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Redefining the Statute of Limitations in Document Forgery Cases: Implications for Legal Certainty and Criminal Investigations

Sapta Aprilianto¹, Yoga Prihandono², Xavier Nugraha³, Muhammad Ikram Nur Fuady⁴

¹ Faculty of Law, Universitas Airlangga, Indonesia. E-mail: sapta@fh.unair.ac.id

² Master's Program in Police Science, Universitas Airlangga, Indonesia. E-mail: yogaprihandono623@gmail.com

³ Faculty of Law, Universitas Airlangga, Indonesia. E-mail: nugrahaxavier72@gmail.com

⁴ School of Law and Social Justice, University of Liverpool, United Kingdom. E-mail: m.nur-fuady@liverpool.ac.uk

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Document Forgery; Constitutional Court; Criminal Statute of Limitations; Legal Certainty.

Abstract

The Constitutional Court Decision No. 118/PUU-XX/2022 redefined the paradigm of the statute of limitations for document forgery offenses in Indonesia. Previously calculated from the date of the offense, it is now determined based on when the forged document is discovered, used, and causes loss. This article examines the legal implications of the court decision on the state of limitations to legal certainty and law enforcement practices, particularly those carried out by the Indonesian National Police. A conceptual and statutory approach is employed to analyze the amendments to Article 79(1) of the Indonesian Criminal Code and the Court's legal reasoning. The findings indicate that this change enhances legal protection for victims and requires investigators to cumulatively evaluate the elements of "discovery," "usage," and "loss" to determine the statute of limitations. The decision has erga omnes effect and serves as a binding precedent and guideline for investigating document forgery cases in Indonesia.

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Introduction

Document forgery is a crime that can cause serious harm to its victims.¹ In the Indonesian context, the legal paradigm regarding the statute of limitations for forgery has shifted following Constitutional Court Decision No. 118/PUU-XX/2022. Formerly, the limitation period commenced at the time the offense was committed. Pursuant to the new ruling, however, the limitation period now begins when specific conditions are met; namely, when the victim becomes aware that they have been subjected to the forgery.²

In a broader context, the use of documents across various activities serves as an

¹ Sylvia Rahmadhani, Rosnidar Sembiring and Mahmud Mulyadi, 'Forgery Of Sale and Purchase Deeds on The Basis Of Debt Receivables (Case Study on Decision No. 10/Pid.B/2019/Pn.Lbj)' (2025) 13 Jurnal Hukum Replik 97.

² Sulasti Yasim, M Fadhlan Fadhil Bahri and Muh Chaerul Anwar, 'Hapusnya Hak Waris Atas Tindak Pidana Pemalsuan Surat Wasiat' (2022) 4 Alauddin Law Development Journal (ALDEV) 771 <<https://journal3.uin-alauddin.ac.id/index.php/aldev/article/view/34488>> accessed 10 June 2025.

administrative foundation for assessing compliance in both business and governance. In the process of nation building, the formulation of laws plays a vital role in safeguarding citizens and ensuring legal order. However, in practice, cases of document forgery remain prevalent, resulting in losses suffered by individuals, groups, communities, corporations, and even the state. The crime of document forgery continues to pose a recurring problem in society, often causing significant harm to one or more parties.

For instance, in Supreme Court Decision No. 2413 K/Pid.Sus/2016, the defendant, Rizkyvan L. Tobing, who served as the Director of PT Aditya Wiguna Kencana (PT AWK), was found guilty of violating Article 2 paragraph (1) in conjunction with Article 18 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning the Eradication of Corruption Crimes, in conjunction with Article 55 paragraph (1) paragraph 1 of the Indonesian Criminal Code. The defendant's actions, by signing all documents related to the implementation of government goods and services procurement activities, caused financial losses to the state amounting to Rp1.395.114.710,00. Although the offense occurred in 2012, the defendant was not convicted until 2016. In this context, had the defendant's actions remained undiscovered for twenty years, the state could have suffered even greater financial losses, or the case might have been barred by the statute of limitations, which prescribes a maximum period of twenty years from the date the offense was committed. Once this period expires, victims are no longer able to pursue legal proceedings.³ This example underscores the importance of treating document forgery as a strictly regulated and severely punishable crime.⁴

Essentially, the provisions regarding the statute of limitations for investigation or prosecution serve as a form of recognition, guarantee, protection, and assurance of legal certainty for the community, particularly in the context of handling a criminal case. The imposition of a statute of limitations is a form of legal certainty provided by laws and regulations for the perpetrator, defining the period during which a criminal act of

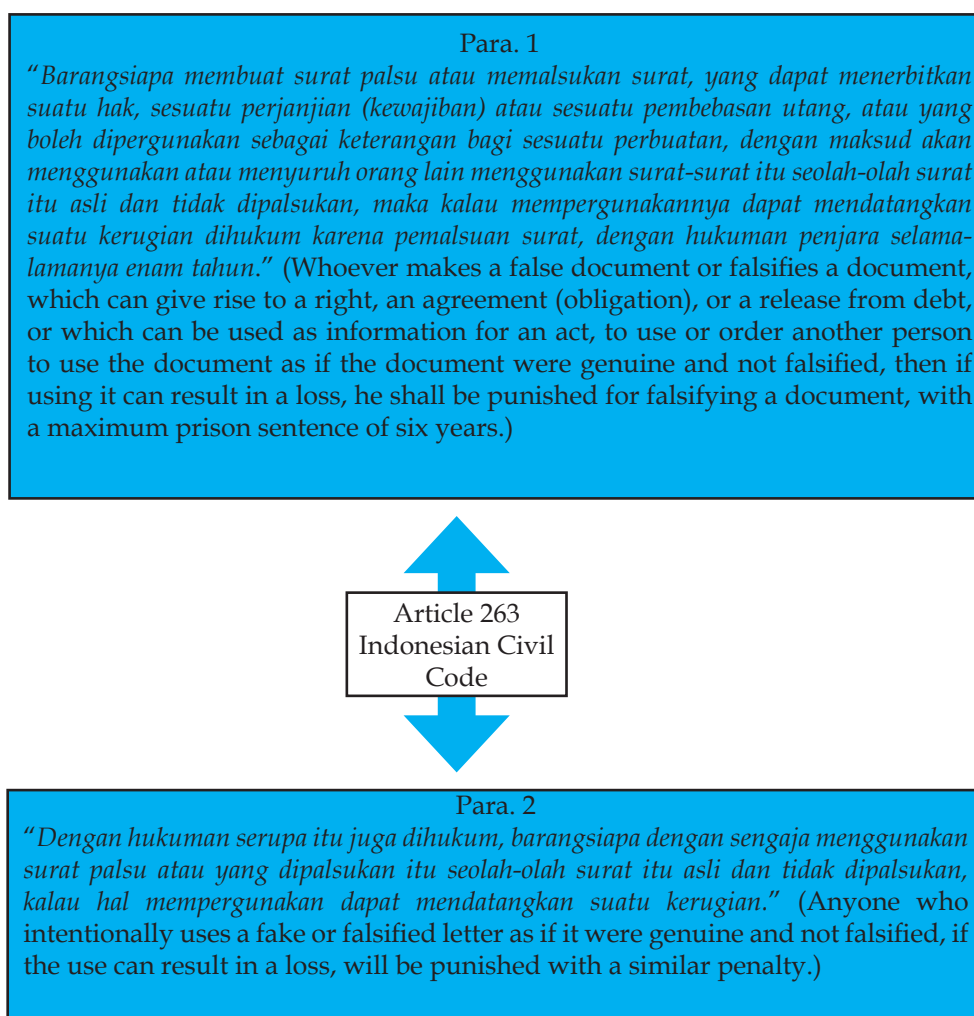
³ Finsten Samuel Lengkong, Mario A Gerungan and Edwin Neil Tinangon, 'Kajian Hukum Mengenai Daluwarsa Kasus dan Perlindungannya Terhadap Korban' (2024) 12 Lex Crimen <<https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/59039>> accessed 3 June 2025.

⁴ Diaz Aurelya, Bambang Santoso and Arsyad Aldyan, 'Forgery Of Deed Documents Between Indonesian And Dutch Law' (2024) 5 International Journal of Educational Research & Social Sciences 926 <<https://ijersc.org/index.php/go/article/view/887>> accessed 2 June 2025.

document forgery may be investigated or prosecuted.

In principle, the forgery of documents gives rise to criminal liability when the perpetrator intentionally uses or presents a false document as genuine, causing others to believe it to be true. The element of “intention” does not necessarily have to be for the benefit of the perpetrator or another person. However, such an act may cause harm and result in losses to the victim.⁵ The statute of limitations for the crime, prior to the Constitutional Court Decision No. 118/PUU-XX/2022, was calculated from the moment the document was forged. Article 263 of the Criminal Code states that:

Picture 1. Article 263, paragraphs 1 and 2 of the Indonesian Criminal Code.



Source: Based on Article 263 of the Indonesian Criminal Code.

⁵ Topo Santoso and Eva Achjani Zulfa, *Hukum Pidana Formil dan Materiil* (Asia Foundation 2015) 140.

Under these provisions, document forgery constitutes a criminal act punishable by a maximum imprisonment of six years. Accordingly, when read in conjunction with Article 78 paragraph (1) paragraph 3 of the Indonesian Criminal Code, the authority to investigate or prosecute the crime of document forgery expires after 12 (twelve) years, thereby extinguishing the State's right to pursue the case. Furthermore, Article 79 paragraph (1) of the Criminal Code stipulates that:

"tenggang daluwarsa mulai berlaku pada hari sesudah perbuatan dilakukan, kecuali dalam hal-hal sebagai berikut:

1. *mengenai pemalsuan atau perusakan mata uang, tenggang mulai berlaku pada hari sesudah barang yang dipalsu atau mata uang yang dirusak digunakan:*

2."

("the statute of limitations shall begin to apply on the day after the act is committed, except in the following cases:

1. regarding the counterfeiting or destruction of currency, the statute of limitations commences on the day following the use of the counterfeit or damaged currency.:
2. ...")

Following the Constitutional Court Decision No. 118/PUU-XX/2022, the statute of limitation for investigation and prosecution has undergone a major shift. The changes are summarized in the following table:

Table 1. Comparison of the statute of limitations for document forgery in Indonesia.

Before the Constitutional Court Decision	After the Constitutional Court Decision
Law No. 1 of 1946 concerning Criminal Regulations (Criminal Code)	
Article 79, Paragraph 1, originally stated: "Tenggang waktu daluwarsa mulai berlaku pada hari sesudah perbuatan dilakukan, kecuali dalam hal-hal berikut:	Article 79, Paragraph 1 in full, amended: "Tenggang daluwarsa mulai berlaku pada hari sesudah perbuatan dilakukan, kecuali dalam hal-hal berikut:
1. mengenai pemalsuan atau perusakan mata uang, tenggang mulai berlaku pada hari sesudah barang yang dipalsu atau mata uang yang dirusak digunakan."	1. mengenai pemalsuan atau perusakan mata uang, tenggang mulai berlaku pada hari sesudah barang yang dipalsu atau mata uang yang dirusak diketahui, digunakan, dan menimbulkan kerugian."
("The statute of limitations begins to apply on the day after the act is committed, except in the following cases:	("The statute of limitations begins to apply on the day after the act is committed, except in the following cases:
1. regarding counterfeiting or damage to currency, the statute of limitations begins to apply on the day after the counterfeit goods or damaged currency are used.")	1. regarding counterfeiting or damage to currency, the statute of limitations begins to apply on the day after the counterfeit goods or damaged currency are known,

	used, and cause loss.”)
There was previously no statute of limitations. The statute of limitations contained legal loopholes and ambiguity due to the calculation of the statute of limitations for document forgery thus giving rise to various interpretations.	The calculation of the limitation period for the document forgery now begins on the day after the forged document is discovered, used, and causes loss.
The concept of a long limitation period reduces the likelihood of success and can even cause a lawsuit to fail (when evidence is damaged, destroyed, lost, or no longer exists).	The judge granted the applicants’ request to provide legal certainty, as stipulated in Article 28D, paragraph (1) of the 1945 Constitution of the Republic of Indonesia.
Investigation	
The element of priority focused on the time period but does not take into account the losses suffered by the complainant (Reporter).	The investigation approach has changed, now requiring investigators to ask the complainant to confirm whether a ‘loss occurred’ and ‘how much loss’ was suffered.

Source: Author’s summary based on Constitutional Court Decision No. 118/PUU-XX/2022

Pursuant to the *erga omnes* principle inherent in Constitutional Court decisions, the legal effects of such rulings extend universally to all individuals, entities, and institutions without distinction. Accordingly, Constitutional Court decisions are binding not only upon the parties to the case but also upon all citizens of Indonesia. The *erga omnes* principle thereby reinforces legal certainty in the implementation and interpretation of Constitutional Court decisions. This principle is established under Law No. 8 of 2011, as amended by Law No. 24 of 2003 concerning the Constitutional Court.⁶ Based on Constitutional Court Decision No. 118/PUU-XX/2022, there has been a shift in how the statute of limitations for criminal acts related to document forgery is determined. The Court declared that Article 79 paragraph 1 of the Criminal Code is inconsistent with the 1945 Constitution of the Republic of Indonesia and is therefore no longer applicable. Law enforcement plays a critical role in determining whether a criminal case may proceed to trial. This principle is grounded in the fundamental objective of law enforcement, which is to prevent the commission of unlawful acts by any person in the society.⁷

⁶ Ceperudin Ceperudin, ‘Implementation of the Erga Omnes Principle on the Decision of the Constitutional Court (MK) Concerning the Supreme Court’s SE (MA) Regarding Judicial Review’ (2021) 3(2) *Walisongo Law Review* (Walrev) 163–84 < <https://journal.walisongo.ac.id/index.php/walrev/article/view/9423> > accessed 5 September 2025.

⁷ Bambang Poernomo, *Asas-Asas Hukum Pidana* (7th edn, Ghalia Indonesia 1994).

Based on the applicable legal framework, several studies have examined the criminal aspects of document forgery. The first study was conducted by Eva Zulfa, entitled “Menghancurkan Kepalsuan (Studi tentang Tindak Pidana Pemalsuan dan Problema Penerapannya) [*Uncovering Falsehood: A Study on the Crime of Forgery and Its Application Issues*]”.⁸ This article further emphasizes what constitutes document forgery, along with the enforcement issues related to it. The second study is by Roby Sasongko, *et al.*, entitled “Tindak Pidana Pemalsuan Surat atau Dokumen dalam Penerbitan Sertifikat Hak Milik atas Tanah [*The Crime of Document Forgery in the Issuance of Land Ownership Certificates*]”.⁹ This research focuses specifically on agrarian issues and their relation to document forgery. The third study was conducted by Rayhan Arief Arfarizky, *et al.*, entitled “Tinjauan Hukum Pidana Terhadap Pemalsuan Surat Berharga [*A Legal Analysis of the Crime of Forging Securities Documents*]”,¹⁰ This article discusses a broader perspective on document forgery, covering aspects of legal provisions to applicable sanctions. The key distinction between this article and the three previous studies lies in its comprehensive analysis of Constitutional Court Decision No. 118/PUU-XX/2022, which fundamentally redefines the commencement of the statute of limitations for document forgery by introducing a cumulative assessment of discovery, usage, and resulting loss as an approach that extends beyond the conceptual, sectoral, and sanction-focused discussions of the earlier works. In this article, we will specifically examine:

1. The legal consequences of the Constitutional Court Decision Number 118/PUU-XX/2022 on the criminal offense of document forgery; and
2. The implementation of the Constitutional Court Decision Number 118/PUU-XX/2022 in the investigation of document forgery cases, particularly in relation to the statute of limitations.

⁸ Eva Achjani Zulfa, ‘Menghancurkan Kepalsuan (Studi Tentang Tindak Pidana Pemalsuan Dan Problema Penerapannya)’ (2018) 48 Jurnal Hukum & Pembangunan 345.

⁹ Roby Sasongko, Wahyu Prawesthi and Bahrul Amiq, ‘Tindak Pidana Pemalsuan Surat Atau Dokumen Dalam Penerbitan Sertifikat Hak Milik Atas Tanah’ (2025) 6 Jurnal Fundamental Justice 85.

¹⁰ Rayhan Afief Arfarizky, David Hizkia Situmorang and Sumriyah Sumriyah, ‘Tinjauan Hukum Pidana Terhadap Pemalsuan Surat Berharga’ (2023) 2 Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora 67.

The purposes of this article are:

1. To analyze and find the legal consequences of the Constitutional Court Decision Number 118/PUU-XX/2022 on the criminal offense of document forgery; and
2. To analyze and the implementation of the Constitutional Court Decision Number 118/PUU-XX/2022 in the investigation of document forgery cases, particularly in relation to the statute of limitations.

Research Method

This article employs a normative legal research method that combines both conceptual and statutory approaches. The conceptual approach is utilized to deepen the understanding of fundamental legal concepts and principles relevant to the subject matter, particularly concerning the principle of legal certainty in the enforcement of statutory provisions.¹¹ Meanwhile, the statutory approach involves a comprehensive examination of laws, legal doctrines, and scholarly opinions to formulate coherent legal concepts, interpretations, and principles applicable to the issues discussed.¹²

The research adopts a descriptive-analytical framework, which aims to systematically describe and critically analyze the legal norms governing the criminal offense of document forgery and their evolution following Constitutional Court Decision No. 118/PUU-XX/2022. The analysis draws upon a wide range of legal materials, including: Primary legal sources, such as legislation, statutory regulations, and judicial decisions, particularly the Indonesian Criminal Code and the Constitutional Court's decision; and Secondary legal sources, such as books, academic journals, and scholarly articles, which provide theoretical insights and interpretative perspectives.¹³ These materials are examined to elucidate the legal reasoning applied by law enforcement authorities and courts, as well as to interpret the practical application of the law in the

¹¹ Faizal Kurniawan, *et. al.*, 'Auction Winner as a New Criteria in The Concept of Good Faith Buyer in Indonesia' (2021) 2 *Jambe Law Journal* 171 <<https://jlj.unja.ac.id/index.php/home/article/view/69>> accessed 30 May 2025.

¹² Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi* (Kencana 2017).

¹³ Sumardji and others, 'Ratio Legis Pemberian Hak Milik Untuk Rumah Toko: Sebuah Evolusi Hukum' (2023) 6 *Notaire* 127 <<https://e-journal.unair.ac.id/NTR/article/view/42036/24202>> accessed 29 May 2025.

investigation and prosecution of document forgery cases, especially in relation to the statute of limitations under Indonesian criminal law.

Legal Consequences of Constitutional Court Decision Number 118/PUU-XX/2022 on the Statute of Limitations for the Crime of Document Forgery

1. The Applicant's Main Objection in the Constitutional Court Decision Number 118/PUU-XX/2022

Prior to Constitutional Court Decision No. 118/PUU-XX/2022, inconsistencies existed in determining the starting point of the statute of limitations for the crime of document forgery. Although Article 79 paragraph (1) of the Indonesian Criminal Code stipulates that the limitation period begins on the day following the commission of the offense, in practice, differing interpretations arose. In the case at hand, two applicants claimed to have suffered losses due to the premature termination of an investigation on the grounds that the alleged forgery was deemed time-barred. Specifically, in the case reported by Applicant I, Juliana Helemayana, the Investigator calculated the statute of limitations from the date the forged document was first used; namely, when it was employed to obtain Freehold Certificate No. 304 dated August 16, 1995, for a property located in Limbungan Village, Rumbai District, Pekanbaru City, under the name of Rusnah. The Investigator issued Letter No. B/39.a/IX/2020/Reskrimum concerning the *Notification of Progress of Investigation Results*, which essentially stated that: "The criminal act of falsifying a document in the form of a Compensation Certificate (SKGR), registered under Camat Rumbai No. 24/595.3/KR/1995, dated January 13, 1995, cannot be elevated to the investigation stage, as the offense is deemed to have expired".

Furthermore, another case involving document forgery was reported by Applicant II (Asril), who only recently discovered that the Deed of Sale and Purchase Number 3549/PPAT/1987, dated December 12, 1987, allegedly bore his signature. However, based on the results of a forensic laboratory examination, the signature was declared "non-identical" to Applicant II's genuine signature. This issue arose during the proceedings of the Civil Case No. : 269/PDT.G/2019/PN. Pbr, in which the Pekanbaru District Court, on August 6, 2020, ruled that the Land Certificate derived from the aforementioned Deed of Sale and Purchase No.: 3549/PPAT/1987 dated December 12, 1987, had been

submitted as evidence by the Defendants.

Table 2. List of Objects of Alleged Letters of Criminal Acts of Document Forgery.

No.	Object	Information
1	Certificate of Compensation for Losses issued by the Rumbai Subdistrict Head, Registration No.: 24/595.3/KR/1995 dated January 13, 1995 between the Seller, H. Kasmijan and the Buyer Rusnah, Statement of No Dispute dated December 5, 1994, the Land Situation Map (<i>sceet kaart</i>), the Certificate of Equivalence dated December 5, 1994 and the Statement of Land History dated December 5, 1994.	Forgery of the signature of the late Mahyudin (parent of Applicant I). Applicant I reported and submitted a complaint regarding the alleged criminal act of document forgery with the Riau Police Investigator, as referenced in Letter Number: B/15/PID/I/2020-BW dated January 17, 2020, concerning the Report and Complaint. The allegation arose in connection with the evidentiary proceedings in Civil Case Number: 188/Pdt.G/2019/PN. Pbr
2.	• Certificate of Ownership No. : 2721/Simpang Baru “dated 11 May 1999” was originally issued in the name of EFFENDI DS, based on Measurement Letter Number 2753/1993, for a land area 11,125 m-2. A Deed of Sale and Purchase No: 81/20/Tampar/IV/2001 dated 23 April 2001 records the sale from EFFENDI DS (seller) to IWAN WIJAYA (buyer) • Certificate of Ownership Number 2721 dated 11 May 1999 was issued in the name of IWAN WIJAYA (Defendant II), still based on Measurement Letter Number 2753/1993, area 11,125 m-2. A further transaction took place through Deed of Sale and Purchase No. 07/2018 dated 28 November 2018, by which IWAN WIJAYA (seller) transferred the land to IRWAN (buyer). As a new Certificate of Ownership No: 912/Tuah Karya was issued in the name of IRWAN, again based on Measurement Letter No.: 2753/1993, area 11,125 m-2 in the name of IRWAN issued based on Deed of Sale and Purchase No.: 3549/PPAT/1987 dated 12 December 1987 which has been strained and examined in the Forensic Laboratory Number: 479/DTF/VIII/1999 dated 12 November 1999, which confirmed that the signature of Applicant II appearing on the deed was not authentic, having been forged.	Applicant II reported the use of a document forgery, namely the Deed of Sale and Purchase No. 3549/PPAT/1987, dated December 12, 1987, contained the forged signature of Applicant II, to the Riau Police Investigator. Applicant II received a Notification Letter on the Progress of the Investigation Results, No.: B/928-a/XI/RES.1.9/2020/Reskrim, from the Investigator, which stated, in essence, that the investigation was discontinued on the grounds that the case had exceeded the statute of limitations.

Source: Author’s summary based on Constitutional Court Decision No. 118/PUU-XX/2022.

Under these circumstances, the Applicant's constitutional rights have been violated by the provisions of Article 79 paragraph 1 of the Criminal Code, which fails to provide legal protection and legal certainty for the Applicant (and also every citizen in a broader scope). This is despite the fact that the Applicants are guaranteed constitutional rights under Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Accordingly, the Applicants assert that they possess legal standing to submit a judicial review application challenging the constitutionality of this provision in relation to the 1945 Constitution of the Republic of Indonesia. The Applicants further contended that Article 79 paragraph 1 of the Criminal Code, which mirrors Article 137 letter a of the Draft Criminal Code, requires amendment. The proposed revision reads as follows: *"mengenai pemalsuan surat, tenggang waktu mulai berlaku pada hari sesudah surat palsu itu dan/atau turunannya diketahui oleh korban atau pihak yang dirugikan dan digunakan serta untuk perusakan mata uang, tenggang waktu mulai berlaku pada hari sesudah mata uang yang dirusak digunakan"* (regarding documents forgery, the limitation period shall commence on the day following the discovery and use of the forged document and/or its derivatives by the victim or the injured party; whereas in cases involving the destruction of currency, the limitation period shall commence on the day after the damaged currency is used.)

2. The Perspective of the Supreme Court in Determining the Statute of Limitations for the Crime of Document Forgery

Disparities in the determination of the statute of limitations for the crime of document forgery are evident in the varying interpretations adopted by the Supreme Court in several cases. One example is Supreme Court Decision No. 2224 K/Pid/2009, where the Court based its calculation of the statute of limitations on Article 79 of the Criminal Code. The Court reasoned that Article 79 (1) refers to currency as the object of the offense; however, the crime in question involved the forgery of documents, not currency. Despite this, because the case involved the forgery of authentic documents or deeds, the Court held that the statute of limitations was governed by Article 79 of the Criminal Code.

In contrast, Supreme Court Decision No. 103 PK/Pid/2013 concerned a judicial review of a discontinued investigation. The investigators discontinued the *pro-Justitia*

process, reasoning that the case had expired. The Panel of Judges, however, concluded otherwise, citing Article 79(1) of the Criminal Code, which provides that the limitation period begins the day after the damaged currency is used. Although this provision refers specifically to currency, the Court applied it by analogy to the case of Ms. Hj. Solichah et al., the defendant in that case, and rules that the report is still within the allowable time frame. Notably, the Court once again relied on Article 79(1) as the basis for assessing the statute of limitations.

In another case, differing interpretations significantly affected the prosecution's decision to terminate proceedings. Decision No. 98/Pid.B/2014/PN.Bks found that the trial was time-barred, calculating the statute of limitations from the day after the offense occurred. This was later reversed by Decision No. 261/Pid/2014/PT.Bdg, which held that the limitation period should instead be calculated from the time the alleged forgery became known to a third party or the injured person. Although the case did not reach cassation, it highlights how divergent readings of Article 79 and Article 79(1) of the Criminal Code can have far-reaching implications.

Another case that applied the discovery of the offense as the starting point of the statute of limitations was Decision No. 569/Pid.B/2013/PN.Pdg, where a document forgery committed in 1979 was discovered by the victim only in 2003. The Panel of Judges held that it would be unjust to consider the case time-barred when the victim was unaware of the crime, and thus determined that the limitation period begins when the offense is, or ought to be, discovered. Although this view was overturned by Decision No. 14/Pid/2014/PT.Bdg, the Supreme Court, in Decision No. 825 K/Pid/2014, reinstated the district court's reasoning and affirmed its validity.

3. Legal Consequences of Constitutional Court Decision No. 118/PUU-XX/2022 for Investigators in Conducting Investigations into the Crime of Documents Forgery

The Constitutional Court's decision is final and binding.¹⁴ This means that the Constitutional Court's decision is the first and last resort for those seeking justice.¹⁵ The

¹⁴ Mohammad Agus Maulidi, 'Problematika Hukum Implementasi Putusan Final Dan Mengikat Mahkamah Konstitusi Perspektif Negara Hukum' (2018) 24 *Jurnal Hukum Ius Quia Iustum* 535.

¹⁵ Bambang Sutiyoso, *Hukum Acara Mahkamah Konstitusi Republik Indonesia* (1st edn, Bandung: Mandar Maju 2006).

Constitutional Court's Decision No. 118/PUU-XX/2022 resulted in a change of norm in determining the statute of limitations for the crime of document forgery, which must be adhered by the Indonesian National Police and the Indonesian Prosecutor's Office as law enforcement authorities.

The legal considerations in Constitutional Court Decision No. 118/PUU-XX/2022 examine the provisions of Article 263 of the Criminal Code, which regulates intentional or deliberate acts (*dolus*) rather than negligent acts (*culpa*). The offense of document forgery under this article is designed to protect the public interest, particularly the trust that citizens place in public institutions, and to prevent potential financial harm to society. Importantly, Article 263 does not require the existence of material loss as an element of the offense but instead focuses on whether the act could endanger or undermine public interests. For instance, the use of a forged document may complicate the process of investigation. According to the Constitutional Court's considerations, Article 263 of the Criminal Code regulates a forgery offense that carries significant implications for social interactions and public trust. The supplementary criminal sanction that may be imposed includes the revocation of certain rights, with no provision for criminal confiscation. Consequently, the offense of document forgery must fulfill the following cumulative elements:

1. The act of forging a document must be carried out with the intention of using it, or of causing another person to use it, as though it were genuine and not falsified;
2. The use of the forged document must be capable of causing harm;
3. Liability is not limited to the forger but also extends to any person who intentionally uses a forged document, provided that the user is aware that the document is false;
4. The act of using a forged document is considered to have occurred once the document is employed for any purpose;
5. In cases involving the use of a forged document, it must also be established that the perpetrator acted as if the document were authentic and that such action was capable of causing harm.

The Constitutional Court stated that the objects of forgery include authentic deeds; promissory notes or debt instruments issued by the state or any of its agencies or public institutions; certificates of ownership (such as shares), debt, or ownership certificates issued by an association, foundation, corporation, or airline; talons, dividend or interest proofs related to such debt instruments; as well as substitutes issued in place of such documents; and credit or commercial instruments intended for circulation.

Based on the Constitutional Court's reasoning, the calculation of the statute of limitations as stipulated in Article 79 paragraph 1 of the Criminal Code begins only after all elements of the crime of document forgery have been fulfilled, namely on the day following the discovery, use, and resulting harm caused by the forged document. The Constitutional Court emphasized that these three elements must be interpreted cumulatively. In other words, the statute of limitations for document forgery commences on the day after the forged document is used, the forgery is discovered by the victim or another affected party, and the victim suffers a loss due to its use. Accordingly, the Constitutional Court declared that Article 79 paragraph 1 of the Criminal Code is conditionally unconstitutional as it contradicts the 1945 Constitution of the Republic of Indonesia. Consequently, the Court revised the interpretation of Article 79 paragraph 1 of the Criminal Code (see Table 1).

Constitutional Court Decision No. 118/PUU-XX/2022 carries significant legal implications for the prosecution of criminal acts involving document forgery. In such cases, investigators are responsible for determining the statute of limitations applicable to the perpetrator. Pursuant to the Constitutional Court's ruling, investigators must identify three cumulative elements, namely the moment when the forged document was discovered by the victim, when the perpetrator used the forged document, and whether the victim suffered a loss as a result of the forgery. Furthermore, investigators are required to obtain evidence supporting these three cumulative elements in accordance with the classification of evidence under Article 184 paragraph (1) of Law Number 8 of 1981 concerning Criminal Procedure Law (the Criminal Procedure Code). Investigators must also consider the classification and probative value (*bewijskracht*) of each type of evidence as stipulated in Article 184 of the Criminal Procedure Code.¹⁶

Implementation of Constitutional Court Decision Number 118/PUU-XX/2022 regarding the Investigation of Criminal Acts of Documents Forgery

¹⁶ Bastianto Nugroho, 'Peranan Alat Bukti Dalam Perkara Pidana Dalam Putusan Hakim Menurut KUHAP' (2017) 32 *Yuridika* 17 <https://e-journal.unair.ac.id/YDK/article/view/4780/pdf_1> accessed 3 June 2025.

1. Police Authority to Conduct Criminal Investigations According to the Criminal Procedure Code

The position of the police, whose primary function within the framework of government is to maintain public security and order, is grounded in the theory of the separation of powers and the presidential system of governance. Under this system, governmental functions are carried out by the executive branch, led by the President. Consequently, the authority exercised by the police is attributive in nature, as their duties and powers are derived directly from and regulated by law. This is affirmed in Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, and further elaborated in Law No. 2 of 2002 concerning the Indonesian National Police¹⁷ and Law No. 8 of 1981 concerning the Criminal Procedure Code, in line with the opinion of Philipus M. Hadjon who opined that attributive authority is the authority that is based on the law.¹⁸

In the law enforcement process, the Police has the authority to conduct pre-investigation and investigation of criminal act based on the Law No. 8 of 1981.¹⁹ Article 5 paragraph (1) letter a number 4 stipulates that “by virtue of their duties, members of the Police have the authority to undertake other actions in accordance with the law and under their responsibility.” The term “other actions” as referred to in the explanation of the Criminal Procedure Code encompasses measures taken by investigators in the interest of an investigation, provided such actions do not contravene legal provisions and are supported by reasonable considerations arising from compelling circumstances. Furthermore, the Criminal Procedure Code explicitly defines investigators as Police

¹⁷ The Police Law (Law No. 2 of 2002) is a follow-up and fulfillment of the mandate of MPR RI Decree No. VI/MPR/2000 regarding the separation of the Indonesian National Armed Forces (TNI) and the Indonesian National Police (Polri), particularly Article 3 paragraph (2), which states: “Matters concerning the Indonesian National Armed Forces and the Indonesian National Police shall be fully and specifically regulated in separate laws.” Accordingly, Law No. 2 of 2002 was enacted as a law specifically governing the National Police in terms of its institutional framework, including its existence, functions, duties, powers, assistance, as well as police relations and cooperation.

¹⁸ Sugiri Sugiri, ‘Pemahaman Kedudukan Dan Fungsi Polri Dalam Struktur Organisasi Sistem Pemahaman Kedudukan Dan Fungsi Polri Dalam Struktur Organisasi Sistem Ketenagakerjaan’ (2023) 17 Jurnal Ilmu Kepolisian <<https://www.jurnalptik.id/index.php/JIK/article/view/417>> accessed 10 May 2025.

¹⁹ Sonya Isabella Manik, ‘Imposition of Sanctions Criminal Personnel for Torture in the Investigation Process’ (2021) 6 IJCLS (Indonesian Journal of Criminal Law Studies) 11.

officials or certain civil servants who are granted special authority by law to carry out investigations (vide Article 1 numbers 1 and 2 of the Criminal Procedure Code).

The basis for the police to conduct an investigation, according to Article 4 of the Regulation of the Chief of the National Police of the Republic of Indonesia No. 14 of 2012 concerning the Management of Criminal Investigations (Perkap 14/2012), includes the following: (1) a police report or complaint; (2) a task order letter; (3) an investigation result report (LHP); (4) an investigation order letter; and (5) a Letter of Notification of Commencement of Investigation (SPDP). The police report, as referred to in point (1), must be supported by sufficient preliminary evidence in accordance with Article 1 number 21 of Perkap 14/2012 in conjunction with Article 184 of the Criminal Procedure Code. Valid evidence is described as follows:²⁰

- a. Witness statement;
- b. Expert statement;
- c. **Letter (emphasis added by the Author);**
- d. Instructions;
- e. Defendant's statement.

An investigation is a series of investigative actions carried out according to the procedures prescribed by law, aimed at collecting evidence to clarify the occurrence of a crime and identify the suspect. The primary purpose of an investigation is to determine the perpetrator of the crime and to provide evidence related to the crime.²¹ To achieve this purpose, the investigator collects information based on facts or specific events as permitted by law, and this process may commence once it is established that a crime has occurred. In this context, written evidence regulated under Article 187 of the Criminal Procedure Code can assist the investigator in clarifying the nature of the crime. The classification of such documents, as outlined in Article 184 paragraph (1) letter c,²² includes documents made under an official oath of office or those reinforced by an oath:

²⁰ Handar Subhandi Bakhtiar, 'The Evolution of Scientific Evidence Theory in Criminal Law: Transformative Insight' (2024) 7 *Media Iuris* 221.

²¹ Reni Masri and Otong Rosadi, 'Penggunaan Alat Bukti Surat Perintah Perjalanan Dinas Dalam Penyidikan Tindak Pidana Korupsi (Studi Pada Kejaksaan Negeri Pasaman Barat)' (2024) 1 *Ekasakti Legal Science Journal* 86 accessed 29 May 2025.

²² Toipul Toipul, 'Analisis Yuridis Terhadap Alat Bukti Yang Diperoleh Secara Tidak Sah Dalam Sistem Peradilan Pidana Indonesia' (2022) 28 *Dinamika* 5760.

- a. Official minutes and other documents prepared by an authorized public official or created before such an official. These documents contain information regarding events or circumstances that a person has personally heard, seen, or experienced, accompanied by clear and well-founded reasons for their statement. Examples include Minutes of Examination (BAP) of witnesses or suspects, as well as various other minutes referenced in Article 187 letter b, Article 75, Article 118, Article 120, and Article 121 of the Criminal Procedure Code;
- b. Documents prepared in accordance with laws and regulations, or documents created by officials concerning matters within their procedural responsibilities, intended to serve as evidence of certain facts or circumstances. Examples include notarial letters or deeds, PPAT (Land Deed Making Official) deeds, and other similar documents as referenced in Article 187 letter a of the Criminal Procedure Code.;
- c. Certificates or reports from experts containing opinions based on their expertise regarding a particular matter or condition, officially requested of them. Examples include official or legal written letters prepared using the Serse model forms A.9.1 / A.9.02 / and A.9.03 (*vide* Article 1 number 29 in conjunction with Article 120 of the Criminal Procedure Code) and *visum et repertum* reports, which contain the findings and opinions of forensic medical experts;
- d. Other documents that are valid only if they are corroborated by the contents of other evidence. Examples include authentic deeds referred to in Article 187 letters a, b, and c, which are considered valid only when their contents are related to and supported by other pieces of evidence.

2. The Statute of Limitations for the Crime of Document Forgery Before Constitutional Court Decision No. 118/PUU-XX/2022

The statute of limitations refers to a legal time limit that restricts the initiation of criminal prosecution. In addition, the statute of limitations refers to the lapse or the passage of time, during which a crime can no longer be prosecuted.²³ Once this period has expired, prosecution is barred, regardless of whether proceedings have commenced or are ongoing. As a result, law enforcement officers are no longer authorized to carry out legal processes.

Normatively, the authority to prosecute a crime is regulated under Article 78 and 79 of the Criminal Code. Article 78 paragraph (1) sets forth four specific limitation periods depending on the severity of the crime, as follows:

- a. For all violations and press-related offenses, one year;

²³ Tofik Yanuar Chandra and Hajairin, 'Menakar Daluwarsa: Kajian Perbandingan Daluwarsa Pemalsuan Surat Dalam Pembaharuan Hukum Pidana' (2024) 4 IBLAM Law Review 468 <<https://ejurnal.iblam.ac.id/IRL/index.php/ILR/article/view/310/309>> accessed 19 June 2025.

- b. For crimes punishable by fines, or imprisonment up to three years, six years;
- c. For crimes punishable by imprisonment exceeding three years, twelve years;
- d. For crimes punishable by the death penalty or life imprisonment, eighteen years.

For document forgery, the applicable statute of limitations is twelve (12) years. Over time, this limitation period creates practical challenges, as gathering relevant evidence becomes increasingly difficult and witnesses' memories may fade or be lost entirely, complicating the accurate reconstruction of the incident.

The legal debate arises upon the provision of Article 79 of the Criminal Code. According to this Article, the statute of limitations commences on the day following the commission of the offense, except under certain specified circumstances:

- a. In cases involving the counterfeiting or damaging of currency, the limitation period begins the day after the counterfeit or damaged currency is used.
- b. In cases under Articles 328, 329, 330, and 333 of the Criminal Code (e.g., kidnapping), the period begins the day after the victim is released or dies.
- c. In cases under Articles 556 to 558a of the Criminal Code, the period begins after the relevant civil registry entries are submitted to the court clerk's office.

This rigid interpretation of the starting point, which begins on the day after the offense, has been criticized, particularly in cases of document forgery. In such cases, the forged document may be concealed for an extended period before being used to cause harm. Victims may remain unaware of the forgery for years, resulting in prosecution being unjustly barred by the statute of limitations.

To address this issue, legal practitioners have invoked the exception provided under Article 79 paragraph (1) of the Criminal Code, arguing that forged documents should be treated as "goods." Under this provision, the statute of limitations begins on the day following the use of the forged document. In this context, applying the limitation period serves to provide legal certainty for the perpetrator undergoing the legal process.²⁴

²⁴ Reza Pahlevi and Emmilia Rusdiana, 'Batas Waktu Penetapan SP3 (Surat Perintah Penghentian Penyidikan) Terkait Kewenangan Kepolisian Pada Perkara Tindak Pidana Korupsi' (2021) 8 Novum: Jurnal hukum 1 <<https://ejournal.unesa.ac.id/index.php/novum/article/view/37910>> accessed 4 June 2025.

3. Implementation of Constitutional Court Decision Number 118/PUU-XX/2022 in Investigating Document Forgery

The Constitutional Court's decision embodies the principle of *erga omnes*, whereby a decision of the Constitutional Court creates rights or obligations binding on all parties.²⁵ Constitutional Court Decision No. 118/PUU-XX/2022 establishes this principle, creating binding legal norms that apply universally, including to all law enforcement agencies throughout Indonesia.²⁶ This decision specifically addresses the statute of limitations for investigations into the criminal offense of document forgery. Under Article 1 number 9 of the Indonesian National Police Law, the authority to investigate criminal offenses is vested in the Indonesian National Police. The police are empowered to conduct investigations in accordance with prevailing laws and regulations. As a key pillar of law enforcement, any shortcomings in the professionalism of police officers can undermine the effectiveness and integrity of the entire law enforcement process.²⁷ Police officers are among the most advanced law enforcement professionals in handling cases of document forgery. Accordingly, they are required to understand and apply the relevant legal principles pertinent to each case, including those articulated by the Constitutional Court. A thorough comprehension of the *ratio decidendi* of Decision No. 118/PUU-XX/2022 is essential for investigators, particularly when dealing with document forgery offenses.

The *ratio decidendi* of Constitutional Court Decision No. 118/PUU-XX/2022 states that the statute of limitations for the investigation and prosecution of criminal such as document forgery begins when three cumulative conditions are met: (i) the forged document is discovered; (ii) the document is used; and (iii) the usage causes harm to the victim. This interpretation aligns with the evidentiary requirements outlined under Article 184 paragraph (1) of the Indonesian Criminal Procedure Code. Investigators must

²⁵ Tiara Rahmayanti Usman, Telly Sumbu and Ruddy Watulingas, 'Penerapan Asas Erga Omnes Dalam Putusan Mahkamah Konstitusi' (2024) 13 Jurnal Fakultas Hukum UNSRAT Lex Privatum 1 <<https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/56726>> accessed 9 June 2025.

²⁶ Pok Yin Chow, 'On Obligations Erga Omnes Parties' (2021) 52 Georgetown Journal of International Law 469 <<https://researchers.westernsydney.edu.au/en/publications/on-obligations-erga-omnes-partes>> accessed 10 July 2025.

²⁷ Nur Basuki Winarno, 'Beberapa Permasalahan Dalam Penyelidikan Dan Penyidikan Oleh Kepolisian' (2011) 16 Perspektif 117 <<https://jurnal-perspektif.org/index.php/perspektif/article/view/75>> accessed 4 June 2025.

therefore correlate their evidence with the legal elements identified in the Constitutional Court Decision No. 118/PUU-XX/2022 to determine the proper commencement of the statute of limitations.

In practice, investigators must assess when the victim had become aware of the forgery, when the document was used by either the perpetrator or the victim, and whether it resulted in material or immaterial loss. The shift in the normative paradigm regarding the statute of limitations before and after Constitutional Court Decision No. 118/PUU-XX/2022 is tied to the introduction of three cumulatively interpreted elements in the decision. Prior to this ruling, Article 79 paragraph 1 of the Criminal Code stipulated that, in cases of counterfeiting or damage to currency, the limitation period begins on the day following the use of the forged goods or damaged currency. This interpretation resulted in the violation of the applicant's constitutional rights, as recognized in Constitutional Court Decision No. 118/PUU-XX/2022. Consequently, the *ratio decidendi* of the decision establishes three cumulative elements that must be met to determine the commencement of the statute of limitations for the investigation and prosecution of document forgery cases.

Conclusion

The legal consequences of Constitutional Court Decision No. 118/PUU-XX/2022 require investigators handling cases of document forgery to analyze three cumulative elements: when the forged document was discovered by the victim, when it was used by either the victim or the perpetrator, and whether it caused harm to the victim. The implementation of this decision enables victims to report forgery offenses even if they occurred many years earlier. Importantly, this decision must be considered alongside the 2023 ratification of the new Criminal Code, which functions as *lex posterior*, while the Constitutional Court's ruling serves as *lex prior*. Under this principle, the provisions of the new Criminal Code shall govern the determination of the commencement of the statute of limitations for document forgery. The policy outlined in the new Criminal Code will remain in force unless a future applicant submits a constitutional challenge concerning the same article and case. If such a challenge arises, the Constitutional Court,

guided by the principle of *similia similibus*, is likely to issue a similar ruling, potentially declaring Article 137(a) of the new Criminal Code conditionally unconstitutional.

Following Decision No. 118/PUU-XX/2022, Article 79(1) of the Indonesian Criminal Code no longer has binding legal force to the extent that it is not interpreted as stating that in cases of counterfeiting or damaging currency, the statute of limitations begins on the day after the counterfeit item or damaged currency is discovered, used, and causes harm. Consequently, investigative procedures must be adapted to reflect this interpretation. Investigators are now required to pose specific questions to complainants during the investigation phase in order to determine the existence and extent of loss and to assess whether the alleged harm satisfies the cumulative requirements established by the Constitutional Court.

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