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# CP2024-J-Winsherly Tan- LEGALIZATION OF PUBLIC DOCUMENTS THROUGH APOSTILLE: A LEGAL REFORM IN PUBLIC SERVICES

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## LEGALIZATION OF PUBLIC DOCUMENTS THROUGH APOSTILLE: A LEGAL REFORM IN PUBLIC SERVICES

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### ABSTRACT

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Indonesia is a country that has the objective of ensuring the welfare of its citizens. One effective way to achieve prosperity for its citizens is by implementing excellent public services, especially when it comes to the fulfillment of rights concerning the legalization of public documents. Therefore, this study is aimed to analyze the application of the Apostille convention in the legalization of public documents, and to investigate the changes in the law of public services related to the legalization of documents after the Apostille enactment. This legal study is categorized as a type of doctrinal analysis. Specifically, it is descriptive and analytical. Juridical and theoretical foundations were used for data analysis and the theoretical basis employed was the Theory of Legal Reform. The finding is consistent with the principles of the Legal Reform Theory. Legalization of public documents has undergone legal reform because legalization of public documents can be done online and in a short time. This shows that law, as a means of reform, has been realized because it has met the needs of society for the public. Despite the enhancement of public services, several aspects require careful consideration and improvement. This includes establishing effective cooperation with the Regional Office of Law and Human Rights, which acted as a liaison for Apostille services at the regional level. Additionally, the Regional Office of Law and Human Rights assume a pivotal role in overseeing the printing of certificates to ensure accessibility for the public.

**Keywords:** Public Services, Apostille, Legalization

## 1. INTRODUCTION

Indonesia, as a country, has a defined set of objectives that were established during its formation. These objectives were assigned by the founding fathers of the state and are explicitly outlined in the 1945 Constitution.<sup>1</sup> Based on this mandate, the goal of the Indonesian state is "to promote public welfare". The concept of a welfare state is considered very appropriate as a manifestation of the government's contribution to organizing the concept in society. The establishment of a welfare state is a shared objective pursued by numerous countries, including Indonesia. To qualify as a welfare state, certain criteria related to social, economic, and state welfare must be met.<sup>2</sup>

A welfare state is a comprehensive concept that encompasses the fulfillment of people's rights by providing public services.<sup>3</sup> The government has an important role in terms of providing public services. The state is a subject that plays an important role in investing, such as procurement of infrastructure, transportation infrastructure, provision of state administration services, licensing, and others. Furthermore, it receives a

36

- 1 Nuriyanto, "Penyelenggaraan Pelayanan Publik di Indonesia, Sudahkah Berlandaskan Konsep "Welfare State"?", *Jurnal Konstitusi* 11, no. 3 (2014). hal 429.
- 2 Oman Sukmana, "Konsep dan Desain Negara Kesejahteraan (Welfare State)", *Jurnal Sospol* 2, no. 1 (2016). hal 33.
- 3 Marsudi Dedi Putra, "Negara Kesejahteraan (Welfare State) dalam Perspektif Pancasila", *Likhitaprajna Jurnal Ilmiah* 23, no. 2 (2021). hal 140.

mandate in carrying out public services as mandated in the 1945 Constitution. The implementation of public services is performed by using public money from taxes and levies. This mandate serves as a testament to the entrusted responsibility of the state, with the expectation to deliver exemplary public services for the betterment of the citizen.<sup>4</sup>

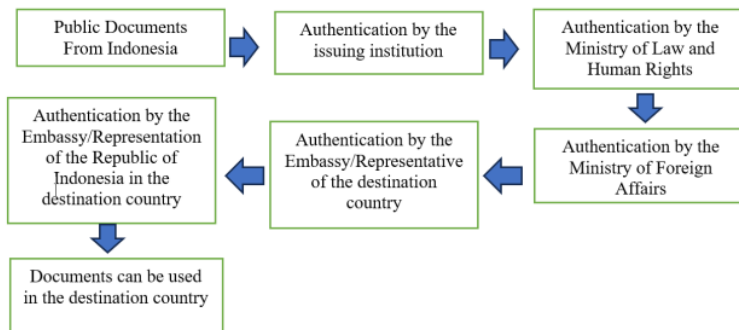
In terms of providing public services, Indonesia has legal instruments to accommodate the creation of excellent public services, such as Law No. 25 of 2009. Article 1 of the Law on Public Services provides meaning regarding public services, namely:<sup>5</sup> "Public services are activities or series of activities in the context of fulfilling services under statutory regulations for every citizen and resident for goods and services provided".<sup>6</sup>

The realization of public services, deemed to have fulfilled the citizen's expectations, encompasses several key attributes. These include punctuality and accuracy in delivering services, courteousness, ease of access, convenience, and well-equipped infrastructure to support public service delivery. These aspects align with the perspective of Zeithamn, where quality of public services can be evaluated based on five fundamental dimensions, namely tangibility, reliability, responsiveness, assurance, and empathy.<sup>7</sup>

In assessing the quality of public services, the State Administration Agency establishes several criteria, namely simplicity, clarity, certainty, security, openness, efficiency, economy, equitable justice, timeliness, and quantitative criteria. This set of indicators is a reference for implementing good public services for the citizen. In terms of realizing these indicators, their implementation must be under the conditions and developments in society.<sup>8</sup>

The citizen has expectations in the implementation of public services, namely Quality public services, clear, fast procedures, and reasonable costs continue to emerge in the development of government administration. This expectation is at the same time a demand of the citizen the government in administering public services.<sup>9</sup> Public document legalization services are some of the public services provided by the government to the community. Below is a very long flow of public document legalization services before the emergence of Apostille:

**Figure 1. Public Document Legalization Services (Before Apostille)**



Source: Ministry of Law and Human Rights of The Republic of Indonesia

4 Raras Efriyanti Putri, "Kualitas Pelayanan Publik Pasca Pemekaran Kecamatan (Studi di Kecamatan Sukarame Bandar Lampung)", *Jurnal Ilmiah Administrasi Publik dan Pembangunan* 7, no. 1 (2016). hal 70.  
 5 Yayat Rukayat, "Kualitas Pelayanan Publik Bidang Administrasi Kependudukan di Kecamatan Pasirjambu", *Jurnal Ilmiah Magister Ilmu Administrasi (JIMIA)*, no. 2 (2017). hal 57.  
 6 Arini Permatasari, "Pelaksanaan Pelayanan Publik yang Berkualitas", *Decision: Jurnal Administrasi Publik* 2, no. 1 (2020). hal 51.  
 7 Joko Susanto, Zepa Anggraini, "Kualitas Pelayanan Publik Pada Kantor Camat Tabir Ulu Kabupaten Merangin", *Jurnal Administrasi Negara* 25, no. 2 (2019). hal 107.  
 8 Carmia Diahloka, Achmad Bardjan Shaleh, "Membangun Kualitas Pelayanan Publik Melalui Peningkatan Etos Kerja Pegawai", *Jurnal Reformasi* 3, no. 1 (2013). hal 20.  
 9 Sirajuddin, Didik Sukriono dan Winardi, *Hukum Pelayanan Publik Berbasis Partisipasi dan Keterbukaan Informasi* (Malang: Stara Press, 2011). hal 219.



Based on this flow, it can be seen that before there is an Apostille, the legalization of public documents must go through 5 (five) agencies, namely the relevant institutions, the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the Embassy of the destination country, and the Indonesian Embassy in the destination country. This will take a very long time. Legalization of public documents before the emergence of the Apostille is a dilemma in providing good public services. Obstacles and problems must be thoroughly investigated and resolved by the government to attract and facilitate the entry of investment, including the complicated procedures for legalizing documents between countries for business purposes. Indonesia's Easy of Doing Business (EoDB) ranking for the ease of cross-border trade transactions has indeed slumped to 112th place. Based on the BKPM report regarding the realization of foreign direct investment (FDI) in the second quarter of 2018, it was recorded that Indonesia had only succeeded in reaching around 42.9% of the 2018 FDI target of IDR 477.4 trillion.

The presence of Apostille is to maximize the implementation of public services in terms of legalizing documents. Indonesia ratified the Apostille Convention in 2021 through Presidential Regulation No. 2 of 2021. The definition of legalization, according to Minister of Law Human Rights Regulation No. 1 of 2017, is to legalize official signatures or official stamps. Meanwhile, the public documents based on Article 1 are as follows:

*“a) documents originating from a related authority or official with state courts or tribunals, including those from public prosecutors, court clerks or bailiffs (“huissier de justice”), b) administrative documents, c) documents issued by a notary public, d) an official certificate is an accompanying document that bears the signature and seal of an authorized individual. It serves various purposes, such as recording the registration of a document or indicating a specific validity period of a document on a given date. Additionally, it confirms the authenticity of the signature through the endorsement of an official and a notary.”*

Indonesia's participation in the Apostille Convention is necessary as a developing country with rapid economic growth and fast-growing international trade. According to Mochtar Kusumaatmadja, international agreements are established by member country within the global community, driven by specific objectives to produce legal consequences. In Indonesia, the regulation is outlined in Law No. 24 of 2000, which pertains to international agreements. The Indonesian government possesses various means to enter into international agreements. One of these methods is accession, which signifies the country's commitment to be bound by the terms of the treaty. Consequently, the international agreement becomes an integral part of Indonesian positive law upon its application to Indonesia. On January 5, 2021, the government, through the Indonesian Ministry of Law and Human Rights, officially joined the International Convention on the Apostille, as stated in Presidential Regulation No. 2 of 2021.<sup>10</sup>

The apostille service is expected to be a legal reform in the implementation of good public services for the citizen in terms of legalizing public documents. The existence of an Apostille is one form of realizing public welfare and legal certainty in terms of legalizing public documents. For example, in managing business documents, the existence of Apostille has been able to address obstacles in the investment climate in Indonesia. The existence of Apostille, by cutting the flow of legalizing public documents, has made it easier to process public documents in the investment sector.

The utilization of the Law Reform Theory is justified by several factors. First, it addresses the demand for laws that are capable of accommodating and directing societal needs under legal requirements, considering the evolving legal awareness of the society as well as the pursuit of modernization to ensure legal certainty and the emancipation of the community. Second, the role of law in development lies in its ability to facilitate peaceful and orderly transformations. In the context of legal reform or development, it is essential to align with sustainable citizen development and the progressive advancement of scientific activities and legal thought. To comprehend the changes in law effectively, various terms such as reform, development, construction, and modernization are employed. For instance, Sudargo Gautama raises a pertinent question of how to establish

- 10 Ara Annisa Almi, "Mencandra Akses Apostille Convention dalam Mendukung Debirokratisasi Legalisasi Dokumen di Indonesia", *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 2, no. 2 (2022). Hal 248.

a legal system capable of adapting to societal changes since the country's independence, emphasizing the significance of law enforcement.<sup>11</sup> Furthermore, the topics to be discussed consist of analyzing the enforcement of the Apostille in the legalization of public documents, as well as the legal reform in public services related to the legalization of public documents after the implementation of the Apostille.

However, there are some problems in the implementation, namely the printing of apostille certificates is still being conducted at the central level. Socialization regarding the services is yet to be carried out since the knowledge has not been received by all levels of society. The process of socializing the apostille procedure is not a one-time effort but rather requires repeated initiatives to ensure public comprehension regarding legalization.

Most of the studies on Apostille examine the concept before the application in Indonesia to deal with the urgency. There are also several studies carried out after the country had enacted the apostille, such as "Injuring the Accession of the Apostille Convention in Supporting the Debureaucratization of Document Legalization in Indonesia". This research was written by Ara Annisa Almi from Andalas University which has been published in the Journal of Indonesian Law Vol 2, No. 2, year 2022. However, this study analyzes the apostille from the perspective of applying the concept. It analyzes the apostille from a different point of view, as a form of legal reform expected to provide good public services delivery for the welfare of society. Based on that background, this study is therefore aimed to analyze the application of the Apostille convention in the legalization of public documents, and investigate the changes in the law of public services related to the legalization of documents after the Apostille enactment.

## 2. METHOD

This legal study is categorized as a type of doctrinal analysis. Legal research is normative to teach the norms that apply in a particular legal system.<sup>12</sup> The doctrinal study relies on secondary data obtained through a literature study, which was classified into primary, secondary.<sup>13</sup> Subsequently, the legal materials were analyzed using qualitative analysis techniques to obtain accurate conclusions. The primary legal materials utilized as data sources include the Apostille Convention, Law No. 25 of 2009 concerning Public Services, Presidential Regulation No. 2 of 2021, and Ministry of Law and Human Rights Regulation No. 6 of 2022 regarding Apostille Legalization Services on Public Documents. Subsequently, secondary legal material consists of books, journal articles that discuss the apostille. In answering the research problem, the juridical basis obtained from primary legal materials is used and the theoretical basis used is the theory of legal reform. This theory is used to identify and measure whether the existence of the Apostille has provided legal reform for society and what obstacles are experienced in implementing this apostille.

## 3. FINDINGS AND DISCUSSION

### 3.1. Legalization of Public Documents Through Apostille

Cooperation and relations among countries were unavoidable due to the crucial role in today's modern era where international relations hold significant importance. Furthermore, each country had its purpose for engaging in international relations. The relationships needed to be governed by international agreements that were mutually agreed upon by participating countries. The agreements held legal implications and served as juridical instruments encompassing all the agreed-upon terms and objectives established by the member countries to accomplish specific goals.<sup>14</sup>

11 Mochtar Kusumaatmadja, *Pembinaan Hukum dalam Rangka Pembangunan Nasional* (Bandung: Bina Cipta, 1986). hal 1.

12 David Tan, "Metode Penelitian Hukum: Mengupas dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum", *Jurnal Nusantara* 8, no. 8 (2021). hal 2467.

13 Abdurrahman Alhakim, Teguh Prasetyo, Henry Soelistyo Budi, "Revitalizing Justice: Empowering Juvenile Sexual Offenders through a Restorative Approach in Indonesia", *Journal of Judicial Review* 25, no. 1 (2023). hal 17.

14 Danel Aditia Situngkir, "Perjanjian Internasional dan Dampaknya Bagi Hukum Nasional", *Jurnal Kertha Wicaksana* 13, no. 1 (2019). hal 20.

The importance of international agreements in the contemporary era was evident due to the global challenges that demanded swift economic development. International agreements played a crucial role in fostering economic growth within each country. One of the key aspects to address in the modern world economy was the ease of conducting business. Simplifying the legalization process of public documents, including those originating from and intended for international use, had been recognized and implemented by Indonesia.<sup>15</sup>

The ease of doing business in Indonesia has experienced fluctuations over time. In 2014, Indonesia was ranked 120, which improved to 91 in 2018 but the ranking dropped to 73 in 2019. Minister of Finance, Sri Mulyani, stated that the ease of doing business had not increased in the past three years. Considering these circumstances, in 2021, Indonesia officially joined the Apostille Convention, derived from the 1961 Hague Convention. This convention was an international agreement that eliminated the need for diplomatic terms and conditions for foreign public documents. In the context of international agreements, Indonesia regulates them under Law No. 24 of 2000 concerning International Agreements. According to this law, the country becomes legally bound by an international agreement when harmonized with national legislation. Accession is one of the methods used to accomplish the harmonization process.<sup>16</sup>

Indonesia ratified the Apostille Convention on January 5, 2021, through Presidential Regulation No. 2 of 2021. Some of the benefits obtained include 1) the legalization procedure is simpler because it only goes through a competent authority, 2) as a transparent and open form of government through the Apostille, 3) streamline the intricate procedures, as the utilization of the old necessitates navigating through five distinct agencies. However, by opting for the Apostille process, the same task can be accomplished by dealing with one agency, and 4) the existence of Apostille can advance the foreign investment climate because it has been given facilities for legalizing public documents.

Indonesia, having acceded to the Apostille Convention, has signified its official commitment to enhancing the process of public documents legalization services. The Apostille Convention has been ratified by approximately 121 countries, indicating that the benefits apply exclusively to these countries, recognized as official members of the convention. The scope of public documents eligible includes those originating within the territory of one participating country and intended for use in another. These public documents encompass various types, such as those generated by governmental agencies or officials associated with courts. Examples include documents originating from prosecutors, court bailiffs for issuing subpoenas, administrative documents, notary deeds, and official certificates bearing the signatures of individuals with the authority equivalent to an official certification for document registration.<sup>17</sup>

Indonesia has acceded to the Apostille Convention through the establishment of Presidential Regulation No. 2 of 2021. The country has appointed a competent authority in carrying out public documents legalization services through the Apostille as mandated in Article 7 of the Apostille Convention.

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15 Ahmad Haris Junaidi, "Urgensi dan Tantangan Indonesia Dalam Akses Konvensi Apostille", *Jurnal Rechtsvinding* 7, no.2 (2018). hal 192.

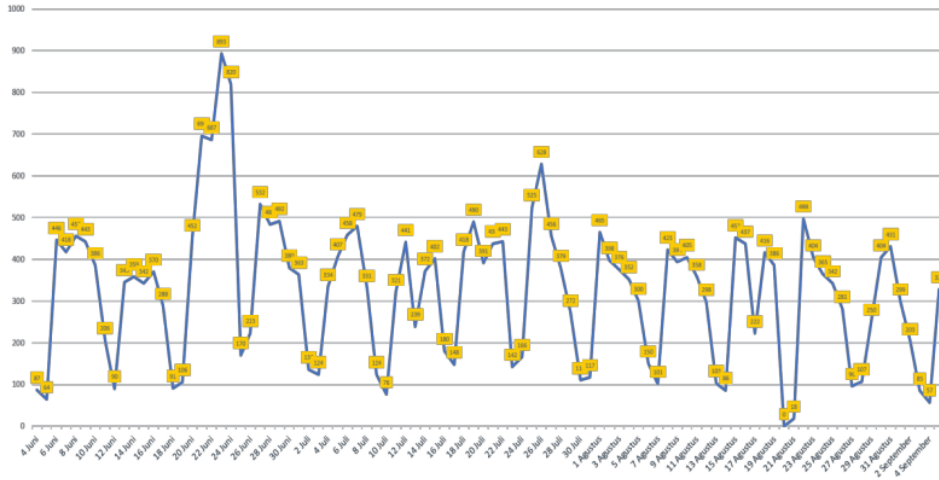
16 Eddy Pratomo, 2011, *Hukum Perjanjian Internasional (Pengertian, Status Hukum, dan Ratifikasi)* (Penerbit PT.Alumni Bandung, 2011). hal 46.

17 Zulfa Djoko Basuki, —*Kemungkinan Indonesia Mengaksesi The Hague Convention Abolishing the*

*Requirement of Legalization for Foreign Public Documents*, (BPHN, Maret 2013). hal. 2.



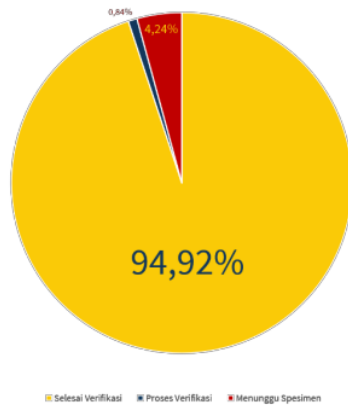
Figure 2. Data Regarding the Number of Applicants (Data Until September 6, 2022)



Source: Ministry of Law and Human Rights of the Republic of Indonesia (Apostille Socialization in Batam City, 2023)

This data shows the number of public document submissions via Apostille. From this data, it can be seen that applications for document legalization via Apostille are very volatile. This is because not all people understand the Apostille, so the Ministry of Law and Human Rights continuously carries out outreach regarding the use of the Apostille to the public.

Figure 3. Apostille Service Verification Presentation (Data Until September 6, 2022)



Source: Ministry of Law and Human Rights of the Republic of Indonesia (Apostille Socialization in Batam City, 2023)

Based on this data, 94.92% of applications for legalization of public documents have been verified.

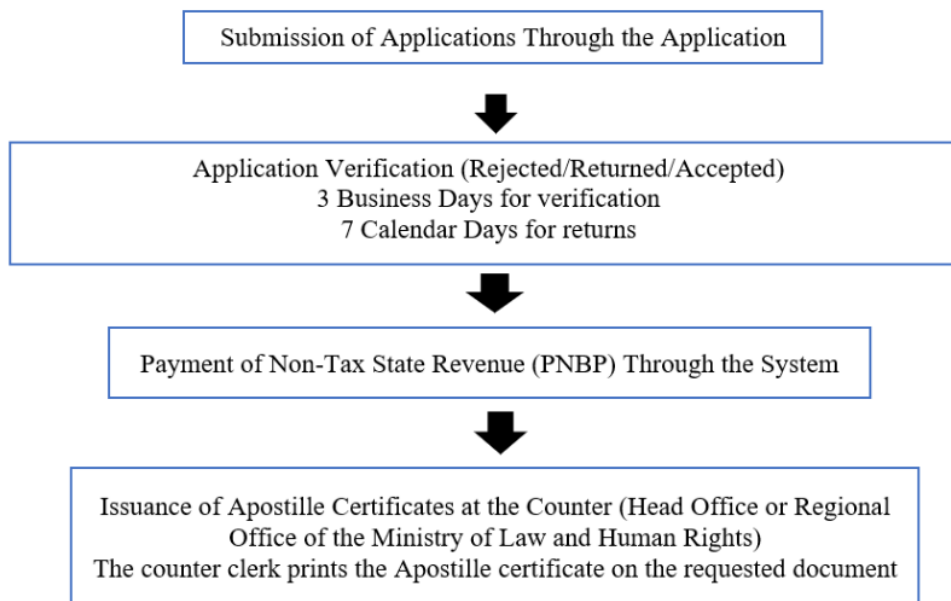
**Table 1. Filed Documents (6 September 2022)**

No	Document type	Number
1	Notary	3473
2	Population	6155
3	Education	6765
4	Translator	3003
5	Police	1801

Source: Ministry of Law and Human Rights of the Republic of Indonesia (Apostille Socialization in Batam City, 2023)

Based on this data, it shows that the highest number of applications for legalization of public documents related to educational documents was 6765, followed by applications for legalization of public documents in the population sector, namely 6155. Then the legalization of notarial public documents was 3473. These data show that the need for legalizing public documents is most needed in the fields of education and population.

**Figure 4. Apostille Business Flow**



Source: Ministry of Law and Human Rights of the Republic of Indonesia (Apostille Socialization in Batam City, 2023)

In the process of conducting the public documents legalization services, a single agency is designated as the competent authority, specifically the Ministry of Law and Human Rights. The presence of this competent authority holds great significance in facilitating the execution of public document legalization services. This authorized institution or Competent Authority is essential since the utilization of an apostille certificate cannot be realized without an authorized institution. Furthermore, this obligation is stipulated in Article 7 of the Apostille Convention. The responsibilities of the competent authority encompass the following duties:

1. As the competent authority, it is incumbent upon the Ministry of Law and Human Rights to maintain a dedicated register or index that encompasses the issued certificates. This crucial record must form essential information such as the certificate number and issuance date, as well as the name of the signatory of the public documents and the authority responsible for the document's stamp or seal, when applicable.
2. As a competent authority, it is obligatory to verify the data in the certificate and the data owned by the authorized institution. This is to ensure that there are minimal mistakes or even legal smuggling.

### 3.2. Apostille is a Legal Reform in Public Service

A welfare state concept is based on the assumption that the government must safeguard the well-being of its citizens. It assumes the role of a responsible entity for pursuing national development to attain optimal welfare for its citizens. Inherent to the concept of a welfare state is the adoption of a democratic government system. Consequently, countries that embrace the concept must formulate policies to prioritize service, protection, and social issues.<sup>18</sup>

Indonesia is a country that adheres to the concept of welfare as mandated in the 1945 Constitution where the country also has an absolute responsibility to organize welfare for its citizens.<sup>19</sup> Therefore, the country has a national development goal aimed at realizing prosperity for its citizens. Increasing welfare is not only related to economic growth but also meeting the needs of citizens in the social aspect where fulfillment can reach the minimum standard.<sup>20</sup>

The meaning of a welfare state is interpreted differently by various expert opinions. However, referring to the opinion of Spicker, Midgley, Tracy and Livermore, Thompson, and Suharto, there are 4 (four) important factors in a welfare concept. First, there is fulfillment of the material and non-material needs of citizens. Second, there are services to the citizen in the areas of health, education, housing, and personal social services. Third, welfare through public services is provided to less fortunate people such as the poor, disabled, and unemployed. Fourth, welfare must be carried out in a programmed and planned manner by individuals, social institutions, communities, and government agencies to improve the quality of life of good citizens through the provision of public services.<sup>21</sup>

Social welfare is the maximum target carried out by government officials. One of the goals to be achieved by the state is to improve the quality and standard of living of the people which are increasing in terms of the material aspects of the lives of the citizens.

The implementation of a welfare state is very dependent on the public services provided. The social needs of citizens can be answered through excellent public services. Therefore, the implementation should not experience congestion and the role of government institutions must provide quality public services to answer the needs of a dynamic society.<sup>22</sup>

The demand for quality public services is intensified due to the persistent prevalence of frequent occurrences and challenges in the field:

- 1) Government institutions are often considered slow to adapt to environmental changes. The legal protection of institutional rights ensures that institutions do not have to feel "lost" despite the potential

18 Miftachul Huda, *Pekerjaan Sosial & Kesejahteraan Sosial: Sebuah Pengantar*, (Yogyakarta: Pustaka Pelajar, 2009), hal. 73.

19 V. Hadiyono, "Indonesia dalam Menjawab Konsep Negara Welfare State dan Tantangannya", *Jurnal Hukum Politik dan Kekuasaan* 1, no. 1 (2020), hal 26.

20 Elviandri, Khuzdaifah, Absori, "Quo Vadis Negara Kesejahteraan: Meneguhkan Ideologi Welfare State Negara Hukum Kesejahteraan Indonesia", *Jurnal Mimbar Hukum* 31, no. 2 (2019), hal 253.

21 Edi Suharto, *Negara Kesejahteraan dan Reinventing Depsos*, *Seminar, Seminar "Mengkaji Ulang Relevansi Welfare State dan Terobosan melalui Desentralisasi-Otonomi di Indonesia"*, (Institute for Research and Empowerment (IRE) Yogyakarta dan Perkumpulan Prakarsa Jakarta, Wisma MM UGM, Yogyakarta, 2006), hal 4.

22 Juriko Abdussamad, "Kualitas Pelayanan Publik di Kantor Dinas Kependudukan dan Catatan Sipil Kabupaten Gorontalo", *Publik: Jurnal Manajemen Sumber Daya Manusia, Administrasi dan Pelayanan Publik* VI, no. 2 (2019), hal 73.



disparity between the resources allocated and the outcomes experienced;

- 2) Uncultured professionalism is strengthened by administrative accountability demands, promoting institutions to feel the absence of creativity, innovation, entrepreneurial spirit, and breakthroughs, challenging the processes of conducting their functions.<sup>23</sup>

In terms of legalizing public documents, Indonesia tries to make progress in the delivery of public services. The country has ratified the Apostille Convention in accelerating public documents legalization services by cutting long procedures and going from 5 to 1 agency in managing public documents legalization. However, the steps taken to ratify the Apostille Convention are considered slow. Indonesia also joined the convention and ratified the concept in 2021 through Presidential Regulation No. 2 of 2021.

The implementation of public services in terms of legalizing public documents became better than before the ratification was carried out. The standardization through Apostille refers to Article 13 of the Government Regulation of Indonesia No. 96 of 2012 concerning the Implementation of Law No. 25 of 2009 concerning Public Services where there are several standards, namely:

1. Integration: refers to the establishment of a unified settlement process, ensuring a consistent system for all types of services. This is evident through the legally regulated framework, the prerequisites, and the procedural mechanisms governing the provision of public services. Concerning the legalization of public documents, changes have occurred, particularly in the procedures and mechanisms for document legalization. The process of legalizing public documents before Apostille involved engagement with five distinct entities, namely the issuing agency, the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the embassy/consulate of the Republic of Indonesia in the country of origin, and the embassy/consulate of the country of origin in Indonesia. After the ratification of the Apostille Convention, the procedure has been streamlined. It suffices to manage the legalization of public documents through a competent authority, as stipulated in Article 7 of the Apostille Convention. Therefore, Indonesia has designated the Ministry of Law and Human Rights as the competent authority. The first criterion for effective public services implementation, namely the achievement of integration, has been realized after the ratification of the Apostille Convention.
2. Economic: The implementation of public services is characterized by its economical nature, where costs are kept at a reasonable level. The fees levied for such services must be justifiable. The Non-Tax State Revenue (PNBP) applicable to apostille legalization services for public documents, under the jurisdiction of the Ministry of Law and Human Rights, is governed by Regulation of the Minister of Finance of Indonesia No. 101/pmk.02/2022, amounting to only IDR 150,000.00. Prospective applicants can promptly access the link <https://apostille.ahu.go.id/> to create an account and proceed with the necessary steps. This approach proves to be significantly more cost-effective compared to the previous practice of engaging with five different agencies to arrange public documents legalization before the Apostille convention was ratified. Therefore, the realization of the second indicator in the implementation of public services, namely the economic aspect, has been attained after the adoption of the Apostille convention.
3. Coordination: plays a crucial role in the provision of integrated services since it necessitates the collaboration of different entities within a single, well-coordinated team. This unified team operates with a shared mission to deliver optimal services to the citizen. Following the endorsement of the Apostille convention, the process of legalizing public documents has been consolidated under the purview of a singular competent authority, namely the Ministry of Justice and Human Rights. Consequently, the third indicator in the implementation, specifically the establishment of coordination, has been accomplished after the ratification of the Apostille Convention.
4. Accountability: signifies that the services provided within an integrated system must adhere to statutory regulations and be subject to proper oversight. Indonesia has shown its commitment to accountability by ratifying the Apostille Convention through Presidential Regulation No. 2 of 2021. This step is of

<sup>23</sup> Syakrani, Syahriani, *Implementasi Otonomi Daerah dalam Perspektif Good Governance*, (Yogyakarta: Pustaka

Pelajar, 2009), hal 4-5.

considerable complexity since it involves harmonizing international and national regulations in response to an international convention. This approach stems from the dualism perspective adopted in Indonesian law, where international and national law are considered as distinct realms. Therefore, the ratification of the Apostille convention by the Indonesian presidency reflects the fulfillment of the fourth indicator in the implementation of public services.

5. Accessibility: refers to the availability of public services that are readily accessible to all demographic groups. The online accessibility of public documents legalization services can be accessed through the website <https://apostille.ahu.go.id/>. In this instance, individuals from all groups can conveniently access public documents legalization services through Apostille by simply visiting the website and submitting their requests directly through the online platform. However, there is room for improvement in terms of accessing printed Apostille certificates since the printing process must take place at the central office. This limitation poses challenges for individuals residing outside Jakarta since they are required to conduct a considerable journey and invest significant time solely in obtaining the printed Apostille certificate. Consequently, the fifth criterion for evaluating the implementation of public services, namely accessibility, has not been fully realized.

Based on public services indicators, the implementation in terms of legalizing public documents has not fully fulfilled the indicators of excellent public services even though the concept is subjected to many changes. This is also supported by the Law Reform Theory, where the concept is a reform of basic thoughts, concepts, and ideas. Furthermore, reform does not only replace the contents of articles in a statutory regulation. This provides the meaning that legal reform is a reform of values capable of answering the needs of society<sup>24</sup> and the concept is directed to accommodate the laws within the society.<sup>25</sup>

Based on the theory of legal reform, the existence of the Apostille brings “fresh air” to the implementation of public services in terms of legalizing public documents. The existence of Apostille has cut the flow of legalization of public documents from 5 (five) agencies to just 1 (one) agency. The existence of the Apostille is certainly a legal update because Indonesia has ratified the Apostille Convention in 2022. In fact Apostille Convention was developed and adopted by the Hague Conference (Hague Conventions) on 5 October 1961 with the title the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents. This is certainly a legal reform because Legal reform is not only about changing, reviewing, or making laws and regulations, but there are new values that are instilled so as to bring about a change in society. The existence of an Apostille has provided a big change, namely making public services short and easy. However, of course this does not mean that the existence of an Apostille has answered all obstacles in the legalization of public documents. There are still several obstacles encountered, namely that not all people understand and understand the processing of public documents through Apostille and the printing of Apostille documents is still centralized, and has not been distributed to every regional office of the Ministry of Law and Human Rights. Then this Apostille can only be used by countries that have become participants in the Apostille convention.

Legal reform should not overlook the aspects of the human condition, nature, and Indonesian traditions. It is imperative to acknowledge the law’s presence within society as a positive or negative source of legislation. Furthermore, any reforms ought to be aligned and attuned to the universal trends that are emerging within civilized societies.<sup>26</sup>

According to Muladi, the presence of living law in society is not only possible to contribute as a source of negative and positive law. Therefore, the values can erase or negate unlawful nature actions regulated in law (a source of negative law). These contribute as a source of positive law, serving as a basis for determining the

24 Barda Nawawi Arief, *Pembaharuan Hukum Pidana dalam Perspektif Kajian Perbandingan*, (Semarang: Badan Penelitian Universitas Diponegoro, 2005), hal 4.

25 Yaris Adhial Fajrin, Faisol Triwijaya, “Arah Pembaharuan Hukum Pidana Indonesia di Tengah Pluralisme Hukum Indonesia”, *EKSPOSE: Jurnal Penelitian Hukum dan Pendidikan* 18, no. 1 (2019), hal 735.

26 Sudarto menjelaskan persoalan ini dengan sangat terang. Menurut beliau dibalik hukum adalah “norma”, dan dibalik “norma” adalah “nilai”. Sudarto, *Hukum Pidana Jilid I A-B*, Fakultas Hukum Universitas Diponegoro, Semarang, 1989, hal. 2

consideration of an action to be negative against the law.<sup>27</sup>

Related to public documents legalization services before the ratification of the Apostille, the implementation of public services must go through a fairly long procedure, namely through 5 (five) agencies. Public services procedures are very administrative but do not answer the needs of the citizen in a short and simple time. The following is an overview of public documents legalization services procedures before Apostille:

Figure 5. Public Documents Legalization Process in Indonesia (Before Apostille)

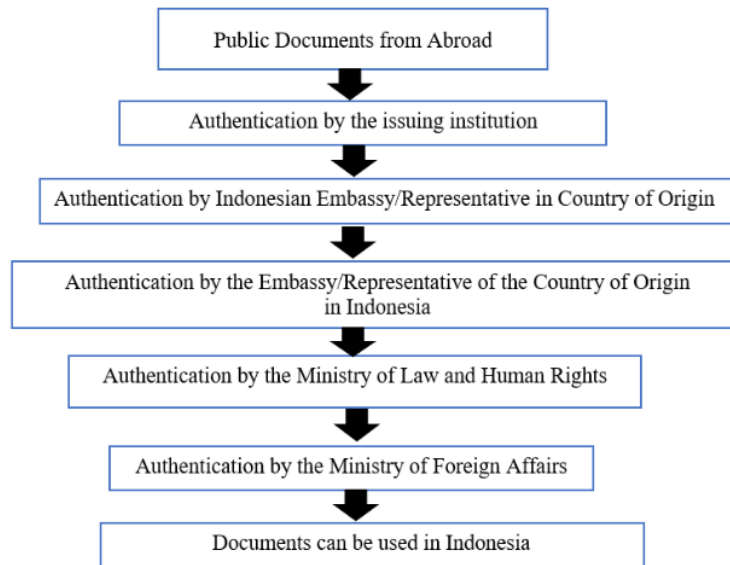


Source: Ministry of Law and Human Rights of the Republic of Indonesia (Apostille Socialization in Batam City, 2023)

<sup>27</sup> Tongat, *Dasar-Dasar Hukum Pidana Indonesia dalam Perspektif Pembaharuan*, (UMM Press, Malang, 2008), hal

181.

Figure 6. Process of Legalizing Public Documents from Overseas (Before Apostille)



Source: Ministry of Law and Human Rights of the Republic of Indonesia (Apostille Socialization in Batam City, 2023)

Public documents legalization services lack effectiveness due to the significant time-consuming nature when examining the procedures for managing online document legalization before the ratification of the Apostille Convention. This misalignment with the citizen's expectations and needs is quite apparent. One of the key criteria for the implementation of public services, as stated in the Decree of the State Minister for Empowerment of State Apparatuses No. 63/KEP/M.PAN/7/2003 concerning General Guidelines for the Implementation of Public Services is that public services must be straightforward, avoiding convoluted procedures. These services should be easily comprehensible and implementable and the procedures before the ratification of the Apostille Convention are also incongruous with the laws in effect within the citizen. Furthermore, the concept did not align with the citizen's expectations due to excessive complexity and this led to a limited number of requests for legalization of public documents. After the ratification of the Apostille Convention and the subsequent changes in public documents legalization services, a transformation has occurred in the public interest. Several individuals also applied for document legalization through the Apostille process. Since the Apostille service became effective in Indonesia on June 4, 2022, 10 days after its enforcement, a total of 2,918 applications were received. These applications encompassed various types of documents, including notary related to business activities, educational, such as diplomas and transcripts, as well as population documents. This figure surpassed the average of 1,913 requests made for conventional legalization services in ten days in 2021. The surge in applications exemplified the citizen's strong interest in embracing the diverse benefits offered by the Apostille service.

The implementation of public services in terms of legalizing public documents has undergone a legal reform. This is because it has answered and fulfilled the legal elements in society and fulfilled the needs of the existing citizen, namely the shortened procedure for submitting applications for the legalization of public documents. However, in the implementation, there are some deficiencies, namely the unavailability of the Regional Office of the Ministry of Law and Human Rights which can print Apostille certificates. This does not meet the indicators of optimal public services as stipulated in the Decree of the Minister of State for Empowerment of State Apparatuses No. 63/KEP/M.PAN/7/2003 concerning General Guidelines for the Implementation of Public Services and Government Regulation of the Republic of Indonesia No. 96 of 2012



concerning Implementation Law No. 25 of 2009 Concerning Public Services. Furthermore, another indicator in measuring good public services is the ease of access. The concept entails the availability of convenient places and locations equipped with adequate service facilities which are easily reachable by the public. This includes the utilization of telecommunications and information technology to enhance accessibility. In this context, accessibility also encompasses the provision of convenience and equal opportunities for individuals with disabilities.

#### 4. CONCLUSION

The ratification of the Apostille Convention brought many changes to the implementation of public services for the legalization of public documents. This was under several public services indica

tors as stipulated in the Decree of the State Minister for Empowerment of State Apparatus No. 63/KEP/M.PAN/7/2003 concerning General Guidelines for the Implementation of Public Services and Government Regulation of Indonesia No. 96 of 2012 concerning Implementation of Laws Law No. 25 of 2009 Concerning Public Services. However, there were several recommendations for improving the implementation of public services in terms of legalizing public documents, namely it was necessary to promptly prepare the Regional Office of the Ministry of Law and Human Rights to print Apostille certificates. This was crucial to fulfilling one of the indicators of public services, which was ensuring ease of access. The citizen needed to be facilitated in obtaining the Apostille certificate without unnecessary delays or complications; The Regional Office of the Ministry of Law and Human Rights was expected to become the contact person regarding Apostille services in the region; The Directorate General of AHU provided training on Apostille services to human resources at the Regional Office of the Ministry of Law and Human Rights regarding the Apostille service; After the Regional Office of the Ministry of Law and Human Rights mastered the Apostille service, the Regional Office of the Ministry of Law and Human Rights disseminated the concept to stakeholders, namely notaries and the general public; As a service development, the Regional Office of the Ministry of Law and Human Rights was projected to become the cornerstone for printing Apostille certificates in all provinces.

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