feit" in its entirety, it turns out that "straf" is also translated with the word law, even though it is common for law to be translated from the word "recht", as if it means the same as "recht" which is actually not the case. Legal terms that have been used both in existing legislation and in various legal literature as a translation of the term "strafbaar feit" are criminal acts, criminal events, offenses, criminal violations, punishable acts, punishable acts, criminal acts.

According to Soesilo (1990), a criminal act is an act that is prohibited or required by law, and if violated, the person who commits or neglects it is subject to punishment. The elements of a crime consist of two main components:

1. Subjective Elements

These relate to the mental state or intent of the offender at the time of committing the act, including: Intention or lack thereof (*dolus* or *culpa*) *Dolus* refers to actions done intentionally or knowingly, while *culpa* refers to actions done negligently or unintentionally. This element distinguishes whether the crime was committed deliberately or due to carelessness.

2. Awareness or intent regarding an attempt (*voornement* or *poging*)

This refers to the offender's consciousness about attempting to commit a crime, including cases where the attempt is made but the crime is not fully realized.

3. Various intentions or purposes (*oogmerk*)

This refers to the specific goals or motives behind the criminal act, such as personal gain, revenge, or other reasons.

4. Premeditation (*voorberechteraad*)

This element indicates that the crime was planned or prepared in advance, rather than committed impulsively.

5. Objective Elements, relate to the observable or external facts of the crime, including:

- a. Human actions causing harmful consequences
- b. The actual conduct of the offender that results in negative outcomes or violations.
- c. The unlawful nature of the act (*wederrechtelijkheid*)
- d. The act must be against the law, not permitted by any legal exceptions.
- e. The quality or status of the perpetrator
The characteristics or condition of the offender, such as age or mental capacity, which affect criminal responsibility.
- f. Causality
The causal link between the offender's action and the harmful consequence that results.
- g. The circumstances surrounding the act
- h. Factors present at the time of the crime, such as the time, place, and situation when the act occurred.

Determining the time and place of the crime establishing when and where the crime occurred is important because criminal acts often involve tools or means that may cause effects at different times and places than where the act itself took place. Although the law does not explicitly define the time and place of a crime, the government generally considers *locus delicti* the place where the perpetrator committed the act as the location of the crime, not where its consequences occurred.

The presence of a criminal sanction or threat for violating the prohibition (criminal threat) Based on the compound word criminal act, the main understanding is in the act that cannot be separated from the person. In reality, there is no difference in nature between formal and material crimes in criminal acts. In this case, according to Moeljatno. (2010) the difference only lies in the writing that can be seen if you read the formulation of each crime. Formal crime is an abbreviation of a crime formulated morally, while material crime is a crime formulated

materially. Criminal acts initially consisted of 3 (three) types called criminal atrocissima, atrocica and levia which were not based on a particular principle, but rather based on the severity of the crime. Criminal law is included in public law, and its nature is as a regulator of legal relations between humans and their fellow humans, the regulation of which is charged to the ruler, while its size is focused on the public interest in general. Criminal acts are a form of violation of the rules (normovertredigen), and that criminal acts are directed to interests that are the maintenance of the objectives of the law. In this case, the law is divided into 4 (four) groups, namely: a) Damaging (damaging) certain interests protected by law. For example, Article 338 of the Criminal Code; b) Creating danger (concrete gevaar teweeg brengen) or creating a possible danger for that interest, for which it is required to be punished. For example, Article 387 of the Criminal Code; c) More or less producing danger for legal interests according to the formulation of a criminal act, without there having to be danger or a possible danger. In this case, it can be called an abstract danger.

The law considers certain dangers to exist by virtue of regulations. For instance, Article 189 of the Criminal Code addresses such abstract dangers. Additionally, some acts harm legal interests that are difficult to substantiate but affect public welfare, and these acts warrant punishment, as exemplified in Article 169 of the Criminal Code. Legal scholars in Indonesia have classified unlawful acts into two categories: *rechtsdelicten* and *wetdelicten*. This classification is explained in the *Memorie van Toelichting* based on two principles: First, there are acts that, while not explicitly prohibited by law, are generally recognized by society as harmful to honor and deserving of punishment. Second, there are acts clearly defined by law as unlawful, making perpetrators punishable once the law explicitly forbids such conduct.

The crimes mentioned earlier in point one is those that violate unwritten laws, often considered morally wrong by society. In contrast, *wetdelicten* are offenses explicitly defined by legislation as punishable acts. According to Van Hamel, criminal acts are divided into crimes and violations based on these principles, with differences in their legal consequences:

- a. The law does not differentiate between intentional wrongdoing (*opzet*) and negligence (*culpa*) in violations;
- b. Attempts to commit violations are not punishable;
- c. Involvement or complicity in a violation can be punished;
- d. Managers or board members can only be held accountable for violations if they had knowledge of the wrongdoing;

- e. Filing a complaint is not required to initiate prosecution for violations;
- f. The limitation period for prosecution (Article 78(1)) and serving sentences (Article 84(2)) for violations is generally shorter compared to crimes.

2. Definition of Forgery and Elements of the Criminal Act of Forgery

According to Soesilo (1990), crimes involving forgery, or forgery crimes, are offenses that contain elements of falsehood or untruth in an object that appears genuine outwardly but is actually contrary to the truth. Forgery can also be defined as the intentional imitation of someone else's work for a certain purpose without permission. Forgery constitutes a violation of two fundamental norms: Crimes concerning forgery or abbreviated as forgery crimes are crimes that contain elements of untruth or falsehood of something (object), which something appears from the outside as if it were true when in fact it is contrary to the truth. Or an act of intentionally imitating someone else's work for a certain purpose without permission. Forgery is a type of violation of two basic norms, namely: 1) Truth (trust) whose violations can be classified as fraud crimes; 2) Public order, whose violations can be classified as state crimes or public order crimes.

The elements of each crime of forgery are as follows:

- 1) Elements of the crime of perjury; a) Objective elements: (1) In a situation where the law determines that information must be given under oath, or (2) Having legal consequences for information under oath; (3) The act of giving information under oath; (4) With: orally or in writing; (5) In person or by proxy; (6) Content of the information: False information. b) Subjective elements: intentionally; (1) Elements of the Crime of Counterfeiting Currency; a) Objective elements: (1) Act: imitating, falsifying; (2) Object: currency, state banknotes, banknotes. c) Subjective elements: with the intention to: (1) Distribute, or; (2) Order the circulation of currency and paper money as if it were genuine and not counterfeit.

3. Types of Counterfeiting

According to Moeljatno (1983), the crime of forgery as regulated in Book II of the Criminal Code is divided into four categories, one of which is the crime of false oath, as stipulated in Chapter IX, Articles 242 and 243. Article 242 paragraph one prohibits a person who, under certain circumstances, is legally required to provide information under oath or faces legal consequences for such information, from intentionally giving false information whether orally, in writing, or through a specially authorized proxy. The information under oath refers to statements given by a person who, before swearing according to their religion, promises to provide truthful information, or provides information subsequently reinforced by an oath. If

the information turns out to be false, it is considered perjury. Importantly, the oath itself remains valid and truthful; it is the content of the information that is false.

4. Definition of Inheritance

In customary law, inheritance can be in the form of tangible property or intangible property, for example a title of nobility. Property in the form of tangible property according to customary inheritance law is livelihood property, namely property obtained during marriage and property brought. Inheritance according to civil inheritance law is the entirety of the testator's property rights and obligations, both receivables and debts. Civil inheritance law does not recognize the origin of the property to determine inheritance. In other words, inheritance is a unit that is transferred from the testator to the heirs. According to Islamic inheritance law is the property brought and joint property minus the costs incurred for the testator during illness and after death, such as debt payments, management of estates and funerals. Inheritance in Islamic inheritance law is not only property but also the rights of the testator.

The concept of inheritance arises because of the event of death. This event of death occurs to a family member, for example a father, mother or child. If the deceased has assets, then the main issue is not the death, but the assets left behind. This means, who is entitled to the assets left by the testator. And also, who is obliged to bear and settle the debts of the testator if he leaves behind debts that are his obligations. For inheritance to occur as described above, the process includes the following elements below: 1) The existence of an heir, the heir is someone who has assets and passes on or transfers the assets to someone as an heir. Indeed, the death of the testator is a very important event in inheritance, but it does not radically affect the process of passing on or transferring the inheritance. 2) The existence of inheritance is all assets left by someone who dies (the testator) whether the assets have been divided or not.

However, the law has determined that there are people who, because of their actions, do not deserve to receive an inheritance. They include: a) An heir who has embezzled; b) Destroy falsified letters; c) An heir who uses violence or threatens to prevent the deceased from making a will according to his wishes.

5. Definition of Birth Certificate (Birth Certificate)

The term or word deed in Dutch is called "Acte" or "Akta" and in English is called "Act" or "Deed." According to general opinion, it has two meanings: 1) a deed (handling) or legal act (Rechtshandeling); 2) a writing made to be used or to serve as the creation of a certain law, namely a writing presented as evidence. The definition of a deed according to Article 165 of the 1941 Statute No. 84 is: "A letter made in such a way by or before an authorized official to serve as sufficient evidence for both parties and their

heirs or related parties as a legal relationship, concerning all matters referred to in the letter as notification of a direct relationship with the matter at hand."

Meanwhile, according to Prof. R. Soebekti (1984), a deed is a writing made to be used as evidence of an event and is signed. From the definition, letters that can be called deeds are only certain letters that meet the following requirements: 1) The letter must be signed. The requirement for a letter to be signed in order to be called a deed is stated in the Civil Code which states: "A deed that due to the inability of the employee or the incompetence of the employee, or due to a defect in its form, is not enforced as an authentic deed, but nevertheless has the force of a private writing". 2) The letter must contain an event that is the basis of a right and obligation. In accordance with the designation of a deed as a means of proof for the purposes of whose needs the letter is, it is clear that the letter must contain information that can be used as the required evidence. The legal event called proof must be a legal event that is the basis of a right or obligation. 3) The letter must be intended as evidence. The third requirement for a letter to be called a deed is that the letter is intended as evidence. Birth certificate or birth certificate is a word issued by an authorized official, which is related to the birth. In order to obtain or get certainty regarding a person's legal standing, authentic evidence is needed, which evidence can be used as a guideline to prove a person's legal standing.

III. RESEARCH METHODOLOGY

This study utilizes a library research method, drawing primarily on scientific literature as its main source of data. Soerjono Soekanto (1985) defines legal research as a scientific activity that is grounded in specific methods, systematic approaches, and critical reasoning. The objective is to thoroughly examine one or several particular legal phenomena through detailed analysis. Furthermore, legal research involves an in-depth investigation of legal facts, which helps reveal the relevant symptoms associated with these phenomena. This study was conducted at Herna General Hospital Medan. The hospital serves as the primary site for data collection and observation related to the research topic. Its selection was based on its relevance and accessibility for obtaining the necessary information to support the objectives of this study.

IV. RESULT & DISCUSSION

This study examines the criminal act of forging birth certificates aimed at unlawfully acquiring inheritance rights. The findings reveal that birth certificates serve as crucial legal documents that authenticate a person's identity and legitimate status, particularly in inheritance claims.

Authentic birth certificates, issued by authorized institutions, provide legally binding proof of an individual's legal status and are fundamental in ensuring the rightful distribution of inheritance. The research highlights that birth certificates must fulfill specific formal requirements: they must be signed by authorized officials, contain factual legal events that establish rights and obligations, and be intended as valid evidence. When these documents are forged, the legal certainty surrounding an individual's identity and entitlement is compromised, potentially resulting in material and immaterial harm to rightful heirs. The case analysis of the defendant, Kawida, who was found guilty of falsifying a birth certificate to claim inheritance, confirms that the offense meets all elements stipulated under Article 263 of the Indonesian Criminal Code (KUHP). These elements include the creation of a forged document and the intentional use of such a document, actions that cause harm to others. This confirms that the act of forgery in this context is a serious criminal offense warranting legal sanctions. Moreover, the study emphasizes the critical role of judicial enforcement in upholding justice and maintaining public trust in official documents. Firm and consistent legal actions are necessary to deter forgery crimes and to protect the legal rights of individuals. Beyond the immediate legal implications, the research underscores the broader societal impacts of document forgery. It not only results in financial losses but also undermines social trust, damages moral values, and threatens the integrity of the legal system. If left unchecked, these crimes could erode public confidence in authentic documentation and disrupt social order. Based on descent because the letter or birth certificate does prove that a child mentioned in the same is the child mentioned in the birth certificate in question, at least from the woman who gave birth to the child whose child is mentioned there. From the contents of the birth certificate, the birth certificate of a legitimate child must be able to prove accurate evidence. The authentic evidence can be used to support the certainty of a person issued by an institution, where this institution is authorized to issue certificates regarding a person's legal status. According to Article 261 of the Civil Code, it states that: "Legitimate offspring can be proven by their birth certificates, which have been recorded in the civil registry register." From the above definition, letters that can be called deeds are only certain letters that meet the following requirements: 1) The letter must be signed. The requirement for a letter to be signed in order to be called a deed is stated in the Civil Code which states: "A deed that due to the inability of the employee or the incompetence of the employee, or due to a defect in its form, is not enforced as an authentic deed, but nevertheless has the force of a private writing". 2) The letter must contain an event that is the basis of a right and

obligation. In accordance with the designation of a deed as a means of proof for the purposes of whose needs the letter is, it is clear that the letter must contain information that can be used as the required evidence. The legal event called proof must be a legal event that is the basis of a right or obligation. 3) The letter must be intended as evidence. The third requirement for a letter to be called a deed is that the letter is intended as evidence.

V. CONCLUSION

The conviction of the defendant, Kawida, for the crime of falsifying a birth certificate to unlawfully claim inheritance rights, as ruled by the Medan District Court, is legally sound and justified. This decision is based on the fulfilment of all the elements outlined in Article 263, paragraphs (1) and (2) of the Criminal Code. Specifically, the elements under paragraph (1) include: (1) an individual; (2) who creates a forged document; and (3) where such forgery has the potential to confer rights. Meanwhile, the elements under paragraph (2) encompass: (1) an individual; (2) who knowingly utilizes a forged document; and (3) where this use results in harm or loss.

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