

## How Notary's Service in Thailand?

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*Abstract.* In most countries, a Notary Public is known as an official who is licensed by the State to perform functions such as the authentication of signatures or documents, and the witnessing of affidavits or statements of persons under oath. Notarization of a document is important as the act of notarization itself creates a guarantee on the authenticity of the document, or to the act of the signatories to the instrument. While there are no notaries public in Thailand, some lawyers are given the authority to function as Notarial Services Attorney in the country. In Thailand, it is the Lawyers Council of Thailand which regulates the practice of notarial services in the State. A Thai lawyer is required to undergo and pass a professional training course for the service before he is registered as a Notarial Services Attorney. This article to explain how the notary public's service in Thailand overflow. And to know what are the kind of notary's servicing in Thailand, especially to service the document of society which legalize by the state.

*Keywords:* Attorney; Notary; Service; Thailand.

### 1. Introduction

In many countries, a notary public is an official who is licensed by the government to authenticate signatures or documents, and witness affidavits or statements of persons under oath<sup>4</sup>. In general, a Thailand notary public has no authority to act when not in the jurisdiction of the government where the notary is licensed. Notarization of documents is often required when it is important to show the authenticity of the document or to be sure that the person signing the document is who they say there are<sup>5</sup>.

Thailand is not a party to the Hague Convention on Legalization of Foreign Public Documents and the government does not license notaries public. However, if we need notary services in Thailand, a "notarial service attorney" may be able to meet your needs. In other cases we may need the help of an embassy or the Thai Ministry of Foreign Affairs<sup>6</sup>. Or we may need certification from some combination of the above authorities. The Embassy of the country to which the document is to be presented<sup>7</sup>.

Although Thailand does not license notaries public, some Thai lawyers are authorized to function as notarial services attorneys. The Lawyers Council of Thailand regulates the

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<sup>4</sup> "Notaries Public", *Montgomery County, Alabama Probate Judge*: [1], retrieved on 30 January 2018. Archived 13 July 2010 at the Wayback Machine

<sup>5</sup> "An Application By Marilyn Reyes Bos To Be A Public Notary No. SCCIV-02-1688 [2003] SASC 320 (12 September 2003)". Australasian Legal Information Institute, A joint facility of UTS and UNSW Faculties of Law. Retrieved 21 May 2018. External link in |publisher= (help)

<sup>6</sup> *Piombino, Alfred E (2011). Notary Public Handbook: Principles, Practices & Cases, National Edition (First ed.). East Coast Publishing. ISBN 978-0-9445606-9-3.*

<sup>7</sup> <http://bangkok.usembassy.gov/service/notarial-services.html>, accessed at 10.45 a.m, on April 23, 2019

practice of notarial services in Thailand. A Thai lawyer is required to undergo and pass a professional training course on notarial services before he or she can be registered as a notarial services attorney<sup>8</sup>.

Once authorized to perform, a Notarial Attorney may execute the following functions<sup>9</sup>:

- a. Verification to the authenticity of signatures in a document;
- b. Certification of identity of parties to an agreement;
- c. Administration of oaths and affirmations;
- d. Attestation and certification of certain classes of documents
- e. Be witness to the signing of parties to a document.

As Thailand is not a signatory to the Hague Convention on Legalization of Foreign Public Documents<sup>10</sup>, in some cases, parties who have engaged notarial services in Thailand may need to have the notarized document authenticated or legalized further at the Ministry of Foreign Affairs of Thailand, or at the Embassy of the country to which the document is to be presented<sup>11</sup>.

If we need some other kind of authentication, certification or legalization we will likely need to go to your embassy, the Thai Ministry of Foreign Affairs, or the embassy of the country to which the document is to be presented. In some cases we will need to take a document to the Ministry of Foreign Affairs for legalization after it has been certified by a notarial services attorney<sup>12</sup>.

## 2. Methods

The method used in this study is an approach of empirical jurisdiction. Specifications research using analytical descriptive<sup>13</sup>. First performed juridical approach to inventory the statutory laws and regulations (primary legal materials) associated with the object of research, then combined with the empirical approach in which a data through the literature (library research).

Data collection techniques include primary data and secondary data, while the data obtained and analyzed qualitatively to answer the problem posed. A quantitative method for authors to learn what is conveyed by the source both orally and in writing and also acts done by source in relation to the object of this study as a whole.<sup>14</sup>

## 3. Results And Discussion

A Thai notary public is a person legally authorized by the Thai Lawyers Council of Thailand, witness the signing of documents, and deter fraud by verifying the identity of a person

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<sup>8</sup> "History of the NNA". Archived from the original on 12 July 2006. Retrieved 9 July 2017.

<sup>9</sup> Ibid.

<sup>10</sup> *Notary* Archived 24 April 2010 at the Wayback Machine. (2008). Kent, England: Warners Law LLP. Retrieved on 22 January 2009.

<sup>11</sup> <http://www.thailand.embassy.gov.au/bkok/consular.html>, accessed at 10.45 a.m, on April 23, 2019

<sup>12</sup> *Black's Law Dictionary*, 10th ed. (St. Paul MN: Thompson Reuters, 2014), s.v "notary public".

<sup>13</sup> *Notary Public Services* Archived 3 December 2013 at the Wayback Machine ABKJ Lawyers. Retrieved on 2013-11-15.

<sup>14</sup> Soerjono Soekanto, 2014, *Pengantar Penelitian Hukum*, Penerbit Universitas Indonesia (UI-Press), p. 250

who signs a document<sup>15</sup>.

A mobile notary public is the option for our clients who are too busy and doesn't have the convenience to visit our firm or for the people who are on the executive level that needs more priority on this kind of service<sup>16</sup>. To more understand, the author would like to explain how the notary's serve in Thailand as follows:

### 3.1. History of Notary Public in Thailand

During the late Roman Empire, some officials were already authenticating contracts on behalf of the State. These were already acting like notaries. These officials disappeared before being used again, under St-Louis and Philip the Fair. It is in France that the profession of Notary became official in 1539<sup>17</sup>.

In Common Law Countries (UK, USA, Australia, Canada with the exception of Quebec), they have a system with people called "public notaries". A notary public can normally take an oath or affirmation and notarize some documents<sup>18</sup>.

Most "Roman Law" based systems have the "Civil Law Notary" (France, Belgium, Quebec, etc.). This notary will have wider powers and functions. The Civil Law Notary will act in non-litigious legal matters, like transferring title deeds, registration of mortgage, drafting "Last Will and Testaments" and can also act as mediator between parties<sup>19</sup>.

Thailand adopted a mixed system of law but notaries are not mentioned in the Civil Code. We believe that the Council of Thai Lawyers decided to establish the functions of notary in Thailand in order to perform some duties related to official documents<sup>20</sup>. The high volume of tourists might also have helped in order to standardize and help the legalization of documents. Today, there are numerous Thai notaries, more or less acting like "Public notaries of Common Law countries". But in areas like "Isaan", they are still rare. For example, there were only 2 notaries registered in the province of Nakhon Ratchasima last year and that's the biggest province in Thailand<sup>21</sup>.

The history of notary public in Thailand is not out from the necessary of the government to legalized the people documents or certificates<sup>22</sup>. The state would the every people has the

<sup>15</sup> "AN APPLICATION BY MARILYN REYES BOS TO BE A PUBLIC NOTARY No. SCCIV-02-1688 [2003] SASC 320 (12 September 2003)". *Australasian Legal Information Institute, A joint facility of UTS and UNSW Faculties of Law*. Retrieved 21 May 2011. External link in |publisher= (help)

<sup>16</sup> The Society of Notaries Public of BC. (2011).: *Becoming a Notary* Archived 21 July 2011 at the Wayback Machine.

<sup>17</sup> Ibid.

<sup>18</sup> "THE NOTARIES RULES, 1956". Archived from the original on 27 June 2016. Retrieved 14 June 2016.

<sup>19</sup> "Notaries Public", Montgomery County, Alabama Probate Judge: [1], retrieved on 30 January 2018.

<sup>20</sup> "The Hindu Business Line : Notes on the notary". Archived from the original on 30 July 2013. Retrieved 14 June 2016.

<sup>21</sup> [http://www.canadainternational.gc.ca/thailand-thailande/consular\\_services\\_consulaires/legal-juridiques.aspx?lang=eng](http://www.canadainternational.gc.ca/thailand-thailande/consular_services_consulaires/legal-juridiques.aspx?lang=eng), accessed at 10.45 a.m, on April 23, 2019

<sup>22</sup> "List of Public Notary by State". *Attorney General's Chambers of Malaysia*. Archived from the original on 28 March 2018. Retrieved 1 January 2018.

trully and legal document in every matter, eventhough in selling certificates, land, houses, heritages, etc. The notary public in Thailand under the ministrt of law and work together with the attorney as the actor, but the people also still can make the decision how they will legalized their documents<sup>23</sup>. The main matter that the state of Thailand want the administration in their country will be systemic and integrated each other use the data base. So the government and the people can access easily everytime they want<sup>24</sup>.

### 3.2. How the Notary Public in Thailand in front of in International Law

The Hague Convention abolished the requirement of legalization for foreign public document recognized notaries<sup>25</sup>. It was concluded on 5 October 1961 and it is one of the conventions related to Private International Law<sup>26</sup>.

Because Thailand did not sign this treaty yet, the legalization and certification of all the public documents like birth certificate, marriage and death certificate, etc., should be done by the Ministry of Foreign Affairs with the stamp of your embassy in Thailand<sup>27</sup>.

We should always be very careful if we need to notarize or “legalize” a document. Ask the authorities where the document is needed, what kind of “authentication” they will accept. Some jurisdictions will only accept a notarization done at their embassy. (That seems to be the case with USA)<sup>28</sup>. Some will accept the signature of any attorney from any jurisdiction. Some will accept notaries of any country if the country does recognize notaries. And sometimes, we might need a certified translation and a legalization<sup>29</sup>. So, it can be very complicated to know what is needed and we want to avoid to do some work that would be refused before inappropriate. Thai notaries normally perform the following acts<sup>30</sup>:

- a. Attestation of signature done BEFORE ME
- b. Certifying TRUE COPY
- c. Attestation of photos of a person
- d. Administrating an Oath and affirmation
- e. Testimony and Oath and affirmation (Affidavit)
- f. Attestation of address
- g. Confirmation of Birthday
- h. Certified Correct Translation
- i. Etc.

<sup>23</sup> David A. Brand & Michael P. Clancy, *The Modern Notary Public in Scotland: Guidance for Intransit Notaries* Archived 21 July 2011 at the Wayback Machine, 6th ed. (2009), *The Law Society of Scotland*.

<sup>24</sup> Notary Public Disciplinary Guidelines. Archived 23 May 2012 at the Wayback Machine (2001). California Secretary of State. p. 25.

<sup>25</sup> <http://www.hcch.net/> to find the convention

<sup>26</sup> "Notary History Archives – Notary Colorado Springs". Notary Colorado Springs. Archived from the original on 8 October 2017. Retrieved 9 May 2018.

<sup>27</sup> "Notary Public Training". Archived from the original on 18 June 2016. Retrieved 14 June 2016.

<sup>28</sup> "Secretary of State's Office Notary Public Training". Archived from the original on 1 June 2016. Retrieved 14 June 2016.

<sup>29</sup> "Notarial Services" (PDF). U.S. Army. 10 April 1997. Archived (PDF) from the original on 25 December 2011. Retrieved 4 June 2009.

<sup>30</sup> "Nova Scotia Commissioners of Oaths – novascotia.ca". Archived from the original on 5 October 2012. Retrieved 14 June 2016.

Notaries in Thailand are increasing because many elderly people have to sign documents required by their government, the pension company, insurance or others and that, often each year. These companies, organizations and governments want to be sure that they are paying a pension to someone still alive and do trust the notary to make that verification<sup>31</sup>.

Price of Thai notaries will vary a lot from one to another. Be sure that the person signing as notary is really a notary in Thailand and has the proper licenses<sup>32</sup>.

As the common notary public, in front of the International Law the position of notary public in Thailand was legalized and had the authorities in administration standart of legalization. The document was legal base on the proposal and requirement under the monitoring of Thailand Law Ministry<sup>33</sup>.

### **3.3. Legalization At The Thai Ministry Of Foreign Affairs and Notary Services At Embassies**

Thailand is also not a party to the *Hague Convention Abolishing the Requirement for Legalization for Foreign Public Documents (or Apostille Convention)*, so if we need to authenticate or certify a document that originated outside of Thailand or a document from Thailand that will be used in another country we may also need to have it legalized by the Ministry of Foreign Affairs. Legalization is the process by which a document is authenticated for international use<sup>34</sup>.

The Legalization Division of Consular Affairs Department of the Thai Ministry of Foreign Affairs is located at 123 Chaengwattana Road in Bangkok and is open from 8:30 am to 2:30 pm, Monday through Friday except for public holidays. Legalization generally takes 2-3 business days<sup>35</sup>.

If we have a document generated in Thailand that needs to be used in another country we may need to use the notary services available from that embassy. In addition, we may need to use the services of your own embassy if we need a notary while we are in Thailand. Example information about notary services at the US Embassy in Bangkok is available at US Embassy Notarial Services<sup>36</sup>.

Notaries are people with legal training who are licensed by the State to perform certain acts, like witnessing signatures, administering oaths or certifying document. Powers of

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<sup>31</sup> Black's Law Dictionary, 10th ed. (St. Paul MN: Thompson Reuters, 2014), s.v "notary public". Chapter 1 of Brooke's Notary (13th edition, Stevens, London, 2010)

<sup>32</sup> "Notarial and Authentication Services of U.S. Consular Officers Abroad". U.S. State Dept. Archived from the original on 17 September 2014. Retrieved 2 August 2014.

<sup>33</sup> *Short Guide for Vermont Notaries Public*. Archived 6 September 2015 at the Wayback Machine (2015), p. 1. Vermont Secretary of State. p. i.

<sup>34</sup> Notary Archived 24 April 2010 at the Wayback Machine. (2008). Kent, England: Warners Law LLP. Retrieved on 22 January 2019.

<sup>35</sup> Notary Public Services Archived 3 December 2013 at the Wayback Machine ABKJ Lawyers. Retrieved on 2017-11-15.

<sup>36</sup> Piombino, Alfred E. (1996). *Notary Public Handbook: A Guide for Vermont Notaries, Commissioners & Justices of the Peace*. East Coast Publishing.

notaries will vary depending on countries and jurisdictions. However, the seal of a notary always help to give credit and authenticity to a document in a foreign jurisdiction because notaries are widely recognized<sup>37</sup>.

Do notaries exist in Thailand? Yes, they do. But it wasn't the case many years ago and it's a little bit complicated. In Thailand, notaries are "Thai Attorneys" with a special license given by the Thai Council of Lawyers. This bar association is formed and works under "The Lawyers Act of 1985"<sup>38</sup>.

In Thailand, Lawyers are called in Thai "Tanai Kwam". These people have a license and can plead in Thai Courts. For an Attorney in Thailand to become "notary public", he must follow a special legal training course from the Lawyer's council in order to get their notary's license or attestation<sup>39</sup>.

Few years ago, all Thai lawyers could certify documents for their clients but there was no standard about how to do it. Mr Dejudom Krairuek, the President of The Thai Lawyer's Council at that time, thought that Thai lawyers should have standards to notarize documents. This Lawyers association decided to regulate the notarization of documents. The Thai Lawyer's Council of Thailand also sent letters to over 50 countries regarding notarization in Thailand<sup>40</sup>.

However, Thailand has not yet enacted officially an Act of the Parliament for "Notary Public" which could make a problem. At the moment, it's only a regulation of the Thai Lawyer's council. For instance, if we need a document to be used in a Foreign Court of justice, and if the other party contest this document, they could win. They could plead that Thai Law does NOT recognize notarial services, which is true. However, the Thai Council of Lawyers does recognize their own Thai "Notaries", which are Thai Lawyers with a notary license<sup>41</sup>.

### **3.4. Notarization of Documents and the sample of Law Firm in Thailand**

A Notary Public is an official of integrity appointed by the state government. These official acts are called notarizations, or notarial acts. Notaries are publicly commissioned as "ministerial" officials, meaning that they are expected to follow written rules without the exercise of significant personal discretion, as would otherwise be the case with a "judicial" official<sup>42</sup>.

Notary public in Thailand is quite different from other countries as we may require services from a notarial service attorney. We are accredited by Thai Lawyer Council. We can verify the member status with Thai Lawyers Council Notary public undergoes unique licensing assessment to be able to perform these kinds of service<sup>43</sup>.

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<sup>37</sup> Piombino, Alfred E (2011). Notary Public Handbook: Principles, Practices & Cases, National Edition (First ed.). East Coast Publishing. ISBN 978-0-9445606-9-3.

<sup>38</sup> Ibid.

<sup>39</sup> The Society of Notaries Public of BC. (2011).: Becoming a Notary Archived 21 July 2018 at the Wayback Machine.

<sup>40</sup> <http://law2.longdo.com/law/325/sub18002>

<sup>41</sup> Ibid.

<sup>42</sup> Op.Cit.

<sup>43</sup> Ibid.



Siam Attorney excels in providing quality Thai notary services. They have a number of lawyers who are qualified to do such jobs. Siam Attorney has notary public in Bangkok and also a notary public in Phuket so finding a notary public in Thailand does not require tremendous amount of effort in choosing the perfect Thai notary. Siam Attorney can do all notary services for each client with various requests<sup>44</sup>.

Many countries require that documents originating from or signed in another country be notarized before they can be officially used or legally recognized – a requirement that is clearly problematic if the originating country or country where the document is signed has no notary publics<sup>45</sup>.

Thailand has not yet enacted legislation providing for notaries public, but in 2008 the Lawyers Council of Thailand issued a regulation for the registration of attorneys qualified to attest to the authenticity of signatures on documents and certify documents. This regulation also sets out requirements for the training, licensing and certification of such lawyers<sup>46</sup>.

There are currently around 4,000 Thai qualified lawyers who have received a certificate and are registered as “notarial services attorneys” pursuant to a Thai Lawyer's Council regulation. In practice, they sign and affix seals that are intended to certify documents and establish the authenticity of signatures on documents. But they are not authorized to administer oaths. Nor are they bonded. Indeed, Thailand has never enacted legislation to inaugurate a system of notary publics. Instead, it appears that the 2008 the Thai Lawyer's Council regulation was issued in anticipation of the Thai parliament passing legislation on the notarization of documents<sup>47</sup>.



*Sample of Thai notarial stamps that we use at our office*

Thai authorities neither require nor accept documents that have been notarized in Thailand. Although some Thai authorities require that a Thai lawyer certify the authenticity of the signatures appearing on certain documents, this is not considered a

<sup>44</sup> Piombino, Alfred E (2011). Op.Cit.

<sup>45</sup> Ibid.

<sup>46</sup> "Notarial Services" (PDF). U.S. Army. 10 April 1997. Archived (PDF) from the original on 25 December 2011. Retrieved 4 June 2009.

<sup>47</sup> Ibid.

notarization of that document. For example, a lawyer qualified and registered with the Thai bar must authenticate the signatures of directors appearing on a document submitted to register a Thai limited company. Any Thai qualified lawyer, irrespective of whether that lawyer has passed the test to qualify as a "notarial services lawyer", may certify such documents. Further, some documents that are signed outside of Thailand must be notarized in that foreign jurisdiction before the Thai authorities will accept that document as properly authenticated. But these same authorities will not accept a document notarized within Thailand by a Thai notarial services attorney as properly authenticated<sup>48</sup>.

Paradoxically, even though Thai authorities will neither require nor accept documents that have been notarized in Thailand, such documents are often submitted to foreign authorities as though they have been notarized under Thai law. Whether they should be treated as properly notarized documents is a matter of foreign law, but it seems unlikely that most foreign officials understand that, strictly speaking, there is no Thai law providing for Thai notaries.

Notary Public is internationally recognized whether be it on the United States, Europe, or even in the Southeast Asia region. Notary public is usually an official recognized by the government to validate certain documents, signature of a person, a title deed, or even a statement of a person under oath. We may ask if it's really important to have documents notarized so here is our answer<sup>49</sup>.

Notarized documents are extremely essential in proving that it is authentic. A person that has a document notarized may have a valid proof or a strong grip of evidence when needed in a courthouse<sup>50</sup>.

In Thailand, as an alternative to the pending legislative proceedings of the notary public law of the last five decades, notary services functions are carried out by attorneys who can administer oaths, authenticate documents and signatures, and witness statements of persons under oath. In Thailand, a notary public is called a Notarial Services Attorney and is regulated by the Lawyers Act B.E. 2528 and trained and overseen by the Lawyers Council of Thailand. At Dej-Udom and Associates, the firm offers a full range of notarial services that include:

- a. Certification of copies of official documents by a licensed notarial services attorney
- b. Verification and certification of the authenticity of signatures
- c. Recording statements made under formal oath
- d. Administering and documenting oaths
- e. Certification of ID, e.g., verify the personal ID and papers of a person applying for retirement status

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<sup>48</sup> "Notarial and Authentication Services of U.S. Consular Officers Abroad". U.S. State Dept. Archived from the original on 17 September 2014. Retrieved 2 August 2014.

<sup>49</sup> Ibid.

<sup>50</sup> Piombino, Alfred E. (1996). *Notary Public Handbook: A Guide for Vermont Notaries, Commissioners & Justices of the Peace*. East Coast Publishing.



- f. Acceptance of oaths of instruments, e.g., power of attorney, to be used in other jurisdictions as normally accepted by the competent officer of the respective countries

### **3.5. The System of Documents that can be Notarized by Notary Public in Thailand**

A Notary Public's duty is to screen the signers of important documents for their true identity, their willingness to sign without duress or intimidation, and their awareness of the contents of the document or transaction. Some notarizations also require the Notary to put the signer under an oath, declaring under penalty of perjury that the information contained in a document is true and correct. Property deeds, wills and powers of attorney are examples of documents that commonly require a Notary<sup>51</sup>.

The government of Thailand in providing quality Thai notary services. The number of lawyers who are qualified to do such jobs. Thailand also have notary public every places such as in many district and sub-district so finding a notary public in Thailand does not require tremendous amount of effort in choosing the perfect Thai notary. The government provided the notary services who can do all notary services for each client with various requests<sup>52</sup>.

The documents which can be assisted with notarizing documents include<sup>53</sup>:

- a. Estates
- b. Deeds
- c. Powers of attorney
- d. Affidavits
- e. Licenses
- f. Contracts
- g. Loan documents
- h. Trusts
- i. Taking affidavits and statutory declarations
- j. Taking acknowledgments of deeds and other conveyances
- k. Protesting notes and bills of exchange; and
- l. Providing notice of foreign drafts
- m. Authenticating the execution of certain documents for use overseas
- n. Vouching for identities and their witnesses
- o. Validating signatures and proving that it belongs to him/her
- p. Authenticating company business documents and transactions
- q. Witnessing and preparing of Powers of Attorney for use overseas
- r. Dealing with purchase or sale of properties abroad.

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<sup>51</sup> "Notaries Public", Montgomery County, Alabama Probate Judge: [1], retrieved on 30 January 2018.

<sup>52</sup> Illinois Secretary of State. 2010). *Notary Public Handbook*. Archived 7 December 2013 at the Wayback Machine p. 4–5.

<sup>53</sup> "Kentucky Secretary of State Notary Public Handbook" (PDF). *ky.gov*. Archived (PDF) from the original on 1 July 2017. Retrieved 9 May 2018.

#### 4. Conclusion

A Thai notary public is a person legally authorized by the Thai Lawyers Council of Thailand, witness the signing of documents, and deter fraud by verifying the identity of a person who signs a document. Notaries in Thailand are increasing because many elderly people have to sign documents required by their government, the pension company, insurance or others and that, often each year. As the common notary public, in front of the International Law the position of notary public in Thailand was legalized and had the authorities in administration standart of legalization. The document was legal base on the proposal and requirement under the monitoring of Thailand Law Ministry. So, the Notary Public in Thailand as well as almost same with the notary public in another country which focus to legalized and certified the documents.

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- [20] [http://www.canadainternational.gc.ca/thailand-thailande/consular\\_services\\_consulaires/legal-juridiques.aspx?lang=eng](http://www.canadainternational.gc.ca/thailand-thailande/consular_services_consulaires/legal-juridiques.aspx?lang=eng), accessed at 10.45 a.m, on April 23, 2019<sup>1</sup>Soerjono Soekanto, 2014, *Pengantar Penelitian Hukum*, Penerbit Universitas Indonesia (UI-Press), p. 250
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