

"Criminal" Law Politics Regarding the Legalization of Citizenship Documents (Apostille) in Indonesia

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ABSTRACT

The legalization of citizenship documents is not only an administrative matter in countries whose administrative systems exist throughout the world. Philosophically, the purpose of legalization is to protect and create legal certainty for every user. Therefore it is necessary to analyze the political role of criminal law about the apostille and which citizenship documents are part of the apostille. Because Indonesia's international interaction policy resulted in the ratification of many national conventions, including the Congress on the Elimination of Legalization of Foreign Public Documents. The use of all documents is the right and obligation of each person to comply with all applicable regulations in different countries. The use of documents and their evidentiary system regulated in the Decree of the Minister of Law and Human Rights Number 6 of 2022 is a national policy that provides legal protection and certainty to all users and those who have the authority to legalize citizen documents. The practices offered are administrative and public (criminal) rights. The emergence of a criminal justice policy regarding the authentication of citizenship documents that applies in 121 countries is urgently needed to protect, for example, parties or bodies authorized to carry out authentication. One of the state institutions authorized to legalize civil documents is a notary. Based on the Notary Law, the position of Notary is called an official who has the authority to handle special requests from the public related to Notaries. It should be noted that documents that can be used both domestically and abroad must be legalized by 5 (five) authorities, namely the Document Authority, the Indonesian Ministry of Law and Human Rights, the Ministry of Foreign Affairs and the Consulate. Ministry of Foreign Affairs of the destination country and Ministry of Foreign Affairs of the destination country.

KEYWORDS

political law; criminal; document legalization; citizenship (apostille)

INTRODUCTION

Indonesian national legal politics has a philosophical basis consisting of reasoning or reasoning which shows that the determination made takes into account the view of life, awareness and legal ideals which include the inner atmosphere and philosophy of the Indonesian nation which originates from Pancasila and its introduction. regarding the constitution of the Republic of Indonesia. The role of the philosophical foundation guides what and how the policy should be implemented. These signs are based on the principles of metaphysics, epistemology and axiology because politics applies nationally (Adi Mansar, 2022).

National political law applies, is and is the basic policy of state administration in the field of law, which arises from dominant values in society to achieve state goals (Garrett, 1995; Madson, 2007). There are several components included in the realm of national legal policy, including state institutions that form legal policy, the location of legal policy, and internal and external factors that influence the formation of the legal system (Goetz & Hix, 2012; Dellapenna, & Gupta, 2009 PS et al., 2022). The legal policy is a legal policy that determines the direction, form and content of the law, which includes the formation, application and enforcement of the law to achieve certain social goals/objectives of the country (Mahmud MD, 2022). Politics is the effort of citizens to realize the common good (classical Aristotle theory) about public administration and state administration and everything related to the formulation and implementation of government public policies. Government policies in a broad sense are policies aimed at the community, either directly or indirectly, which are reflected in various dimensions of people's lives (Henkin, 1995 ; Wantu et al., 2021). The dimension of community life is an aspect of humanity related to the mission of life, which is inherited by humans as God's creatures and develops in a harmonious and balanced way through education, especially family (home) education, which then continues according to its type and level must from formal education.

Human causes become an important dimension in history because they are seen as movers, actors and witnesses of history. Without humans, there would be no historical events. In other words, humans become actors or key players in giving birth to a historical event. The historical events of Indonesia are not only the proclamation of independence, the war of independence, parliamentary democracy, leadership democracy, the fate of West Iria, the Indonesia-Malaysia confrontation, the September 30th Movement, Irian Jaya. In general, historical events are unique events because they only happened once and cannot be repeated in exactly the same form. Each historical event is different from the previous one. Every event creates history, and every good story has good documentation, such as B. Government documents, e.g. 1945 Constitution, Laws, Government Decrees, Presidential Decrees, Ministerial Decrees, Regional Decrees, and Cooperation Projects between countries. Likewise, legal documents that are laws or legal products other than laws, including but not limited to court decisions, jurisprudence, legal monographs, articles in legal publications, legal books, legal research, legal studies, scientific manuscripts, and do not contain citizenship document (Mahfud, 2022). Documentary citizenship is the relationship between the individual and the state. Citizenship denotes freedom and citizens have certain rights, duties and responsibilities.

The first duty of a citizen is to defend the law and a legitimate and sovereign government. Another duty of citizens is to participate in efforts to defend the country through the expertise and fields that are mastered by each individual. Each country has its guidelines regarding citizenship laws and documents. This is because each country has its own rules, including the issue of citizenship. Citizenship is essentially specific to individual citizens. The existence of citizenship status has the effect of providing legal certainty for a person, especially the clarity of obligations that must be fulfilled and rights that must be achieved, including the right to justice, protection, protection and public service, which is a manifestation of the realization of human rights in accordance with the mandate. According to the UN Charter, citizens are people or individuals who live in a certain territory and become part of society. Non-citizens do not receive protection from the state, so they respect human rights or the rights of other people in the life of society, nation and state (Gross, 1974). Indonesia adheres to a single citizenship system, if a person is a dual citizen then his Indonesian citizenship is declared null and void by law.

Indonesian legal policy does not recognize dual citizenship, this affects citizenship documents (UU No. 12 of 2006).

RESEARCH METHODS

The approach for gathering data employs normative legal procedures. Legal research using secondary data materials originating from library sources is known as normative juridical research. A national policy that offers legal protection and certainty to all users and those with the authority to legalize citizen documents, the Decree of the Minister of Law and Human Rights Number 6 of 2022, will be the focus of research on the use of documents and their evidentiary systems. In addition, researchers will check to verify if the facts in the field align with legal requirements. Researchers will also hunt for references from other journals, books, and other sources that are pertinent to the study subject when gathering data.

RESULTS AND DISCUSSION

The politics of criminal law is related to the Apostille

The legal policy is a government policy from government agencies authorized to make the desired regulations which are expected to be used to achieve the stated goals of the expressions contained in society. The scope of Indonesian legal policy includes aspects of state institutions that make legal policies, the location of legal policies and factors (internal and external) that influence the formation of legal policies in the country, to find out how the processes that cover these six things are. Political legal issues can produce legal policies in the form of legal products that meet the needs of society and justice (WWW. Hukumonline.com). Created following the ratification of the Convention on the Abolition of Legalization of Citizenship Documents, the Directive offers notaries the opportunity to legalize personal documents. As for documents, it is not uncommon to receive fake documents or letters, which makes it a crime. If a notary certifies a foreign citizen's deed, the contents and form of the deed are the responsibility of the respective owner of the deed, not the notary. Legal responsibility for the contents of the documents is given to the citizen who owns the documents because the contents and authenticity are not the authority of the Notary to find out and the limited authority of the Notary to seek and verify the truth of the documents.

Apostille Object Citizenship Document

Citizenship documents are issued by the state, legalized by the state, and legalized by the institution (Tsouka, 2015). Documents are useful as proof and accurate date related document information. Protect and physically preserve the contents of documents and prevent document damage (Biesta, 2008). As research material for researchers. The document serves as proof of the statement. It is used to ensure the necessity and authenticity of the information contained in documents (Sharma, 2021).

Personal documents are documents that contain information about a person's data or a curriculum vitae called a CV. A CV is a document that briefly describes a person's self, education, experience and other qualifications. Ministerial Regulation (Permen) Number 20 of 2016 concerning the Protection of Personal Data (PDP) was issued on November 7 2016 and was published and took effect on December 1 2016. You can find more complete information on the Kominfo page," said Samuel Abrijani Pangerapan, CEO of Aptika. Kemkominfo to IndoTelko. From the documents uploaded, it can be seen that the rules state that personal data is certain personal data that is stored, managed, and protected. Protected Truth and Confidentiality. The owner of the personal data is the person to whom

certain personal data has been attached. Every electronic system operator must have internal rules for personal data protection to complete the process (<https://brainly.co.id>). Every electronic network operator must, as a preventive measure, establish internal rules regarding personal data protection to avoid errors in the protection of the personal data they manage (Chapparban, 2020). The collection and collection of personal data by electronic network operators must be based on contracts or based on statutory regulations.

Personal data stored in an electronic system must be personal data whose accuracy has been verified. Personal data stored in electronic systems must be in encrypted form (Hecker et al., 2019). Personal data must be stored in an electronic system in accordance with applicable laws and regulations with the obligation to retain personal data for each supervisory and regulatory authority in the field, or for at least five years if the law does not expressly require it. Server Center Rules. What is interesting in this rule is the provision that the data centre and disaster recovery centre administering the public electronic system used for protection procedures must be located in the territory of the Republic of Indonesia.

This rule emphasizes that the electronic system used in the protection of personal data is a certified electronic system and has internal rules for the protection of personal data, which must consider the use of technology, human resources, methods, and costs (Chhotray & McConnell, 2018). The owner of personal data has the right to keep his data confidential; has the right to file a complaint in connection with the settlement of personal data disputes; has the right to access historical personal data; and has the right to request the destruction of his data in the electronic system. The electronic system manager must provide access or opportunity for the owner of personal data to change or update his data without disrupting the personal data management system unless otherwise stipulated by laws and regulations for the destruction of personal data by regulations. this ministry. or provisions of other laws and regulations that specifically regulate each sector within the supervisory and regulatory authority for that purpose; and indicate a contact person who can be easily contacted by the owner of the personal data in the processing of his data. If the owner of the personal data is included in a group of children, then the parents or legal guardians of the child give the consent stated in this Rule. Electronic system operators who provide, store and manage personal data before the enactment of this Ministerial Regulation are required to maintain the confidentiality of existing personal data. Violators will only be subject to administrative sanctions in the form of verbal and written warnings and temporary suspension of operational activities and/or; Ads on websites whose procedures are regulated by ministerial decree.

Ministerial Decree originating from Government Regulation (PP) Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions (PSTE) which was issued and came into force on October 15, 2012. The personal data referred to in this law is specific personal data and personal data general. Specific Personal Data includes health information and data, biometric data, genetic data, criminal records, child data, personal identification information, and other data required by law. General personal data includes full name, gender, nationality, religion, marital status; and/or personal data relating to individual identification.

This personal data law also states that it is prohibited for anyone to provide false personal data or falsify personal data for oneself or another person, which may cause harm to others. This law also regulates several sanctions referred to in Article 57, ranging from administrative sanctions in the form of written warnings, temporary suspension of processing of personal data, deletion or destruction of personal data; and/or administrative sanctions up to a fine, a maximum imprisonment of 6 (six) years and/or a

maximum fine of Rp. 6,000,000,000.00 (Rp. Six billion). With the enactment of the Personal Data Act, it is hoped that the protection of public personal data can be guaranteed and protected and that people who always use personal data for personal gain will have a deterrent effect, because sanctions and administrative sanctions already have criminal sanctions for those who intentionally and against the law breaking the law - Personal Data Protection Act.

Despite this success, there are still many important issues that need attention and legal gaps related to cybersecurity that need to be filled by the government, practitioners, legal experts and researchers. Law Number 27 of 2022 concerning Personal Data Protection (UU PDP) consists of 76 articles. This law is the foundation of data protection in Indonesia which was once fragmented. The PDP Law regulates the relationship between data controllers, data processors and data subjects in relation to the collection, processing, analysis, storage, correction, updating, deletion and deletion of personal data. The PDP Law distinguishes between private information and public information. there are different conservation approaches between the two. The PDP Law also regulates the rights and obligations of the parties involved in each of these processes. Other aspects regulated in the PDP law are the transfer of personal data, the obligation to appoint a data protection officer, international cooperation, dispute resolution, and administrative and criminal sanctions. Overall, the PDP Act is broad enough to provide a legal basis for protecting citizens' personal information. However, some questions still need to be answered; How can we optimize the implementation? What parts still need to be checked? Personal data and cyber security Personal data is one of the objects that must be protected by cyber security mechanisms. The goal of a cyber security system is to protect networks, computers, programs and data from attack and unauthorized use. These attacks can range from hardware attacks, to network attacks, and application attacks. As more and more personal information is stored and processed online, privacy protection is increasingly dependent on effective security systems. Cybersecurity measures also support critical infrastructure that protects data and protects personal information.

Relying on cybersecurity systems is essential to protect our country from threats to our networks, devices, data and personal information. The fact that Indonesia has experienced at least five big data breaches in the past 1.5 years, targeting not only government institutions but also healthcare, security agencies, elections and e-commerce, is an indication of the weakness of Indonesia's cybersecurity system. Currently, there are no specific cybersecurity regulations in Indonesia. Most cybersecurity laws are still fragmented and overlapping. This legal loophole was closed with the ratification of the PDP Law. However, this is not enough and Indonesia-specific cybersecurity rules must be implemented immediately. Status quo legal framework Based on research on cyber security policies of ASEAN countries, Indonesia has been identified as one of the hottest places for "suspicious online activity". There are several reasons why Indonesia has become a profitable target for cyberattacks. First of all, the attack aims to target a country with a large number of Internet users and billions of user data.

Second, Indonesia's cybersecurity policies and legal framework are still limited and largely overlapping. Third, the number of human resources and cybersecurity experts is very low in both the public and private sectors. Finally, there is a general perception that companies do not consider cybersecurity a priority. Although there is no specific law on cybersecurity, Indonesia has legal protection frameworks such as Telecommunications Law, Electronic Information and Transaction Law, Broadcasting Law, Public Information Disclosure Law, Criminal Law, Anti-Pornography Law, Copyright Law and Consumer Protection Law and other technical ones. and regulations of the relevant ministries. An

example is the implementation of the National Security Management Standard (ISO 270001) (SNI ISO/IEC 27001, 2009).

For institutions tasked with maintaining cybersecurity, such as the Ministry of Communication and Informatics, the State Intelligence Agency (BIN), and the National Standards Agency (BSN). However, the existence of these regulations and institutions does not prevent overlapping in the areas of responsibility and coordination functions. Therefore, there is an urgent need to establish a legal umbrella that can unify measures to protect an effective cybersecurity system. It aims to prevent and minimize the risk of threats such as unauthorized access, illegal content, data falsification, espionage, extortion and cybercrime.

Governments and other stakeholders need to have a common understanding of cybersecurity management. In addition, threat awareness and coordinated action require a sound legal basis on which affected parties can act. Concrete Steps To address this cybersecurity problem, the government must take several concrete steps. First, the PDP Law, the derivative regulatory process must immediately be carried out in a transparent manner and involve public participation. Some aspects that require implementation rules are opposition to automatic data processing, violations of personal data processing, subject rights regarding the use and transfer of personal data, implementation of personal data processing, impact assessment on personal data protection, notification of data transfer of personal data, the appointment of a protection officer data, procedures for official orders, sanctions, determination of institutions and procedures for implementing institutional authority.

Business documents are official business letters whose contents are related to the offer, purchase and sale of goods or services, therefore they are often referred to as business letters or business letters (Carullo et al., 2008). In other words, a business letter is a formal letter written by a person or company to benefit from a deal. Business letters can be internal or external depending on the situation. Internally, business letters are used in relationships between certain parties within a company (Blair, 2002). Externally, business letters are used in relationships with other parties outside the company, both individuals and transactions (Ferrari et al., 2014). Functions and Purposes of Business Letters Referring to the definition of business letters above, here are some of the functions and purposes of these letters:

1. A commercial document is a tangible form or valid proof of a contract.
2. A business letter is an employment instrument that must be submitted and used when necessary.
3. A business letter can be the author's representative at a meeting with his interlocutor.
4. This letter can also be used as a guideline for completing assignments.
5. Sales letters can be used as advertising media.

Types of Securities In trading or buying and selling, there are several processes that are interrelated with one another. Various business processes then gave rise to various business letters. The following types of business letters are common:

1. Letter of offer of goods or services
2. Letter of request for goods or services
3. Order of goods or services
4. Letter of Acceptance of Payment
5. Late payment for goods or services
6. Letter of objection
7. Letter of Complaint

8. Round letters
9. Invoice
10. Telegram and Acknowledgments.

There are several important things to remember when writing a business letter, including: State the intent and purpose of the letter as well as the basis for writing a business letter. For example, create an order letter and then share the order letter with the quote. The nature and quantity of the product/service to be ordered must be clearly stated in the business letter. It is recommended to keep a clear list of orders for easy review. Mention the method of delivery of goods/services ordered. Indicate how goods/services will be paid for. The type of package desired must also be stated in the trade letter. Characteristics of a Business Letter Regarding a business letter, this letter is used for business purposes and we can easily find out its characteristics. The following are the general characteristics of official letters:

1. Business letters always relate to business or business affairs. 2. Business letters are formally drafted with standard language and with good letter terms.
2. Business letters use friendly and persuasive words to attract attention.
3. Communicate intent and purpose clearly and easily.
4. Business letters usually use forms to be more efficient and save time, effort and costs.
5. From the business documents described above, they are still limited to business documents about individuals, so special matters such as contracts, and company formation occupy a different position.

Historical documents are historical documents or archives which are securities that can be used to prove important events in the past (Antonacopoulos et al., 2011). Example: text of the Declaration, the text of the Youth Pledge, ancient human fossils, photos of battles, slate. Historical records or historical records are original documents that contain important historical information about a person, place or event. As such, it serves as a primary source and an important material in historical methodology.

Government documents are documents that contain constitutional information from a government (Hornig et al., 2014). Government documents are laws, presidential decrees, government regulations, regional regulations and so on.

State Role

On October 5, 1961, the Convention on the Abolition of Legalization of Foreign Public Documents ("Apostille Convention") was agreed. The aim of the Apostille Convention was to eliminate the chain of public document authentication processes and simplify the process by issuing certificates of authenticity (Muchelman, 1976 ; Machmud et al., 2020). Apostille is proof of an official's signature, stamp and/or seal on public documents by combining a single authority model, including the Ministry of Law and Human Rights as the competent authority, or competent authority (Massey, 1999 ; Siahaan 2021). The Apostille Service has been open to the public since 4 June 2022 based on the provisions of Article 12 of the Apostille Convention and was inaugurated by the State Minister for Law and Human Rights (Menkumham) Yasonna H. Laoly on 14 June 2022, accompanied by the Director General of TU, General Law announced that Decree of the Minister of Law and Human Rights Number 6 of 2022 concerning Public Document Apostille Legalization Services has entered into force. Some of the benefits that will be obtained by Indonesia by following this convention are:

1. The authentication procedure is simplified, because authentication of public documents from abroad is only one step due to the apostille agreement;
2. This is a sign of Indonesia's commitment to continue to encourage the creation of an open and transparent government.
3. Improving the quality of public services by eliminating inefficient bureaucratic procedures;
4. The push to increase foreign investment is due to the ease of legalization procedures for various public documents required in the field of investment.

Several sectors in Indonesia come into contact with the use of foreign/foreign documents, including: Health, medical and food, franchising, relations and procedures for foreign cooperation local government, judiciary, and related agencies such as: BKPM, HAKI office, notary and lawyer. Until now, Indonesia has regulations regarding legalization procedures, including:

1. Decree of the Minister of Foreign Affairs Number 13 of 2019 concerning Ratification of Documents (Article 4);
2. Decree of the Minister of Law and Human Rights No. 19 of 2020 concerning Document Official Signature Certification Services at the Ministry of Law and Human Rights (Article 4).

There are several steps that need to be considered for its application in Indonesian society, depending on: 1) When will Indonesia deposit its accession instrument? 2) Are other countries participating in the Convention against Indonesia's accession instrument (the membership responsibility period is 6 months from the date of deposit); 3) The agreement is valid for 60 days after the end of the member country's counter-duration; 4) In the event of an objection, the Convention shall not apply to Indonesia or the opposing Signatory State. What steps should the Indonesian government prepare if PP No. 2 years 2021? The Indonesian government must take several steps on PP No. 2 of 2021 concerning ratification of the Apostille Agreement, including:

1. The government should enact national laws to regulate more precisely what falls within the scope of a "public document" and must be stamped with an apostille.
2. The Government of the Republic of Indonesia is committed to eliminating legal requirements for the use of foreign public documents in domestic regulations (for example BPOM Regulation No. 26 of 2018, Article 13(4)(C) Electronically Integrated Business Licensing for Pharmaceutical Services and the food industry)
3. The Government of the Republic of Indonesia appoints an Authorized Officer/CA namely. H. authorities or authorized parties issue "Apostille Certificates" to authenticate foreign public documents used in Indonesia.
4. The Government of Indonesia must prepare state apparatus and infrastructure as well as supporting personnel who understand issues related to the ratification of the Apostille Convention, where international private law is the basic knowledge.
5. The need for an understanding of private international law from all fields of law involved can be achieved if both public and private universities make international private law a compulsory subject. In the Faculty of Law in the territory of the Republic of Indonesia, this is highly respected.
6. Senayan MPs are not that important. The need to increase understanding and knowledge of private international law as a consequence supports important responsibilities as people's representatives, especially in the Law Commission and Legislative Body of the DPR RI.

7. The Government of the Republic of Indonesia can encourage the drafting of the Indonesian Civil Code of International Law, the academic text of which has existed since 1983 and has been re-evaluated by BPHN RI in 2014-2015.

CONCLUSION

For the prosecution of deeds posted by foreigners, the owner of the deed is responsible for the contents of the letter, while the legalizer is only responsible for providing validation, while the contents and nature of the deed are the personal responsibility of the owner. . from document. Legalization has been known for a long time since 1909, and now a Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number 19 of 2020 concerning Legalization Services for Official Document Signatures of the Ministry of Law and Human Rights has been issued. It should be noted that documents that can be used both domestically and abroad must be legalized by 5 (five) authorities, namely the Document Authority, the Indonesian Ministry of Law and Human Rights, the Ministry of Foreign Affairs and the Consulate. Ministry of Foreign Affairs of the destination country and Ministry of Foreign Affairs of the destination country. The apostille includes citizenship documents as well as personal, business, historical and government documents.

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