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Criminal Policy and Legal Accountability for Criminal Acts of Forgery of Primary and Secondary Education Certificates

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ABSTRACT: Diploma fraud has become a serious problem with widespread repercussions, affecting not only those directly involved but also society as a whole. The consequences of such actions are highly detrimental, including undermining the integrity of the education system, damaging the reputation of educational institutions, and creating inequality in the workplace and in education. This phenomenon is not limited to individual perpetrators but also involves educational institutions or organizations that knowingly issue or facilitate the issuance of fake documents without valid legal grounds. This study aims to analyze criminal policies and legal accountability for perpetrators of diploma forgery at the primary and secondary education levels, both by individuals and educational organizations/institutions, as well as to examine the disparity between ideal legal norms (das Sollen) and their implementation in practice (das Sein). The legal research method used is normative legal research by conducting research on library materials and using a statutory approach. The results of this study conclude that the laws and regulations governing criminal acts of document forgery, particularly diplomas, are available and adequate. however, there is a significant disparity between legal norms and law enforcement practices in cases of diploma forgery, where law enforcement agencies tend to target individual perpetrators and exempt educational institutions/organizations from criminal liability as stipulated in the legislation, particularly at the primary and secondary education levels.

KEYWORDS: criminal policy, legal responsibility, forgery, diploma.

I. INTRODUCTION

Education is a conscious and planned effort to create a learning environment and learning process so that students actively develop their potential to have religious spiritual strength, self-control, personality, intelligence, noble character, and skills needed by themselves, the community, the nation, and the state.[1]

In Indonesia, the state's responsibility to provide quality education for all citizens is explicitly stipulated in the preamble to the 1945 Constitution of the Republic of Indonesia (UUD 1945), paragraph 4 and Article 31. The preamble to the 1945 Constitution, paragraph 4, states that one of the national objectives of the Indonesian state is to "...to educate the nation."[2] It appears from this statement that efforts to educate the nation can only be achieved through education. This is further emphasized in Article 31 paragraph (1) of the 1945 Constitution, which states that:[3] "Every citizen has the right to education, and Article 31 paragraph (2) states that:[4] "The government shall strive for and organize a national education system regulated by a national education system."

Formal education is a structured and tiered education system consisting of primary education, secondary education, and higher education. Basic education is the level of education that forms the foundation for secondary education. Basic education takes the form of Elementary School (SD) and Madrasah Ibtidaiyah (MI) or other equivalent forms, as well as Junior High School (SMP) and Madrasah Tsanawiyah (MTs), or other equivalent forms.[5] Secondary education is a continuation of primary education. Secondary education consists of general secondary education and vocational secondary education. Secondary education takes the form of Senior High School (SMA), Madrasah Aliyah (MA), Vocational High School (SMK), and Madrasah Aliyah Kejuruan (MAK), or other equivalent forms.[6] Basic and Secondary Education Units as referred to in Article 1, Point 8 of Ministry of Education, Culture, Research, and Technology Regulation Number 58 of 2024, hereinafter referred to as Education Units, are educational service providers that conduct formal and non-formal education at the Basic and Secondary Education levels.

[1] Pasal 1 angka 1 Undang-undang Nomor 20 Tahun 2003.
[2] Alinea 4, Undang-Undang Dasar Negara Republik Indonesia 1945.
[3] Pasal 31 ayat (1) Undang-Undang Dasar Republik Indonesia 1945.
[4] Pasal 31 ayat (2) Undang-Undang Dasar Republik Indonesia 1945.
[5] Pasal 17 Undang-Undang Nomor 20 Tahun 2003 Tentang Sistem Pendidikan Nasional.
[6] Pasal 18 Undang-Undang Nomor 20 Tahun 2003 Tentang Sistem Pendidikan Nasional.

The paradigm in law enforcement views the growth of crime rates and the advancement of science and technology as a positive or direct relationship, namely that crime will always develop in line with the progress achieved in science and technology.[7] Among the various types of crimes that occur in education, one of them is forgery. Criminal forgery is a crime that involves falsehood, where something appears to be true when it is actually contrary to reality. Currently, criminal forgery is becoming increasingly prevalent in various forms and developments, influenced by rapid technological advancements that make it easier for perpetrators to commit such acts. Public awareness of the importance of education remains low. This is evident in the prevalence of fake diplomas, where people tend to choose the easy way out despite knowing it is wrong, without considering the importance of the educational process. The desire to obtain a desired degree is not accompanied by the proper attitude to achieve it. Recently, there have been allegations of the use of fake diplomas by irresponsible individuals, particularly for the purpose of applying for jobs.[8]

Based on data from the Directorate General of Early Childhood, Primary, and Secondary Education (Ditjen PAUD Dikdasmen), cases of diploma forgery are quite prevalent at the primary and secondary education levels (12 cases between 2022 and 2025). This issue has become increasingly complex and systematic, as it involves multiple parties, not only between teachers and students but also educational institutions and government authorities. Students, who should be pursuing knowledge to enhance human capital for a better future, are now being targeted by certain individuals who exploit this situation for personal gain. This, of course, undermines the future of education and the quality of future generations.

Basically, a diploma is a document that certifies the graduation of a student from a formal or non-formal educational institution.[9] In reality, diplomas are often misused for personal gain, benefiting oneself but harming others. Diplomas obtained through unlawful means or in a manner that does not comply with the regulations in effect at the time the diploma was issued. The form or model of the diploma is authentic, but its content can be categorized as false. Whether a document is forged or not must be determined by examining the substance (essence) of the document itself.[10] This happens because the demands of the times have led society towards a lifestyle that is easy and practical. The desire to achieve goals, such as obtaining a job or a certain status, often drives individuals to falsify documents, including diplomas, without considering the negative impact this has on others and the integrity of the education system itself.

The use of fake diplomas can damage the image, dignity, and honor of the world of education. In light of allegations regarding the use of fake diplomas, it is essential to enforce strict measures to uphold the dignity and integrity of the education sector. While ensuring that those involved in the issuance or use of fake diplomas are held criminally liable for their actions, it is also crucial for the government to implement systemic measures to combat this criminal activity. This can be achieved through more stringent criminal policies.[11]

The legal provisions regarding the forgery of diplomas under Indonesian criminal law constitute a form of crime, as stipulated in the Criminal Code regarding the forgery of documents, as follows: The content of Article 263(1) and (2) of the Criminal Code:

(1) Anyone who makes a false document or forges a document that can give rise to a right, obligation, or debt discharge, or intended as evidence of a matter, with the intent to use or cause another person to use such document as if its contents were true and not forged, shall be punished, if such use could cause loss, for forgery of a document, with imprisonment for a maximum of six years.

(2) Anyone who intentionally uses a false document or a forged document as if it were genuine, if the use of the document could cause harm, shall be punished with the same penalty.

In addition to the provisions on forgery of documents contained in the Criminal Code, provisions on forgery of diplomas are specifically regulated in Law No. 20 of 2003 on the National Education System (UU Sisdiknas) and Ministerial Regulation No. 58 of 2024 on Diplomas for Basic and Secondary Education.

In 2015, when a syndicate involved in the issuance of fake diplomas was uncovered, the government, through the Minister of State Apparatus Empowerment and Bureaucratic Reform (PANRB), issued Circular Letter No. 03/2015 on the Handling of Fake Diplomas for Civil Servants/TNI/POLRI within Government Agencies. Through this Circular Letter, the Minister of PANRB tasked the Internal Government Supervisory Agency (APIP) and officials responsible for human resources management to conduct investigations into the authenticity of diplomas held by civil servants (ASN), military personnel (TNI), and police officers

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[7] Musdalifa R, 2013, *Tinjauan Yuridis Terhadap Tindak Pidana Penggunaan Ijazah Palsu*, Makassar: Fakultas Hukum Unhas, hlm. 1.

[8] Yudistira Nugroho, 2022, "*Tindak Pidana Terhadap Penggunaan Ijazah Palsu Criminal Action Against The Use Of Fake Diplomas*", Jurnal Pengabdian, Fakultas Hukum, Universitas Abdulrachman Saleh Situbondo, Vol. I No. 2, hlm. 3.

[9] Pasal 1 angka 1 Permendikbudristek Nomor 58 Tahun 2024.

[10] Karinda, "*Kajian Yuridis Tentang Pemalsuan Ijazah Menurut Pasal 263 dan 264 KUHP*", Lex Crimen. Vol. V No. 6, Agustus 2019, hlm. 140.

[11] Bambang Waluyo, 2016, *Pemberantasan Tindak Pidana Korupsi: Strategi dan Optimalisasi*, Cet. Pertama, Jakarta: Sinar Grafika.

(POLRI). Although there are government policies in place to address the circulation of fake diplomas, cases of criminal offenses involving the use of fake diplomas remain widespread.

Considering that education is one of the key instruments for sustainable development in a country, and considering that deviations from the world of education are not merely ethical violations but can also constitute legal violations with significant impacts, criminal law is necessary to combat or minimize various forms of deviation that can damage the image of national education.

According to Barda Nawawi Arief, efforts to combat various forms of deviant behavior are as follows:Efforts to combat various forms of deviant behavior can be pursued through non-penal and penal measures. Non-penal measures usually focus on preventive efforts to prevent crime by addressing the factors that contribute to crime. On the other hand, penal measures are efforts to address deviant behavior through the use of criminal law. These measures focus on efforts that are repressive in nature.[12]

The handling of various forms of deviant behavior in the world of education through penal measures (using criminal law) has so far been relatively fragmented. This means that the provisions used to address deviance in the world of education are still limited to criminal provisions stipulated in the Criminal Code and the National Education System Law.

Several laws and regulations other than the National Education System Law do not specifically regulate irregularities that occur in the world of education. The provisions in these other laws and regulations are still general in nature, such as the provisions in the Criminal Code (KUHP), Each of these laws and regulations has a different addressee (purpose) that is not specifically focused on criminal acts in the field of education, while the National Education System Law, which aims to protect the National Education System, does not fully accommodate all forms of criminal acts related to fake diplomas.

Based on the above considerations that the form of criminal acts involving fake diplomas in the field of education, which have legal implications, poses a threat to the implementation of education in Indonesia, while the criminal law regulating this issue remains relatively fragmented, the author formulates the following problem: 1) What are the criminal policies regarding the crime of forging diplomas in primary and secondary education in Indonesia?; 2) How is the law enforced against individuals, organizations, or educational institutions involved in the issuance of fake diplomas in primary and secondary education? With the following objectives: 1) To examine and analyze criminal policy on certificate forgery in Indonesia, particularly at the primary and secondary education levels; 2) To examine and analyze law enforcement against individuals, organizations, or educational institutions involved in the issuance of fake certificates at the primary and secondary education levels.

II. RESEARCH METHODS

The method applied in a study is the key to assessing the quality of that study. It is the scientific method that determines the course of a study, from data collection to the conclusion of the findings obtained in the study.[13]

This study uses normative legal research supported by empirical legal data. According to Soerjono Soekanto, this type of research is also known as sociological legal research, which consists of research on the identification of (unwritten) law and research on the effectiveness of law.[14] The empirical legal data referred to here is data obtained from the field in the form of interviews and tabulation of legal data related to mitigation efforts undertaken by the Ministry of Education, Culture, Research, and Technology of the Republic of Indonesia.

The approach used in this study is the statutory approach, which involves a comprehensive analysis of legislation related to the issues to be studied, as well as a conceptual approach that seeks and combines existing concepts in a practical manner that can be applied to form an understanding from the desired perspective and provide solutions to the issues to be studied.

According to Soerjono Soekanto, legal research is a form of scientific activity based on specific methods, systems, and thinking, which aims to study one or more specific legal phenomena by analyzing them. In addition, an in-depth examination of a legal factor is also carried out in order to find a solution to the problems that arise in the phenomenon concerned.[15]

The nature of this study is descriptive and analytical, aiming to describe the applicable positive legal provisions and analyze the suitability of their application in criminal policy and criminal liability for perpetrators of falsification of primary and secondary education certificates.

III. DISCUSSION AND RESULT

A. Criminal Policy on Diploma Forgery in Indonesia

Criminal policy in law can be defined as a state policy that regulates the application of criminal sanctions and preventive measures against crimes committed in society. This policy focuses on how the state uses criminal law to combat crime in a

[12] Barda Nawawi Arief, 2002, *Bunga Rampai Kebijakan Hukum Pidana,* Bandung: PT. Citra Aditya Abadi, hlm 42

[13] Tampil Anshari Siregar, 2005, *Metodologi Penelitian Hukum*, Medan: Pustaka Bangsa Press, hlm.10

[14] Soerjono Soekanto, *Op.Cit*, hlm. 7

[15] Soerjono Soekanto, 1981, *Pengantar Penelitian Hukum*, Jakarta: UI Press, hlm. 43

structured and systematic manner. In the Indonesian context, criminal policy not only serves to impose sanctions on criminals but also to prevent criminal acts through various programs, regulations, and oversight mechanisms.[16]

Diploma forgery is one of the most common types of criminal offenses occurring across various sectors of society, particularly in the fields of education and employment. This criminal act not only harms the individuals who fall victim to it but also undermines the integrity of Indonesia's education and employment systems. In this context, diploma forgery has become a serious issue that must be addressed through stringent criminal policies. The discussion on criminal policies against diploma forgery in Indonesia covers the applicable legal basis, policy implementation, and obstacles faced in law enforcement. Diploma forgery is essentially an illegal act in which a person deliberately creates, uses, or forges a diploma or other educational document to obtain unlawful benefits. This criminal offense is typically committed by individuals seeking employment or educational opportunities without meeting the required qualifications. According to Article 263(1) of the Criminal Code, forgery of documents, including diplomas, is punishable by imprisonment for a maximum of six years.[17] This shows that falsification of educational documents is a crime that carries severe criminal penalties.

Criminal policy against diploma fraud in Indonesia can be understood as state legal policy to combat, punish, and prevent criminal acts of document fraud, particularly diploma fraud. This policy aims to maintain the validity and fairness of the education and government systems. This criminal policy has several main aspects, namely:

1. Prevention

Preventive measures can be taken through:

a. Legal education and socialization

Preventive measures can be taken through legal education and awareness campaigns on the importance of honesty in education. The community and parties involved in the implementation of education must be given a clear understanding of the legal consequences of certificate forgery, as well as the criminal penalties that may be imposed.

b. Internal Oversight of Educational Institutions

Educational institutions, both formal and non-formal, must have a strict monitoring system in place for the creation and issuance of certificates. This includes verifying and validating student data before certificates are issued, thereby minimizing the risk of fraud.

c. Use of Technology

In today's digital age, many educational institutions are beginning to implement digitization systems in the creation and verification of diplomas. Technologies such as electronic certification systems or QR codes can be used to ensure the authenticity of diplomas and facilitate data verification by relevant parties.

2. Repressive

a. Strict Law Enforcement

Action against perpetrators of diploma forgery is carried out through the criminal justice system by prosecuting the perpetrators in accordance with the provisions of Article 263 of the Criminal Code, which carries a maximum prison sentence of six years. A clear and firm legal process will have a deterrent effect on perpetrators of diploma forgery.

b. Inter-institutional Cooperation

Law enforcement agencies (the National Police and the Attorney General's Office) need to collaborate with educational institutions, government agencies, and educational supervisory bodies in order to uncover cases of diploma fraud. This synergy is necessary to identify perpetrators and prevent similar cases in the future.

3. Rehabilitative

In addition to imposing sanctions, the Indonesian criminal justice system also provides opportunities for offenders to reform themselves through rehabilitation programs, whether in the form of education or guidance, so that they can contribute positively to society after serving their sentences.

Under Article 61(2) of the National Education System Law, it is stated that a diploma is awarded to students as recognition of their academic achievements and/or completion of a level of education after passing an examination conducted by an accredited educational institution. The forgery of diplomas by irresponsible individuals will undermine the education system and harm many parties, including educational institutions, government agencies, and the general public. This crime often involves larger networks, including the role of educational institutions or individuals who intentionally issue fake diplomas to applicants. In the context of workplace regulations, diploma forgery also refers to Article 380 of the Civil Code, which stipulates that documents used for fraudulent or forgery purposes may be invalidated and deemed invalid. The importance of addressing diploma forgery cannot be viewed solely from a legal perspective but also from the perspective of its impact on the quality of human resources in Indonesia.

[16] Handar Subhandi Bakhtiar. (2014). *Pengertian Tindak Pidana Anak*.
[17] Kitab Undang-Undang Hukum Pidana

Diploma forgery can create an imbalance in the competencies and quality of individuals entering the workforce. This action can increase unemployment rates, as individuals using fake diplomas will obtain opportunities that should rightfully be given to more competent individuals who meet the actual qualifications.

In practice, criminal policies against diploma fraud still face various obstacles in law enforcement. One of the main obstacles is the low level of public awareness regarding the importance of diploma authenticity. Many parties are not yet aware of the negative impact of diploma fraud on the reputation of educational institutions, the world of work, and even the country. Additionally, the investigation and prosecution of such crimes tend to be complex and require strong evidence, given the nature of document forgery, which can be carried out with great skill by perpetrators. Another challenge faced is the limited capacity of law enforcement agencies to track and handle cases of diploma forgery, especially those involving international networks or parties with sufficient resources to conceal the forgers' tracks.

Stronger law enforcement against the crime of diploma forgery must be accompanied by preventive measures involving all relevant parties. The government, educational institutions, and the workforce must collaborate to enhance oversight of educational documents used in both job application processes and the admission of new students to higher education institutions. Additionally, information technology systems can be utilized to verify the authenticity of diplomas quickly and efficiently. As some higher education institutions in Indonesia have already begun developing electronic verification systems for diplomas, this can help reduce the potential for forgery.

1. Diploma as a Form of State Recognition of Achievements in the Field of Education in Indonesian Criminal Law

Education is one of the basic rights of every citizen guaranteed by the 1945 Constitution, particularly in Article 31 of the 1945 Constitution, which states that every citizen has the right to education. Article 31 paragraph (1) of the 1945 Constitution states that the state has an obligation to provide adequate education for all Indonesian citizens. In order to fulfill this obligation, the state, through the national education system regulated by the National Education System Law, recognizes every individual who successfully completes a certain level of education. Education, in addition to being a means of improving the quality of human resources, is also an important instrument in the social and economic development of the country. In this context, a diploma serves as formal proof of an individual's educational achievement recognized by the state. The regulations regarding certificates within the education system are also supported by other laws and regulations governing education and the implementation of national examinations. Article 59 of the National Education System Law states that accredited educational institutions must issue diplomas to students who successfully complete their education. A diploma is not merely an administrative document but a symbol of the state's recognition of an individual's success in completing the educational level established by the state.

Criminal law policy in Indonesia plays an important role in ensuring that diplomas, as a form of state recognition, maintain their legitimacy and integrity. As a country governed by the rule of law, Indonesia strictly regulates criminal acts related to diploma forgery. Diploma forgery, whether committed by irresponsible individuals or by corrupt educational institutions, not only harms the victims but also disrupts the mechanisms of opportunity distribution and justice in society and can erode public trust in the education system established by the state.

The Criminal Code (KUHP) has established provisions regarding the criminal offense of forging diplomas, specifically in Article 263(1) of the KUHP, which states: “Any person who creates a forged document or alters a document that could give rise to a right, obligation, or discharge of debt, or that is intended as evidence of a matter, with the intent to use or cause another person to use such document as if its contents were true and not forged, shall be punished, if such use could cause loss, for forgery of a document, with imprisonment for a maximum of 6 (six) years.”

This article regulates acts involving the creation, use, or distribution of false documents to obtain benefits or influence other parties unlawfully. In the case of diploma forgery, perpetrators of criminal acts may be subject to criminal sanctions for creating injustice, damaging the education system, and providing opportunities for unqualified individuals to obtain employment or other opportunities unlawfully.

According to the provisions of Article 263(1) of the Criminal Code (KUHP), the act of forging a diploma can be interpreted as the act of creating a diploma that is entirely fake or altering part of the content of a valid diploma, thereby giving the impression that the document was officially issued and legally owned by someone. The forgery in question may encompass the entire content of the document or only a portion thereof, such as by altering the information contained within the diploma, thereby rendering the information that should be valid as invalid. Another category of forgery includes the inclusion of a signature not made by the authorized party, which in this case renders the diploma invalid because it was not signed by the official authorized to issue and authenticate the document in question.

Regulations on national education have been implemented by the government since 1950 with the enactment of Law No. 4 of 1950 on the Fundamentals of Education and Teaching in Schools. As this law was deemed inadequate to address the challenges of the time, Law No. 2 of 1989 on the National Education System was enacted. Currently, Law No. 20 of 2003 on the National Education System is in effect. Law No. 20 of 2003 on the National Education System is expected to establish a strong national education system that empowers all Indonesian citizens to develop and proactively respond to the ever-changing challenges of the world.[18]

The importance of further regulation on the criminal offense of diploma forgery is one of the answers and efforts to maintain dignity and integrity in the Indonesian education system. Combating criminal acts of diploma forgery must be balanced with comprehensive reforms and development of the criminal legal system, encompassing the development of legal culture, structure, and substance. In this context, criminal policy plays a strategic role in the development of modern criminal law.

Barda Nawawi Arief states that efforts to reform criminal law are essentially part of penal policy, which is related to law enforcement policy, criminal policy, and social policy. This means that criminal law reform essentially:[19]

a. It is part of a policy to update legal substance in order to make law enforcement more effective;
b. It is part of a policy to eradicate/combat crime in order to protect society;
c. It is part of a policy to address social and humanitarian issues in order to achieve national objectives.
d. It is an effort to review and reassess the fundamental principles, basic ideas, or socio-philosophical, socio-political, and socio-cultural values underlying criminal policy and criminal law policy to date.

Based on the above policy, efforts and policies to formulate criminal laws that are essentially inseparable from the goal of crime prevention must be undertaken. Therefore, the determination of criminal law policies to combat diploma forgery must be carried out using a policy-based approach, and each policy must also incorporate value considerations. Therefore, the reform of criminal law in combating the crime of diploma forgery must also be oriented toward a value-based approach.

2. Criminal Justice Policy in Indonesia

The development of the forms and dimensions of crime undoubtedly requires handling, one of the ways to address this is through penal measures or criminal sanctions. Criminal sanctions are a central issue in criminal law, making it important to examine the appropriate form of punishment for the crime of forging diplomas. The issue of criminalization or punishment itself is an important part of sentencing policy, which, according to Herbert L. Packer, is one of the most controversial issues in criminal law today.[20] The issue of criminalization and penalization, or punishment and sentencing, is one that always requires review, given its inherent nature and the nature and essence of crime itself, which is constantly changing and evolving. Changes and developments in crime are always followed by changes and developments in punishment itself.

Criminal punishment can be defined as the stage of determining and imposing sanctions in criminal law. If someone is found guilty of violating the law, they must be punished. The issue of punishment is not merely a matter of imprisoning someone; punishment must involve the loss or suffering inflicted by an authorized institution. Therefore, punishment is not revenge by the victim against the offender who caused the suffering.

The determination of criminal offenses by legislators is intended, among other things, to provide a set of tools for law enforcement officials to combat crime. In addition, it is also intended to limit law enforcement officials in their use of the criminal penalties that have been established. They may not use criminal penalties that have not been previously established by legislators. Thus, the types of criminal offenses selected and established by the legislature are binding and restrictive on other law enforcement officials. The determination of criminal sanctions, the imposition of criminal penalties, and the enforcement of criminal penalties are closely related to the objectives of criminal punishment. Therefore, the objectives of criminal punishment must be used as a benchmark before criminal sanctions are established. Muladi and Barda Nawawi Arief state that the criminal penalties to be established are those that are expected to support the achievement of the objectives. The effectiveness of criminal penalties must be measured based on the objectives or results to be achieved.

Based on the above definition, Barda Nawawi Arief states that the formulation, objectives, and guidelines for punishment are based on the following considerations:[21]

a. In essence, laws are a system (of law) that has a purpose ("purposive system"). The formulation of criminal offenses and penalties in laws is essentially only a means to achieve a purpose.
b. From a functional and operational perspective, punishment is a series of processes and policies that are deliberately planned through several stages (formulation, application, execution). In order for there to be coherence and integration between these three stages as a single punishment system, it is necessary to formulate punishment objectives and guidelines.

[18] Visi Pendidikan Indonesia dikutip dari Pembukaan Penjelasaan Undang-Undang Nomor 20 Tahun 2003 tentang Sistem Pendidikan Nasional.
[19] Barda Nawawie Arief, 2005, P*embaruan Hukum Pidana Dalam Perspektif Kajian Perbandingan*, Bandung:Citra Aditya Bakti, hlm. 3.
[20] Muladi dan Barda Nawawi Arief, Teori-Teori dan Kebijakan Pidana, *Op.Cit*., hlm. 174.
[21] Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, *Op.Cit*., hlm. 139.

c. A penal system based on the concept of individualization of punishment does not mean giving complete freedom to judges and other officials without guidelines or control. The formulation of objectives and guidelines is intended as a "control function" and at the same time provides a clear and focused philosophical basis, rationality, and motivation for punishment.

Based on the definition of the penal system by L.H.C Hulsman, the penal system is defined as:[22] "Statutory rules relating to penal sanctions and punishment. Therefore, all substantive criminal law, formal criminal law, and criminal procedure law can be viewed as a single sentencing system."

In the context of Indonesian criminal law, the punishment of diploma forgery is not only intended to punish criminals, but also to protect the legitimate education system and promote justice for all citizens. Therefore, the state, through criminal law policies, has a very important role in ensuring that diplomas remain a form of state recognition of the education that individuals have undergone.

Criminal law policy in Indonesia regarding diploma forgery has a strong legal basis, not only based on the Criminal Code but also on applicable laws. These regulations provide a legal basis for prosecuting perpetrators of diploma forgery, both those who create fake diplomas and those who use them to obtain unlawful benefits, such as obtaining employment or continuing education. Diploma forgery falls under the scope of criminal offenses regulated in Article 263 of the Criminal Code because a diploma is an official document that serves as valid proof that an individual has completed education at a certain level. Forged diplomas have the potential to cause significant harm to various parties, including individuals, educational institutions, and society at large. Therefore, diploma forgery is considered a crime that severely harms the education system and social justice. In general, this article stipulates that forgery of documents, including diplomas, can be subject to criminal penalties if committed with unlawful intent. The purpose of forging a diploma is typically to obtain benefits that do not align with the actual educational qualifications of the individual in question. For example, someone who has not completed their education at a university but uses a forged diploma to apply for a job or obtain an academic title they are not entitled to would gain an unfair advantage by exploiting a fraudulent document.

Diploma forgery also includes the act of altering or forging data contained in a valid diploma, such as changing the name, graduation date, or educational level stated therein. All such actions fall under the category of document forgery as defined in Article 263 of the Criminal Code. Diploma forgery is committed intentionally for personal purposes that are contrary to the law and applicable regulations, namely to obtain recognition or rights that the individual is not entitled to based on the education they have actually completed.

Article 263 of the Criminal Code also states that if the criminal act causes loss to another party, the penalty imposed may be increased by one-third of the original penalty. This is relevant to the forgery of diplomas because the forgery of educational documents can harm many parties, including other individuals who are rightfully entitled to obtain employment or certain positions, educational institutions involved in issuing the diplomas, and the broader public who become victims of injustice. For example, if someone secures a job using a forged diploma, the person who should have obtained that position is disadvantaged. Additionally, the institution or company that hires an individual with a forged diploma may suffer negative consequences such as reputational damage, or even legal repercussions if it is discovered that they employed someone with fraudulent documents.

In this regard, Article 263 of the Criminal Code emphasizes that forgery of diplomas does not only involve the creation or alteration of fake diplomas, but also the use of fake diplomas to obtain unlawful rights or benefits. Thus, this article also regulates sanctions for those involved in using fake diplomas, so that not only the forgers can be punished, but also the users of fake diplomas. This provision plays a crucial role in ensuring that any individual who utilizes forged documents, including diplomas, to gain unlawful benefits will be subject to appropriate penalties.

A diploma, as a form of state recognition of the education that an individual has completed, holds a very important position within the Indonesian legal system. When a diploma is forged, it not only undermines trust in the individual using the fake diploma but also in the educational institution that issued it, which can damage the credibility of state-recognized higher education institutions. Therefore, Article 263 of the Criminal Code plays a crucial role in safeguarding the integrity of Indonesia's education system and preventing the misuse of diplomas issued legitimately by accredited higher education institutions.

Under the provisions of Article 263 of the Criminal Code, the criminal justice system in Indonesia not only addresses individuals who forge diplomas but also protects the entire existing education system. This provision serves as a deterrent for individuals who attempt to forge diplomas to obtain unlawful benefits, while ensuring justice for those who have met the legitimate and state-recognized educational requirements. Therefore, Article 263 of the Criminal Code is an important component of Indonesia's criminal law policy, which focuses on protecting the integrity of the education system and preventing diploma forgery practices that undermine social and professional order in Indonesia.

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[22] L.H.C Hulsman, The Dutch Criminal Justice System From A Comparative Legal Perspective, lihat dalam Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, *Op.Cit.* hlm. 135.

Other laws and regulations governing the falsification of diplomas are contained in Law No. 12 of 2012 on Higher Education and Law No. 20 of 2003 on the National Education System. The provisions in the National Education System Law (UU Sisdiknas) related to diploma forgery, particularly regarding criminal penalties, are contained in Chapter XX, Articles 67 to 69. The provisions related to criminal offenses involving diploma forgery are as follows:

Article 67

(1) Individuals, organizations, or educational institutions that issue diplomas, certificates of competence, academic degrees, professional titles, and/or vocational qualifications without authorization shall be punished with imprisonment for a maximum of ten years and/or a fine of up to Rp 1,000,000,000.00 (one billion rupiah).

Article 68

(1) Any person who assists in issuing diplomas, certificates of competence, academic degrees, professional titles, and/or vocational qualifications from an educational institution that does not meet the required standards shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).

(2) Any person who uses a diploma, certificate of competence, academic title, professional title, and/or vocational title obtained from an educational institution that does not meet the requirements shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).

Article 69

(1) Any person who uses a diploma, certificate of competence, academic title, professional title, and/or vocational title that is proven to be fake shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).

(2) Any person who intentionally and without authorization uses a diploma and/or certificate of competence as referred to in Article 61(2) and (3) that is proven to be forged shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).

Based on the formulation of several articles above, it can be concluded that the subjects of criminal acts are not only individuals but also organizations and educational institutions.

The enforcement of criminal law through several specific objectives and stages is a rational effort or process that is deliberately planned to achieve a specific goal. These stages are as follows:

1. The Formulation Stage is the stage of establishing criminal law in abstract form by the law-making body. In this stage, the legislative body engages in activities to select values that are appropriate for current and future circumstances, then formulates them into criminal laws and regulations to achieve the best possible criminal laws and regulations, meaning they meet the criteria of justice and effectiveness. This stage can also be referred to as the legislative policy stage.[23]
2. The Application Stage is the stage of criminal law enforcement (the stage of criminal law implementation) by law enforcement officials, ranging from the police, the prosecutor's office, to the courts. In this stage, law enforcement officials apply criminal laws and regulations established by legislative bodies. In carrying out these duties, law enforcement officials must uphold the values of justice and effectiveness. This second stage can also be referred to as the judicial policy stage.[24]
3. The Enforcement Stage, which is the concrete implementation of criminal law by law enforcement officials. In this stage, law enforcement officials determine the criminal actions that have been established by lawmakers through the application of penalties determined by the court. In carrying out the application, law enforcement officials must adhere to criminal laws and regulations established by the legislature and the principles of justice and effectiveness.[25]

The three stages of criminal law enforcement, viewed as a rational effort or process deliberately planned to achieve specific objectives, must clearly be an unbroken chain of activities that originate from values and culminate in punishment and sentencing.

3. Efforts Made by the Government to Combat Diploma Forgery

In practice, diploma fraud is committed in various ways, ranging from the creation of fake diplomas, alteration of data contained in diplomas, to the use of invalid diplomas to obtain benefits that are not commensurate with one's competencies. This issue has become a major concern for the Indonesian government, which has issued various efforts and legal policies to combat the rampant crime of diploma fraud. In addressing this issue, the Indonesian government relies on various legal instruments, educational system oversight, and inter-agency cooperation. One of the steps taken by the government to combat diploma forgery is to tighten oversight of educational institutions that issue diplomas through the Ministry of Basic and Secondary Education and the Ministry of Higher Education.

[23] Muladi dan Barda Nawawi Arief, *Teori-teori dan Kebijakan Pidana*, *Op.*, *Cit.* hlm. 173.
[24] *Ibid*., hal. 174.
[25] *Ibid*., hal. 175.

Criminal Policy and Legal Accountability for Criminal Acts of Forgery of Primary and Secondary Education Certificates

The Ministry of Education, Culture, Research, and Technology, through the National Accreditation Agency, conducts accreditation of educational institutions in Indonesia. Accredited educational institutions are required to ensure that all diplomas issued are valid and comply with established standards. This accreditation process also serves to maintain educational quality and reduce the risk of diploma forgery, as only educational institutions that meet the standards recognized by the state are authorized to issue valid diplomas.

In addition, the Ministry of Education has also launched various programs to strengthen the digital diploma verification system. Programs such as Electronic Diploma Verification, which enables online verification of diploma authenticity, aim to facilitate educational institutions, companies, and the general public in verifying the authenticity of diplomas. This innovation leverages information technology to reduce the risk of forgery, as diplomas verified through this system are more difficult to counterfeit. This digital system serves as a crucial tool in supporting transparency and accountability within Indonesia's education system.

The government is also striving to educate the public and educational institutions about the importance of honesty in education and the state's recognition of legitimate education. Through various campaigns and outreach programs, the government aims to raise public awareness about the negative impacts of diploma forgery, not only for those directly involved but also for the integrity of the education system as a whole. This initiative also seeks to deter individuals from forging diplomas by educating them about the legal consequences of such actions.

a. Data on Requests for Expert Opinions on Alleged Criminal Acts of Diploma Forgery Received by the Directorate General of Early Childhood Education, Primary and Secondary Education for the Period 2022–2025

Counterfeiting is the process of making, adapting, or imitating objects or documents with the intent to deceive. Crimes related to counterfeiting, or counterfeiting crimes, are crimes that involve elements of falsehood regarding something (an object), which appears to be true from the outside but is actually contrary to the truth.

A diploma should be obtained by following the learning process determined by educational institutions in each region of Indonesia and completing it until the end, after which we receive a diploma as proof that we have participated in the learning process in accordance with the level of knowledge acquired.

The following are some data on cases of criminal forgery of diplomas received by the Directorate General of Early Childhood Education and Primary and Secondary Education.

Table 1. Data on Requests for Expert Information Related to Diploma Forgery

No.	Agency	Letter Number	Date of Examination
1	Jayapura Police Headquarters	B/528/XI/2021/Reskrim	January 27, 2022
2	Lampung Provincial Police	B/1465/VII/2022/Subdit-IV/Reskrimsus	August 12, 2022
3	Provincial Police Sulawesi Utara	B/51/VII/2022/Ditreskrimsus	August 26, 2022
4	Provincial Police Lampung	B/2830/XII/2022/Subdit-IV/Reskrimsus	February 22, 2022
5	Provincial Police Sumatera Selatan	B/45/I/2023/Ditreskrimum	February 23, 2023
6	Police Headquarters Inhu Riau	B/256/IV/2023/Reskrim	May 30, 2023
7	Provincial Police Kalimantan	B/249/V/RES.1.24/2024/Dit Reskrimsus	June 10, 2024
8	Provincial Police Lampung	B/2212/VII/2024/Subdit-IV/Reskrimsus	September 4, 2024
9	Provincial Police Kalimantan	B/365/VII/RES.1.24/2024/Dit Reskrimsus	July 25, 2024
10	Provincial Police Sumatera Barat	B/611/RES.1.9/VIII/2024/Ditreskrimum	September 25, 2024
11	Provincial Police Kalimantan	B/2579/VIII/RES.1.24/2024/Dit Reksrimsus	November 6, 2024
12	Provincial Police Kalimantan	B/564/X/RES.1.24/2024/Ditreskrimsus	January 2, 2025

In recent years, diploma fraud in Indonesia has become a serious concern, with the emergence of various cases involving individuals in educational institutions, the professional world, and even organized syndicates. With the development of information technology and digitalization, diploma fraud has become more sophisticated and difficult to detect. Therefore, combating this criminal activity requires greater attention from various parties, including the government, educational institutions, and law enforcement agencies. Although various efforts have been made to combat diploma forgery, there are still loopholes that are exploited by irresponsible individuals.

Diplomas are classified as educational instruments; therefore, the national education law also regulates their criminalization, which can be charged under two articles (those contained in the Criminal Code and those contained in the National Education System Law). Thus, if the forged document is a diploma from an educational institution, the appropriate article to be applied is the one in the National Education System Law. While it is generally regulated in the Criminal Code, for example, the use of a forged diploma is not specifically addressed in the National Education System Law, as the term "authentic document" already covers such cases under the Criminal Code.[26]

b. Centralized Issuance of National Diplomas

Diploma fraud in Indonesia is a common crime that has a significant impact on the education system and the world of work. Diplomas are official documents that demonstrate state recognition of an individual's educational achievements and play an important role in ensuring the quality of human resources. Without clear and verified diplomas, individuals can obtain unlawful benefits, which can potentially harm others and undermine the existing system.

With advances in technology and the development of educational administration systems, it has become easier to forge diplomas, either by altering the data on valid diplomas or by producing fake diplomas. This phenomenon has become a serious concern for the Indonesian government, which is striving to ensure the integrity of the education system and public confidence in the validity of diplomas issued.

Since 1956, the process of procuring and printing diplomas has been carried out centrally by the Government of the Republic of Indonesia through the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek). Many regulations have been issued as guidelines and guidelines in the process of procurement, printing, distribution, and issuance of diplomas.

All diplomas procured by the Ministry will have a unique form and specification, whereby the diploma blank will have security printing, color perforation, and unique codes. These blanks will then be distributed to educational units through local governments in accordance with their authority. This is to anticipate differences in the form and specification of diploma blanks between regions, thereby facilitating control and supervision.

The blank certificate will also be stamped with a certificate number that serves as a unique identifier. The certificate number is a unique number that is only assigned to one blank certificate out of all the blank certificates issued. This reduces the possibility of duplicate certificates being produced using the same unique number.

c. Regular Monitoring in Efforts to Supervise the Use of Diplomas

As part of efforts to protect against diploma fraud, knowing how to prevent fraud and understanding the legal basis governing it are important steps in maintaining document authenticity. Increased oversight of the process of producing official documents is also a crucial step in prevention policy. By implementing strict standards and carefully verifying every document issued, the government and relevant agencies can reduce the chances of fraudsters succeeding. Strict oversight can help detect potential fraud early on before it reaches a damaging level. Strengthening document security systems is also an important part of prevention policies. By utilizing the latest security technologies such as watermarks, microprinting, or QR codes, official documents can be equipped with additional layers of protection that are difficult to forge. Investing in the development of document security technology is a proactive step that can reduce the risk of document forgery in the future.

In 2024, the Directorate General of Early Childhood Education, Elementary and Secondary Education (Ditjen PAUD Dikdasmen) implemented fundamental changes in the supervision and management of diplomas. Previously, unused diploma blank forms were always destroyed at local government units responsible for education or at educational institutions in geographically remote areas. However, in 2024, this destruction will be centralized, with remaining blank certificates being retrieved and returned to the central office for verification and validation to ensure the accuracy of the data on remaining blank certificates. Following this, the destruction will be carried out in the presence of designated officials. This measure is implemented to prevent the misuse of remaining blank certificates by individuals who may seek to exploit the situation for personal gain.

4. Issuance of National Diplomas Based on Electronic Systems

The issuance of electronic or digital national diplomas is a step taken by the government to support digital transformation in the education sector. Through this digitization, the administration and distribution of diplomas will be faster and more accurate, thereby reducing the potential for errors and delays. Digital diplomas are designed to strengthen student data security and minimize the risk of document fraud.

The Ministry of Education, Culture, Research, and Technology has issued Ministerial Regulation No. 58 of 2024 governing the issuance of national diplomas based on data and information available at the central data service center. With a centralized diploma system, every diploma issued by an educational institution will have a unique identification number that can be verified electronically. The objective of this policy is to minimize diploma forgery, enhance transparency and administrative efficiency in education, and ensure that every diploma issued is valid and recognized by the state.

[26] Hery Firmansyah dan Imelda Yohana Dewi, Wawancara, dengan Bapak Abdul Ficar Dosen Universitas Trisakti, Jakarta: Universitas Trisakti, 26 April 2019.

Ministry of Education, Culture, Research, and Technology Regulation No. 58 of 2024 introduces significant innovations to Indonesia's education system regarding the issuance of diplomas for students. This policy allows educational institutions, both at the elementary and secondary levels, to independently print and authenticate diplomas starting in 2025. This regulation replaces Ministerial Regulation No. 14 of 2017 and Ministerial Regulation No. 29 of 2014, which are no longer relevant to current technological advancements and administrative needs in the education sector.

Under Article 3(2) of Ministry of Education, Culture, Research, and Technology Regulation No. 58 of 2024, it is explicitly stated that diplomas may only be issued by accredited educational institutions and must include the national diploma number issued by the Ministry. This indicates that the issuance of diplomas is now centralized through a system managed by the central government, rather than being issued manually by individual educational institutions. With this centralized system, each diploma issued has a unique identification number that can be verified for authenticity through the system provided by the Ministry of Education, Culture, Research, and Technology.

The implementation of this centralized electronic national diploma system has several important objectives. First, to ensure the validity and accuracy of the data contained in diplomas, thereby facilitating the verification process by relevant parties, such as government agencies, companies, or other educational institutions. Second, to improve administrative efficiency in educational institutions, as the issuance of diplomas is no longer done manually but through an integrated digital system. Third, to reduce the potential for diploma forgery, as each diploma issued has a unique identification number that can be tracked and verified for authenticity.[27]

Additionally, Article 2 of Ministry of Education, Culture, Research, and Technology Regulation No. 58 of 2024 also emphasizes that the issuance of diplomas must be based on the principles of validity, accuracy, and legality. The principle of validity ensures that the diplomas issued are valid and accountable. The principle of accuracy ensures that the data contained in the diplomas align with the data in the national education system. The principle of legality ensures that the diploma issuance process is conducted in accordance with the applicable laws and regulations.

Previously, the diploma printing process was centralized by the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek) of the Republic of Indonesia, which managed the distribution of diplomas to various educational institutions. With this change, educational institutions are now empowered to be more independent in ensuring the eligibility of their graduates through the issuance of diplomas in accordance with applicable regulations and standards. This step is expected to reduce distribution time and improve efficiency in the issuance of academic documents.The centralized issuance of national diplomas is regulated under Article 7 of Ministry of Education, Culture, Research, and Technology Regulation No. 58 of 2024, which requires educational institutions to use the diploma format and diploma number provided by the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek RI), as follows:[28]

(1) Educational units shall use the Diploma and Transcript formats as specified in Appendix I, which is an integral part of this Ministerial Regulation.
(2) Educational units shall download the diploma format as referred to in paragraph (1) through the system as referred to in Article 6 paragraph (1).

Based on Article 2 paragraph (1) of the Ministry of Education, Culture, Research, and Technology Regulation Number 58 of 2024 concerning Certificates of Basic and Secondary Education, the issuance of certificates must meet three main principles, namely validity, accuracy, and legality. However, every year there are still obstacles in its implementation, which is why the certificate issuance system continues to be improved. The three principles referred to are as follows:

a. Validity is a principle to ensure the authenticity of diplomas and ease of verifying ownership.[29]
b. Accuracy is a principle to ensure the correctness of data and information contained in the certificate.
c. Legality is a principle to ensure that the issuance of diplomas is carried out in accordance with the provisions of laws and regulations.[30]

Based on Ministry of Education, Culture, Research, and Technology Regulation No. 58 of 2024, the Ministry of Education, Culture, Research, and Technology will begin implementing digital diplomas in 2025. The following are key points related to digital diplomas based on Ministry of Education, Culture, Research, and Technology Regulation No. 58 of 2024:[31]

[27] Sosialisasi Permendikbudristek No. 58 Tahun 2024 tentang Ijazah Dikdasmen. Diakses tannggal 21 Mei 2025 melalui https://www.scribd.com/document/823244528/Sosialisasi-Permendikbudristek-No-58-Tahun-2024-tentang-Ijazah-Dikdasmen?utm_source=chatgpt.com
[28] Pasal 7 Peraturan Menteri Pendidikan, Kebudayaan, Riset, dan Teknologi Republik Indonesia Nomor 58 Tahun 2024.
[29] Pasal 2 ayat (2) Peraturan Menteri Pendidikan, Kebudayaan, Riset, dan Teknologi Republik Indonesia Nomor 58 Tahun 2024.
[30] Pasal 2 ayat (4) Peraturan Menteri Pendidikan, Kebudayaan, Riset, dan Teknologi Republik Indonesia Nomor 58 Tahun 2024.
[31] Pasal 3 Peraturan Menteri Pendidikan, Kebudayaan, Riset, dan Teknologi Republik Indonesia Nomor 58 Tahun 2024.

Article 3

(1) A diploma is awarded to students who have:
a. complete the learning process in accordance with the provisions of laws and regulations; and
b. meet the graduation requirements set by the Education Unit.
(2) The certificate referred to in paragraph (1) shall be issued by an accredited educational institution.
(3) The certificate referred to in paragraph (1) shall contain:
a. national diploma number;
b. name of the educational unit;
c. national school registration number;
d. full name of the certificate holder;
e. place and date of birth of the certificate holder;
f. national student identification number;
g. statement that the student has passed;
h. decision number for graduation;
i. date, month, and year of graduation;
j. photo of the owner of the diploma;
k. place, date, month, and year of issuance of the Diploma; and
l. The name, position, and signature of the head of the Education Unit as referred to in paragraph (1) must be written in Indonesian.
(4) The certificate referred to in paragraph (1) may be translated into a foreign language.

Article 5 of the Ministry of Education, Culture, Research, and Technology Regulation Number 58 of 2024 explains the use of signatures and stamps in the certification of diplomas as follows:[32]

(1) Diplomas and transcripts are authenticated with the signature of the head of the educational unit.
(2) The signature referred to in paragraph (1) shall be in the form of a wet signature or a certified electronic signature.
(3) Diplomas and/or transcripts of grades authenticated with a wet signature as referred to in paragraph (2) shall be stamped with the seal of the Educational Unit.
(4) Diplomas and/or transcripts certified with a certified electronic signature as referred to in paragraph (2) shall not be stamped by the Education Unit.
(5) In the event that the Diploma and/or Transcript are authenticated with a certified electronic signature, the Educational Institution shall also provide electronic documents to the holder of the Diploma and/or Transcript.

Through this digitization, the administration and distribution of diplomas will be faster and more accurate, thereby reducing the potential for errors and delays. Digital diplomas are designed to strengthen student data security and minimize the risk of document fraud.

The following are the initial preparations that schools must make for the issuance of digital certificates:[33]

a. Checking the accuracy of the nomenclature of educational units in Dapodik in accordance with the School Operational Permit Decree in Verval SP. vervalsp.data.kemdikbud.go.id
b. Ensuring and updating the data of final year students registered in Dapodik, namely grade 6 elementary school, grade 9 junior high school, grade 12 senior high school/vocational high school, and grade 13 vocational high school through the link referensi.data.kemdikbud.go.id/pd_akhir/beranda
c. Ensuring the validity of the National Student Identification Number (NISN) through the link nisn.data.kemdikbud.go.id
d. Correction of student data through the Verval SP link https://vervalpd.data.kemdikbud.go.id/

The following is the process/flow for issuing electronic diplomas:[34]

a. Verification and Validation of Data on Prospective Graduates
b. Prospective graduates are given a National Diploma Number;
c. The Education Unit enters the Graduation Decree Number into the Application System;
d. The Application System issues a diploma format that has been filled in with the student's graduation data.
e. Educational units download the diploma format from the application system;

[32] Pasal 5 Peraturan Menteri Pendidikan, Kebudayaan, Riset, dan Teknologi Republik Indonesia Nomor 58 Tahun 2024.
[33] Administrator, *Tahun 2025 Mulai Berlaku E-Ijazah Digital* , 11 Februari 2025, https://sdnegeri1bandaaceh.sch.id/detail/tahun-2025-mulai-berlaku-e-ijazah-digital, diakses tanggal 30 April 2025
[34] Administrator, *Tahun 2025 Mulai Berlaku E-Ijazah Digital* , 11 Februari 2025, https://sdnegeri1bandaaceh.sch.id/detail/tahun-2025-mulai-berlaku-e-ijazah-digital, diakses tanggal 30 April 2025

f. The Education Unit prints the downloaded Diploma Format;
g. The educational institution affixes the photo of the certificate holder on the certificate format.
h. The Head of the Education Unit signs the diploma and affixes the stamp of the Education Unit.
i. Educational units shall manage and store at least scanned copies of diploma documents;
j. Diplomas are awarded to students who have earned them.

B. Law Enforcement Against Perpetrators of Criminal Acts, Organizations, or Educational Institutions in the Issuance of Fake Diplomas at the Primary and Secondary Education Levels

In order to maintain the integrity of the national education system, diplomas play a very strategic role as official documents that serve as proof of graduation and achievement of competencies for students at the primary and secondary education levels. Diplomas not only serve as legitimization of the learning process that has been undertaken, but also form the basis for assessment by various parties in decision-making, both in the world of further education and in the world of work. Therefore, the authenticity of diplomas must be strictly maintained to ensure that the education system retains its high credibility and accountability.

Diploma fraud is an act that refers to the creation, use, or distribution of fake diplomas, whether in the form of diplomas made without permission, illegally altered, or diplomas issued by unauthorized institutions. In the context of primary and secondary education, diplomas are legal proof of graduation and achievement of competencies by students during their formal education. Therefore, the authenticity of diplomas is crucial as a guarantee of the validity and credibility of the educational process.

In practice, diploma forgery at the primary and secondary education levels takes various forms that can be clearly classified based on the modus operandi and characteristics of the act. According to Regulation of the Head of the National Civil Service Agency No. 25 of 2015 on Administrative Actions and Disciplinary Sanctions Against Civil Servants Who Use Fake Diplomas, fake diplomas have the following characteristics:

1. A fake diploma is a diploma whose form, characteristics, and contents are invalid.
2. The criteria for a fake diploma include the following:
a. His diploma is fake.
b. The blank certificate is valid, issued by the authorized institution, but not signed by the official authorized to sign certificates.
c. The diploma is valid, issued by an authorized institution, signed by an official authorized to sign diplomas, but some or all of its contents are incorrect and/or;
d. A diploma obtained in a manner that does not comply with the provisions of laws and regulations governing education.

The provisions regarding the officials authorized to determine the authenticity of diplomas pursuant to Regulation of the Head of the State Civil Service Agency No. 25 of 2015 on Administrative Actions and Disciplinary Sanctions Against Civil Servants Who Use Fake Diplomas are as follows:

1. Within the Ministry of Research, Technology, and Higher Education, namely:
a. The Head of a State University, for diplomas issued by State Universities; and
b. The Chairperson of the Coordinating Body for Private Higher Education Institutions (Kopertis), for diplomas issued by private higher education institutions.
2. Within the local government, namely the Head of the Provincial/District/Municipal Education Office, for diplomas issued by elementary schools, junior high schools, senior high schools, or equivalent schools, both public and private.
3. Within the Ministry of Religion, namely:
a. The Head of a State University, for diplomas issued by State Universities under the Ministry of Religious Affairs;
b. The Chair of the Coordinating Board of Private Islamic Higher Education Institutions (Kopertais), for diplomas issued by private Islamic higher education institutions; and
c. The Head of the Regional Office of the Ministry of Religious Affairs, for certificates issued by Madrasah Ibtidaiyah, Madrasah Tsanawiyah, and Madrasah Aliyah or equivalent, both public and private madrasahs.
4. Within the Ministry of Health, namely the Head of the Health Human Resources Development and Empowerment Agency, for diplomas issued by health schools or similar institutions, both public and private.
5. In other government agencies, namely the Minister/other designated officials, for certificates issued by schools/educational institutions of the relevant agency.

In practice, based on cases of diploma forgery that have been followed up by the Directorate General of Early Childhood Education, Basic Education, and Secondary Education, diploma forgery at the primary and secondary education levels takes various forms, including:

1. Falsification of Blank Forms and Diploma Data

This type of document forgery focuses on the creation, alteration, or use of diploma documents that are not authentic or valid in accordance with applicable laws and regulations. Such forgery may involve the creation of counterfeit diploma templates that resemble official templates issued by authorized educational institutions without proper authorization or permission. This forgery also includes the alteration of security features inherent in the templates, such as watermarks, holograms, electronic signatures, wet stamps, and registration numbers that should remain authentic. The falsified diploma data includes substantial information such as the identity of the diploma holder, academic grades, date of issuance, and fabricated or manipulated graduation status.

2. Falsification of Blank Forms with Authentic Diploma Data

This type of crime is a form of document forgery with specific characteristics, where the perpetrator uses an unofficial or invalid diploma form but fills it in with accurate and valid data or information corresponding to the original document belonging to another person. Diploma templates, as official forms issued by authorized educational institutions, must meet strict administrative and technical standards, including security features designed to prevent forgery, such as serial numbers, watermarks, official seals, and signatures of authorized officials. The use of unauthorized blank forms, even if filled with genuine data, still invalidates the document because it was not legally issued by the authorized institution.

3. Original blank document but with fake diploma data

This type of crime is a complex form of document forgery in the legal realm, where the diploma used is an official blank document issued by an authorized educational institution, but the information or data contained therein has been manipulated or falsified so that it deviates from the actual facts. This phenomenon indicates that despite the official and authentic nature of the blank document as a medium, the contents of the document—such as the name of the diploma holder, academic grades, graduation date, or other identifying information—have been illegally altered without the authorization of the competent authority.

4. Original blank form, original diploma data, but the publisher that issued the diploma is not valid.

This type describes a legal problem that occurs when a diploma is issued using an official form and valid data, but the issuer of the document is not an educational institution or authority that has the legal authority to issue such a diploma. Although the form and data are considered authentic, the legal validity of the diploma remains questionable due to the illegitimacy of the issuing institution. Legally, under Law Number 20 of 2003 on the National Education System, the authority to issue diplomas is vested in accredited educational institutions that have received official recognition from the government.

5. Original blank form, original diploma data, publisher that issued the valid diploma, but the process of obtaining the diploma is invalid.

This type of situation raises complex legal issues regarding the legitimacy and validity of diplomas as official educational documents. In this case, diplomas are issued by authorized educational institutions using official forms and containing accurate and valid data, but are obtained through processes that violate the rules or procedures established by the national education system. The process of obtaining an invalid diploma may involve various actions, such as students failing to meet academic requirements, such as not completing all required courses, achieving grades below the passing standard, or even failing to take the required exams as stipulated. Although the diploma is administratively issued by a legitimate institution using official forms and valid data, if the academic process underlying the issuance of the diploma is flawed or violates regulations, the validity of the diploma may be questioned from both legal and educational perspectives.

Based on the above description, it can be concluded that the elements contained in the falsification of diplomas include:

1. The existence of a forged diploma or document;
2. The act of creating or altering a document in an unauthorized manner;
3. The intent or malicious purpose of the perpetrator to obtain illegal benefits;
4. The use or creation of a forged document;
5. The existence of actual or potential harm to others;
6. The unauthorized actions of the perpetrator in the creation or alteration of the document.

The crime of falsifying diplomas is a form of attack on public trust in authentic documents or deeds, and is a form of attack on the world of education. Educational activities should be an investment in human resources to achieve a desired level of quality with certain standards of competence and qualifications that must be mastered for the survival of humanity.[35] Advances in science and technology, population growth, changes in social structure and socio-cultural norms, social and political influences, and the impact of global crises have contributed to the rise in counterfeiting.[36]

1. Law Enforcement Against Perpetrators of Criminal Acts in the Issuance of Fake Diplomas at the Primary and Secondary Education Levels

Legal accountability for the criminal act of forging diplomas is based on various existing laws and regulations, including the Criminal Code (KUHP) and regulations related to education. As one of the most damaging forms of crime against the integrity of

[35] Adami Chazawi, 2002, *Kejahatan Terhadap Pemalsuan*, Jakarta: Rajawali Pers, hlm. 3.

[36] Hasudungan Sinaga, 2023, "*Analisis Pertimbangan Hakim Dalam Menjatuhkan Putusan Terhadap Pelaku Tindak Pidana Pembuat Ijazah Palsu Di Institut Agama Islam Ma'arif Nahdlatul 'Ulama (Iaim-Nu) Nu Metro"*, IBLAM Law Review, Vol.3 No. 2, hlm. 182

the education system and the credibility of education, the criminal act of forging diplomas often comes under scrutiny due to its far-reaching consequences, affecting educational institutions, government authorities, and the general public. Some of the motives behind individuals engaging in diploma forgery include:

a. Economic motives.
b. The desire to obtain a stable job position and the opportunity for vertical mobility. A diploma not only provides job opportunities, but also the opportunity to obtain better job positions.
c. Prestige in social circles.
d. Another factor that encourages people to commit diploma fraud is the ease with which fake diplomas can be produced.[37]

The phenomenon of diploma forgery that often occurs in society is generally more focused on who the perpetrators are. In the context of criminal law, the legal subject or perpetrator of this criminal act is an individual, namely a person who knowingly and intentionally creates, uses, or facilitates the use of a fake diploma with the intent to gain personal benefit, whether in the form of promotion, employment, academic recognition, or other benefits regulated or recognized by law. Individual perpetrators in this criminal act are not limited to those who technically print or produce fake diplomas. The legal subjects also include individuals who know for certain that the documents they are using are fake but still use them for specific administrative purposes that can result in legal consequences. The use of a fake diploma, even without involvement in its production, is still considered part of the criminal act of forgery if it can be proven that there was intent (mens rea) and actual conduct (actus reus) in its use.

Normatively, the actions of individuals who create or use fake diplomas can be subject to criminal sanctions under Article 263 of the Criminal Code. This provision states that anyone who creates a forged document or alters a document that could confer rights or discharge debts, or is intended as evidence of a matter, with the intent to use it or cause others to use it as if it were genuine and not forged, may be sentenced to a maximum of six years' imprisonment. Additionally, anyone who knows that the document is fake but still uses it is also subject to the same criminal penalties. Thus, explicitly, the act of using a fake diploma, even if one is not the creator, falls within the scope of criminal liability. Furthermore, diploma forgery as a violation of educational norms may also be classified as a violation of the provisions of the National Education System Law (UU Sisdiknas). In relation to the criminal offense of forging diplomas, Articles 67, 68, and 69 of the National Education System Law strengthen the protection of the national education system from manipulative actions that undermine academic integrity. The provisions of these articles are as follows:

Article 67

(1) (1) Individuals, organizations, or educational institutions that issue diplomas, certificates of competence, academic degrees, professional titles, and/or vocational qualifications without authorization shall be punished with imprisonment of up to ten years and/or a fine of up to Rp 1,000,000,000.00 (one billion rupiah).

Article 68

(1) Any person who assists in issuing diplomas, certificates of competence, academic degrees, professional titles, and/or vocational qualifications from an educational institution that does not meet the required standards shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).
(2) Any person who uses a diploma, certificate of competence, academic degree, professional title, and/or vocational qualification obtained from an educational institution that does not meet the required standards shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).
(3) Any person who uses a graduate title that does not conform to the form and abbreviation accepted by the relevant higher education institution as referred to in Article 21 paragraph (4) shall be punished with imprisonment for a maximum of two years and/or a fine of up to Rp 200,000,000.00 (two hundred million rupiah).
(4) Any person who obtains and/or uses the title of professor that does not comply with Article 23 paragraph (1) and/or paragraph (2) shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).

Article 69

(1) Any person who uses a diploma, certificate of competence, academic title, professional title, and/or vocational title that is proven to be fake shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).
(2) Any person who knowingly and without authorization uses a diploma and/or competency certificate as referred to in Article 61(2) and (3) that is proven to be counterfeit shall be punished with imprisonment for a maximum of five years and/or a fine of up to Rp 500,000,000.00 (five hundred million rupiah).

Article 67 of the National Education System Law states that anyone who intentionally conducts education without permission from the government or local government may be subject to criminal sanctions. Meanwhile, Article 68 prohibits anyone from

[37] Okie M.S. Siahaan, 2009, *Perilaku Menyimpang; Pendekatan Sosiologi*, Jakarta: PT Indeks, hlm. 84.

using academic, professional, or vocational titles without authorization, and Article 69 clarifies that any violation of these provisions may be subject to criminal penalties of up to five years' imprisonment and/or a fine of up to five hundred million rupiah. Thus, the National Education System Law provides a legal framework that not only protects the authority of formal educational institutions in issuing diplomas but also establishes a legal basis for taking action against anyone who abuses educational documents in any form. In this context, individuals who use fake diplomas, even without direct involvement in the document forgery process, remain within the category of legal subjects liable for criminal responsibility.

The approach used in the National Education System Law is comprehensive, as it broadens the scope of legal responsibility for the use of fake educational documents. This is in line with the general principle in criminal law, namely that every individual can be held legally responsible as long as they fulfill the elements of unlawful acts, fault, and the absence of justifying or exculpatory grounds.

Furthermore, within the framework of national legal development that emphasizes substantive justice and the protection of community rights, the falsification of diplomas by individuals cannot be viewed as a crime that stands alone without social context. Such acts can have far-reaching consequences, such as harming others in the job selection process, hindering professionalism in the workplace, and creating competency gaps that ultimately erode public trust in educational institutions and government agencies.

2. Law enforcement against perpetrators of criminal acts by organizations or educational institutions in the issuance of fake certificates for primary and secondary education

Liability for the criminal offense of forging diplomas may not only be imposed on individual perpetrators but also on educational institutions or organizations if they are proven to have been directly or indirectly involved in the issuance, distribution, or tolerance of the use of forged diplomas. In the Indonesian legal system, educational institutions or organizations may take the form of legal entities, whether established by the government or private entities, such as foundations, limited liability companies (in the context of vocational education), or community organizations that have obtained state permission to carry out educational functions. Within the framework of positive Indonesian law, legal liability of legal entities or organizations in criminal acts has been recognized and can be enforced, especially if the acts are committed within the scope of their duties, authority, or institutional interests.[38]

Legal accountability of perpetrators of criminal acts committed by educational organizations/institutions in cases of diploma forgery is a legal concept that reflects the expansion of criminal subjects from individual perpetrators to institutional perpetrators (corporations or legal entities). In the context of education, educational organizations or institutions have a legal and moral responsibility to ensure that all activities and actions carried out by educational units under their authority are in accordance with the provisions of applicable laws and regulations. These activities culminate in the process of declaring that students have achieved the required competencies and are entitled to graduate from the educational institution. In declaring a student's graduation, a form of recognition of graduation called a diploma is issued.

Educational organizations/institutions must be able to guarantee the validity of a published product, from the form of graduation documents, including diplomas, issued legally, through an educational process that meets national standards, and in accordance with applicable regulations. If an educational institution is proven to have deliberately or negligently issued a fake diploma, then that institution may be held legally responsible.

Educational organizations/institutions are not only viewed as administrative providers of educational services, but also as legal entities with independent legal obligations and can be held criminally liable for violating laws and regulations, particularly in relation to the unlawful issuance of diplomas. In such circumstances, the Ministry of Education, Culture, Research, and Technology may impose sanctions in the form of criminal penalties or administrative sanctions.

The imposition of criminal sanctions and the liability of a legal entity are explicitly regulated in a number of regulations. The development of modern criminal law and law enforcement practices in Indonesia has recognized corporations as subjects of criminal law. In cases of criminal forgery of diplomas, if an educational organization systematically issues diplomas without going through a legitimate educational process, then that organization can be considered a perpetrator of a criminal act and held criminally liable as a corporation.

In this case, the provisions of the National Education System Law provide a strong normative basis, namely Article 67 paragraph (1), which reads:"Any individual, organization, or educational institution that issues diplomas, certificates of competence, academic degrees, professional titles, and/or vocational qualifications without authorization shall be subject to imprisonment for a maximum of ten years and/or a fine of up to Rp 1,000,000,000.00 (one billion rupiah)."

[38] Handar Subhandi Bakhtiar, 2018, "Hakikat Bedah Mayat (Autopsi Forensik) dalam Proses Penyidikan Tindak Pidana." *Disertasi. Makassar: Universitas Hasanuddin*.

Criminal sanctions stipulated in the National Education System Law are also reinforced in Article 68, which prohibits the use of academic or professional titles without authorization. If an educational institution actively facilitates the awarding of titles to individuals who have not undergone the required educational process, such action constitutes a violation of this article. The imposition of criminal penalties on educational institutions or organizations does not preclude the imposition of additional penalties, such as revocation of operational licenses, suspension of activities, or revocation of legal status. In addition to corporate criminal liability, criminal responsibility also applies to structural officials such as rectors, directors, school principals, or foundation board members who have direct authority over the issuance of diplomas.

In addition to criminal sanctions, perpetrators of criminal acts in the field of education may also be subject to administrative sanctions. The Ministry of Education and Culture, through the Directorate General of Early Childhood Education, Elementary and Secondary Education, may take action against educational institutions that violate operational regulations, including in the issuance of diplomas. Administrative sanctions that may be imposed include written warnings, suspension of licenses, revocation of accreditation, and closure of institutions.

Although the legal basis for prosecuting educational institutions is available, in practice law enforcement against educational institutions remains very limited. The majority of cases of diploma fraud that are prosecuted only target users or holders of fake diplomas, while the institutions or organizations that issue or facilitate the production of fake diplomas escape law enforcement. This creates a systemic loophole in efforts to eradicate diploma fraud, where only the perpetrators in the field, in the sense of individuals, are punished, while the main perpetrators, in the sense of educational organizations/providers, are allowed to continue operating, which will enable the same criminal acts to be committed by different perpetrators. Legal accountability for criminal acts committed by educational institutions is not only a normative requirement but also a key element in building a national education system that is integrity-driven and free from manipulative practices. The weak enforcement against educational institutions involved in diploma forgery has led to legal injustice and eroded public trust in educational authorities. Therefore, the implementation of criminal liability against educational institutions must be prioritized in the enforcement of the educational legal system in Indonesia.

3. Disparity between Das Sollen and Das Sein in Law Enforcement Against Perpetrators of Criminal Acts of Forgery of Primary and Secondary Education Certificates

In the context of the rule of law (rechtsstaat), law enforcement should ideally be carried out consistently and fairly in accordance with applicable legal provisions (das Sollen). However, reality often shows a gap between the legal norms that should be applied and their actual implementation (das Sein). This gap is known in legal thinking as the disparity between das Sollen and das Sein. According to Sudikno Mertokusumo in his book, das sollen is defined as general legal rules. Das sollen is the law that is aspired to or expected as it should be as a legal fact expressed by legal experts in the theoretical realm (law in the books).[39] In terms of law enforcement against criminal acts of diploma forgery committed by individuals or organizations/educational institutions at the primary and secondary levels, this disparity is a fundamental problem that has not been fully resolved in the national legal system.

Normatively (das Sollen), Indonesia's positive legal instruments have explicitly regulated the prohibition and sanctions against the act of falsifying diplomas, whether committed by individuals or educational institutions. Article 263 of the Criminal Code provides the general criminal law basis for anyone who makes or uses false documents, including diplomas, with a maximum penalty of six years' imprisonment. Within the sectoral legal framework, Law No. 20 of 2003 on the National Education System (UU Sisdiknas) further reinforces these prohibitions through Articles 67, 68, and 69, which address the prohibition of conducting educational activities without authorization, the prohibition of using academic titles without proper authorization, and criminal penalties of up to five years' imprisonment and/or a maximum fine of five hundred million rupiah. Conceptually, these provisions affirm that both individuals who use or forge diplomas and educational institutions that actively or passively participate in the issuance of fake diplomas can and should be held criminally liable. Furthermore, within the framework of corporate criminal liability, educational institutions may be subject to criminal sanctions as legal entities if proven to have committed unlawful acts through their organs or officials. This aligns with the principles of strict liability and corporate criminal responsibility recognized in various sectoral laws in Indonesia.

However, in reality (das Sein), law enforcement against criminal acts of diploma forgery at the primary and secondary education levels shows clear disparities in terms of the focus of enforcement, the quality of evidence, and the involvement of perpetrators. In most cases, the actions taken by law enforcement agencies and the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek) have primarily targeted individual perpetrators, particularly those who use fake diplomas. Perpetrators are prosecuted under general criminal law, while educational institutions that serve as the source or facilitator of diploma forgery are often only subject to administrative sanctions or even escape legal proceedings. This situation highlights the

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[39] Siyam Nur Hindayang, *Das Sein dan Das Sollen*, diakses melalui *https://www.scribd.com/document/600305177/Makalah-Das-Sein-Dan-Sollen* pada tanggal 2 Mei 2025

existence of disproportionate law enforcement, where perpetrators of criminal acts in producing diplomas—in this case, unauthorized educational institutions or those abusing their authority—are not made subjects of proportional law enforcement. This results in partial law enforcement that fails to address the underlying issues.

As in cases previously investigated by the Ministry of Education and Culture through the Directorate General of Early Childhood Education, Basic Education, and Secondary Education, the focus has generally been on individuals as the primary perpetrators. Enforcement actions have almost exclusively targeted holders of fake diplomas, whether as users or as producers of fake diplomas. Meanwhile, educational institutions that serve as the source of fake diploma issuance have scarcely been subject to serious legal proceedings. Reports and investigations into diploma forgery often result in criminal charges against the users of fake diplomas without any balanced legal process against educational institutions, foundations, or educational institutions that actively produce or trade in these illegal diplomas.

In some cases, institutions that have been proven administratively to lack operational permits and fail to meet accreditation standards are only given limited administrative sanctions, such as revocation of permits, without further criminal proceedings against the legal entity responsible for their operation. This phenomenon reflects an imbalance in the application of the principle of equality before the law. When systematic diploma forgery is carried out by an educational institution, that institution, based on the principle of corporate criminal liability, should be subject to institutional legal sanctions. However, in practice, the legal approach taken remains individualistic, failing to address the institutional roots of the violation. This indicates that law enforcement in the education sector is still not oriented toward structural and institutional action, but rather solely toward individual behavior.

In a legal context, educational institutions that provide education without authorization and issue fake diplomas have violated the provisions of Articles 67, 68, and 69 of the National Education System Law, which explicitly prohibit such actions and impose criminal penalties of imprisonment and/or fines. Within this framework, there is no normative justification for exempting educational institutions from criminal liability as legal entities. Similarly, under administrative law, the authority of the Ministry of Education, Culture, Research, and Technology should not be limited to revoking licenses but should be expanded to include reporting criminal acts to the police and prosecution authorities, as well as seeking criminal accountability from the institution's leadership or the founding foundation.

In the context of legal reform and strengthening the role of the Ministry of Education, Culture, Research, and Technology, it is time to reorient the approach to law enforcement, shifting the focus from a personification approach (individuals as sole perpetrators) to an institutional approach that places educational institutions as active legal subjects that can also be held criminally liable. Thus, ideal law enforcement against the crime of diploma forgery not only requires firmness toward individual perpetrators but also demands courage and consistency in taking action against educational institutions that actively or passively contribute to the occurrence of such crimes. The integrity of the national education system can only be maintained if all actors, both individuals and institutions, are subject to the law in a fair and balanced manner.

CONCLUSIONS

The Ministerial Regulation of the Ministry of Education, Culture, Research, and Technology No. 58 of 2024 on Certificates of Basic and Secondary Education constitutes a concrete criminal policy in preventing and addressing the recurring issues related to certificates. With this regulation in place, the verification and validation process for diplomas held by individuals will be significantly streamlined, based on up-to-date and authentic data that is freely accessible through a centralized database system.

The enforcement of law against perpetrators of criminal acts of diploma forgery, whether committed by individuals or by organizations or educational institutions at the primary and secondary levels, has not been carried out comprehensively and impartially. Although normative provisions exist that allow for criminal liability for both parties, in practice, the focus tends to be on individuals who create or use fake diplomas, while educational institutions that produce or issue fake diplomas are often only subject to administrative sanctions or even remain untouched by the law, reflecting a significant disparity between the ideal and the reality within Indonesia's legal system.

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