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NOTARY'S LIABILITY IN IDENTITY CARD (*KTP*) LEGALIZATION

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Abstract

This study examines the notaries' liability in a copy of Identity Card (*KTP*) legalization according to its original form. This is grounded on the rampant of the Identity Card Fraud cases and that notaries are authorized to approve a letter in compatibility with the original form as stated in the amended Law of the Republic of Indonesia Number 2 Year 2014 on Article 15 letter (d). To examine the phenomenon, the author used normative research method supported by interview as the instrument used to collect the data. The legal theories used are the theory of legal certainty, legal protection, and legal accountability. The results indicate that notary is responsible for parties who are disadvantaged due to the validation of the fake *KTP* card only in case if the notary endorsed the copy of the *KTP* without seeing and comparing the original form of it or the Notary has known that the *KTP* is a fake or not valid yet to endorse. On the contrary, a notary is not liable for having legalized an original *KTP*, not a photograph/photocopy, looking like original until it is unknown that it is actually a fake.

Keywords: Responsibility, Notary, Identification Card (*KTP*), Legalization

1. INTRODUCTION

Notary is a public official authorized to make an authentic deed and have other powers. In addition to making authentic deeds, other authorities of Notary are regulated in Article 15 of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning Notary Position (hereinafter referred to as UUJN), stipulating that:

"A notary is authorized to issue an authentic deed of all acts, agreements and statutes required by the legislation and/or desired by interested parties to be declared in an authentic deed, to guarantee the date of issuing the deed, preserving the deed, providing grosse, granting the copy and citation of the deed; all is executed during the making of such deeds is not also assigned or unassigned to other officials or other parties as defined by law."

A notary also has the authority to "a) endorse the signature and establish the certainty of the date of the letter under the hand by registering in a special book; b) record the letters under the hand by registering in a special book; c) make copies of the original letters under the

hand in the form of copies containing the description as written and illustrated in the corresponding letter; d) approve the photocopy suitability with the original letter; e) provide legal counseling in relation to the making of the deed; f) make deed related to land; or g) create a deed minutes of auction." The notary fulfills a public function in the sense that he provides legal certainty and security into the legal structure of society (Noailly & Nahuis, 2010).

In addition to the authority referred to in paragraph (1) and paragraph (2), Notary has other authority regulated in legislation. When associated with Article 1 Stbl. No. 1860 Number 3 concerning the Notary of Registration or the Regulation of Notary Public, it is stated that: A notary is the sole general official authorized to issue an authentic deed of all acts, treaties and determinations required by a general rule or by an interested party desired to be declared in an authentic deed to guarantee the certainty of the date, preserve the deed, and grant the grosse, a copy of the honorarium in recognition of the services rendered.

One of the notary authorities that will be presented in this paper is to approve the photocopy suitability with the original

letter, especially is, in this case, the identity card (*KTP*). A *KTP* is the ultimate identity card for carrying out almost every legal act and currently falsification of identity cards is frequent, committed by people who have no goodwill. These cases can be seen in, for example:

- A. Online news online Tribunnews.com entitled "Lurah Benarkan John Use Fake ID Card for Land Sale and Purchase¹, *KTP*, Family Register (*KK*), and the deed of selling an old woman Triharti, who allegedly faked by the defendant John to sell his property land. In fact, John allegedly presents a "fake" grandmother Triharti when making a sale and purchase agreement. "
- B. other online news "*Berbekal Identitas Palsu, Berhasil Rebut Sertifikat Tanah*"² - Azis Husin, with a fake ID card, obtained a copy of the deed of sale and purchase agreement then used for lawsuit in the Denpasar District Court.

From these phenomena, the rampant fraud of *KTP* can be seen, which are done by the community, which indirectly affect the service of Notary since one of the objects in validating the suitability of photocopy of *KTP* is to check the original. This may be sounding simple but ID cards, including *KTP*, have an absolute role for legal subjects to prove the validity of the treatment of a legal act. The subject of law is the holder of rights and obligations under the law. In everyday life, the subject of law in the Indonesian legal system, which is certainly originated from the legal system of the Netherlands, is the individual (person) and legal entity (company, organization, institution). Since the subject is a person, the proof on it is done through self identity checking, namely ID card. *KTP* is an official identity recognized by the state as a proof of residence in the country. The issuance of a *KTP* is only executed by authorized institutions and its implementation applicable in all regions within one country. Hence, the role of *KTP* is very important. However, the role of notaries in exercising their authority is to legalize the photocopy of the *KTP*. Is the notary responsible for if in the future the *KTP* that has been legalized and used as the basis of certain legal acts, such as registration of land transfer rights turn out to be a fake

ID card? So far, the extent of the notary's responsibilities and how the role of notary in implementing the legalization of *KTP* is still discussed with a very limited literature.

With the verification of necessity, misuse of personal data is prevented and transparency is gained regarding the institutions with authorization to access and their data protection authorities (Hornung & Roßnagel, 2010). Implementing the electronic identity card at national level brings major benefits from the national security and fight against terrorism points of view and improves the Government to Citizen electronic services (Cernian et al., 2012).

According to Roeslan Saleh, in the book "*Sistem Pertanggungjawaban Pidana*", criminal liability is defined as continuing an objective censure of a criminal act and subjectively qualifies to be punished for doing so³. The meaning of objective censure is the act perpetrated by a person is indeed a prohibited act. The indicator is that the act is against the law either in the sense of breaking the formal law or against the material law while subjective refutation refers to the person doing the prohibited act⁴. The connection with this paper is that a falsification of important papers is prohibited under the Criminal Code. Thus, if a notary actively and actively acknowledges that an ID that is to be photocopied for legal validity is false; in this theory the notary is criminally responsible for his conduct.

Philipus M. Hadjon states that basically the legal protection includes preventive protections aimed at preventing the occurrence of disputes, which direct the government's actions to be cautious in decision-making based on authority. In this case, the notary as a public official must be careful in carrying out his duties of office based on the authority given by the State to him to issue an authentic deed to ensure legal certainty for the community. The relationship with this study is the notary as a state official must be able to know the original or not of a *KTP*; if the notary knows clearly that the *KTP* visibly resembles a genuine ID card but does not know the opposite; in this theory the notary obtains legal protection. Legal protection for consumers includes any effort to ensure legal certainty for

1. Ahmad Sabran, This article has been aired on Wartakotalive under the title John Benarkan John Use Fake IDs For Sale and Purchase Land, <http://wartakota.tribunnews.com/2015/08/19/lurah-benarkan-john-gunakan-ktp-palsu-untuk-jual-beli-tanah>.
2. www.beritabali.com, accessed on May 7, 2018
3. Hanafi Amrani, Mahrus Ali, 2015, *Sistem Pertanggungjawaban Pidana*, PT Raja Grafindo, Jakarta, P.20.
4. *Ibid*, P.21

consumers (Barkatullah, 2018).

Legal Protection shall be provided based on provisions and rules of law that serve to provide justice and become a means to realize the welfare for all people⁵. Legal protection is a protection provided to legal subjects in the form of legal instruments preventive and repressive, written and unwritten⁶. In other words, legal protection is an illustration of the legal function that law can provide justice, order, certainty, usefulness and peace. Notary as a general official in carrying out his/her position needs to be given legal protection. Legal protection under consideration includes:

According to Kelsen, law is a system of norms. Norms include rules about what should be done. Laws that contain general rules serve as guidelines for individuals behaving in a society. The existence of rules and their implementation raises legal certainty⁷. Legal certainty can be said to be fulfilled when a regulation is made and enacted in order to clearly regulate, in the sense that there is no doubt (multiple interpretations); and logical, in the sense of mutual correlation between norms with other norms so as not to collide or cause conflict of norm inflicted.

Building on the above elaborated facts, legal issues to be examined in this study are the function legalization of copy of Identity Card according to original by notary and liability of notary of document copy of identity card compatible with the function original.

2. METHOD

This is a study of normative type which deals with the articles articles and substance of legal provisions. Thus, conceptual and statute approaches to legislation were used in designing the study. The data were collected by interviewing notaries and a number of Notary office in Bali. Legal theories used are the theory of legal certainty, legal protection, and legal accountability. Data were analyzed and presented using qualitative descriptive.

3. DISCUSSION

A. FUNCTION OF LEGALIZING THE COPY OF KTP UNDER THE ORIGINAL BY THE NOTARY

Law of the Republic of Indonesia

Number 23 Year 2006 concerning Population Administration, explains that the population is only allowed to have 1 (one) ID that contains Single Identification Number (*NIK*). *NIK* is the sole identity of every resident which is valid for 5 years for Indonesian citizens and is adjusted with the validity period of permanent residency for foreigners. The provision has been amended to Law No. 24 of 2013 on Population Administration, which explains, "The population is only allowed to have 1 (one) ID that contains Single Identification Number (*NIK*)."
NIK is the sole identity of every resident that applies for life for Indonesian citizens and adapted to the validity period of permanent residency for foreigners' *NIK* in electronic ID card (*e-KTP*) will be used as the basis for the issuance of Passport, Driver's License, Taxpayer Identification Number (*NPWP*) Insurance Policy, Certificate of Land Rights and issuance of other identity documents. It is sometimes thought that a person's 'real' name and their identity consist of the name which they were registered at birth (Bohm & Mason, 2010).

ID cards serve as national self-identity, so local ID cards for permit arrangements, Bank account opening, Creation of the accuracy of population data to support development programs, proves that a person's skills are no longer required. Status of a person, such as maturity, full name, photo and marital status can be seen on the data shown on the ID card; whether someone who is in willingness to commit a legal act is married or not; whether to require the permission of the married couple or not. Age maturity is crucial to know one's ability to enter into an agreement that is a requirement for legalization. In other words, it becomes a requirement for the validity of an engagement stipulated in Article 1320 BW which becomes the principal instrument for conducting a legal relationship.

In Section 1320, it is stated that the conditions to be met in order for the legalization of an engagement are:

1. Agreement between those who want to bind themselves (*de toesteming van degenen die zich verbinden*)
2. Skills to create engagement (*de bekwaamheid om eene verbintenis aan te gaan*)
3. A certain thing (*een bepaald onderwerp*)

5. Satjipto Raharjo, 2000, *Ilmu Hukum*, PT Citra Aditya Bakti, Bandung, p. 53.

6. Philipus M. Hadjon, *Op.cit*, p. 2.

7. Peter Mahmud Marzuki, 2008, *Pengantar Ilmu Hukum*, Kencana, Jakarta, p. 158.

4. An allowable cause (*eene geoorloofde oorzaak*)

From the explanation of the above article, it can be seen that an agreement is said to be valid if there is a skill. Skills are conditions in which a person is legally deemed worthy to perform a legal act. One of them can be seen in the ID card is the age that shows the maturity of a person. A person's skills as a person are measured by age, that is, an adult or have sufficient age⁸. Based on Article 330 BW jo 1330, adulthood is 21 years old, whereas pursuant to Article 47 jo 50 of Law Number 1 Year 1974 concerning Adult Marriage is 18 years. In addition to having an age maturity, the ability to perform legal acts by a person is also an absolute requirement, for example, a husband can not perform legal acts, such as selling land owned without the consent of his wife, and vice versa for his wife. This can be seen on the status within the ID card whether the perpetrator of legal action has been married or not. When a legal practitioner is married, his property and his wife's estate is one unless there is an agreement in his marriage. From the fact, *KTP* is very important in knowing the status of a person because it is the basis in determining whether or not the person is fit to perform a legal act.

Since the status of *KTP* is very important in performing a legal act, legalization on the authenticity of the photocopy is often entrusted in the notary's office because the notary is an official entrusted for it pursuant to Article 15 of *UUJN*. This is done with the aim of avoiding the falsification of the *KTP* that would be used to perform a certain legal act. However, there is no special arrangement to determine whether a notary must check the authenticity of the ID card given to him or accept it without questioning its authenticity. This is evidenced by the absence of a notary's authority to be regulated according to the laws and regulations, including on the practice habits, the authenticity of the data given to the notary is not done. What the notary receives in its original form is what the notary deems authentic. Then what if a copy of a legalized ID is such that it becomes the basis for an act that is prohibited by law, such as fraud or other crimes. In fact, a notary is a figure expected by the community to help convince the authenticity of a *KTP* document but the notary does not have

the authority to conduct further examination related to the authenticity of the ID card itself. This is evidenced by the requirements required to legalize an identity card in a notary is to carry the ID card without requiring information from the Civil Registry showing the validity of the ID card.

B. FUNCTION OF LEGALIZATION ON THE COPY OF KTP UNDER THE ORIGINAL

Legalization refers to documents/ letters made under the hands of the parties concerned⁹ for it signed in the presence of a notary after the document is read by the notary concerned. Legalization by notary is divided into two types, namely legalization with signatures and legalization with the reading of identity as well as signature. In legalization executed only by signature, the notary does not read the contents of the documents/letters to the parties and aims just to ensure the authenticity of a document given to him. However, the regulation of this kind of legalization is still very difficult to find either in the literature or the legislation regarding the procedures and requirements. Legalization that is read out aims to validate the signatures along with dates made by the parties in order to be sufficiently strong evidence. Based on the analogy principle, legalization with the signing of tau by not reading the file should also aim to ensure that the document received by the notary to be legalized is the original document in accordance with the copy. Given the many cases of ID card fraud, the notary has an important role to avoid the falsification of copies of ID cards that are not under the origin.

However, the actions taken by a notary in checking the authenticity of the data in the ID card, as illustrated earlier, are not able to make the authenticity absolutely secure, especially since the current adoption of a lifetime ID card usage, e-ID card, is already under way. This condition makes periodic renewals to update the data themselves in the ID card is no longer needed. Thus, what if a person who commits a legal act with a guaranteed by *KTP*, previously unmarried, ultimately marries or changes his name, address and residence? The Notary is not authorized or required to perform data checks of any legal actor in the civil registry office to ensure the accuracy. Copies of documents

8. Agus Yudha Hernoko, *Hukum Perjanjian Asas Proporsionalitas dalam Kontrak Komersial*, Kencana, 2014, p.184.

9. Oemar moechtar, *Dasar-Dasar Teknik Pembuatan Akta*, Airlangga University Press, 2017, p.168.

through the photocopier cannot provide information on authenticity based on their original form. Therefore, the notary must be granted the power or authority to check the authenticity of the data provided to him / her. It is advisable because the legalization of the *KTP* is required when performing a rights act, such as registration of land to the national land office and when committing other legal acts, including when applying for deposits at the bank.

C. AUTHORITIES OF A NOTARY IN LEGALIZING THE COPY OF A KTP UNDER THE ORIGINAL

In Article 1 paragraph 1 of the UUJN stated: "Notary is a public official authorized to make an authentic deed and has other authority as referred to in this Act or referred to in other laws." Basically a legalized form of a document is used to ensure the certainty of existing data with the assistance of authorized officials, one of which in Article 15 UUJN is the notary. The authority referred to in Article 1 paragraph (1) mentioned above is clearly described in Article 15 of the UUJN, which states that:

1. "Notary is authorized to make an authentic deed of all deeds, agreements and statutes required by the legislation and/or desired by interested parties to be declared in an authentic deed, guaranteeing the date of making the deed, preserving the deed, granting the copy, all of which executed during the issuance of such deeds are not also assigned or excluded to any other official or other person as defined by law."
2. Notary also has the authority to "a) endorse the signature and establish the certainty of the date of the letter under the hand by registering in a special book; b) record the letters under the hand by registering in a special book; c) make copies of the original letters under the hand in the form of copies containing the description as written and illustrated in the corresponding letter; d) to approve the photocopy suitability with the original letter; e) provide legal counseling in relation to the making of the deed; f) make deed related to land; or g. to make a deed of minutes of auction."

One of the authorities of the notary is to approve the photocopy of each

document in its original form. Endorsement is a process, a method, an act of endorsement, legal recognition, inauguration, justification¹⁰. This means the notary has the authority to declare by law that a copy of the document is in accordance with the original. Notary is entrusted to state the truth about the document. Thus, a notary is like an investigator who has the authority to perform material checks on the truth of the data provided to him. Then how the accountability of a notary when the data provided to him turned out to be false, such as data in an identity card?

1. Notary also has the authority to "a) endorse the signature and establish the certainty of the date of the letter under the hand by registering in a special book; b) record the letters under the hand by registering in a special book; c) make copies of the original letters under the hand in the form of copies containing the description as written and illustrated in the corresponding letter; d) to approve the photocopy suitability with the original letter; e) provide legal counseling in relation to the making of the deed; f) make deed related to land; or g. to make a deed of minutes of auction."

D. PROCEDURES OF LEGALIZING THE COPY OF A KTP UNDER THE ORIGINAL AT THE NOTARY OFFICE

In an interview with notaries in several notary offices, it is said that there are several things that are needed to prove the originality of a photocopy of ID cards related to the legalization as follows:

1. Showing the Original Identity Card and not a photograph, a scanned form, or a photocopy.
2. The identity card is must be the original.
3. If the name contained in the *KTP* is not the name of the appearer concerned, he must bring a power of attorney obtained from the owner of the name in the ID.
4. Come to the notary's office¹¹.

E. NOTARY'S LIABILITY TOWARD LEGALIZATION ORIGINALITY OF THE COPY OF A KTP UNDER THE ORIGINAL

Notary is a position entrusted, which is an extension of the reach of the state to provide services in performing certain legal

10. <https://kbbi.kata.web.id/pengesahan/> accessed on May 24, 2018

11. Notary Hendry Prambakat Wirasasmita, Notary in Denpasar City, the interview was conducted on May 5, 2018.

acts in the civil or private law. Since it is a state assistant from the state, the notary has a great responsibility to the task it carries. Responsibility is a condition that makes a person obligated to bear a certain result which is the embodiment of self-consciousness to bear a certain deed. Liability by a notary can be seen from three sides: civil liability, moral liability, and criminal liability. From these responsibilities there are sanctions that can be imposed if not properly covered.

1. Moral Liability

The regulation of the morality of a notary shall be governed by a Notary Code of Ethics, which is valid as long as the notary delivers duties based on the position held, both in daily life and when performing his duties at the office or in his or her working area. This moral is the embodiment of good morality where the contents of the code of ethics is to set or give certain restrictions to notaries in behaving.

In the interview with notaries in several notaries and analytical offices based on the analogy principle, the function of the legalization of *KTP* is to provide legal certainty that explains that *KTP* is a *KTP* in accordance with the original so that based on it a legal act can be done. Correspondingly, to be able to recognize the authenticity of a copy of the ID during the legalization process, the appearer is asked to show its original form. If the ID card shown is not original but only in the form of photocopy, scan, or photo, the notary must morally refuse to legalize it. This is set out implicitly in Article 3 paragraph 1 of the Code of Conduct of the Indonesian Notary Association which reads: "Notary acts honestly, independently, impartially, full of responsibility, and acts under the laws and contents of the oath of Notary office." This is the same case if a *KTP* is not brought by the person whose name is listed in the ID card, the appearer is asked to show the power of attorney from the original owner to do the legalization process. Thus the notary will not get in trouble in the future if the ID card turned out to be a fake or a stolen ID card because the notary. The notary is expected to have an attitude of impartiality in the legalization of *KTP*. If the notary deliberately legalizes the identity card without checking the original form or legalizing the ID card which is not shown by the owner of the name contained therein without the Power of Attorney, the notary has committed a

violation and dishonesty in performing its obligations and may be given a sanction based on the notary Code of Conduct. Sanctions that may be imposed on a notary who ignores the rules of the notary Code of Conduct set forth in Article 6, which include:

- a. Admonition;
- b. Warning;
- c. Schorsing (temporary dismissal) of the Association membership;
- d. Onzetting of the membership of the Society;
- e. Dismissal with disrespect from membership of the Society."

2. Civil Liability

Generally on the civil liability, if the notary does a mistake that harms the other party in which case a notary intentionally legalize the copy of ID card that is not in accordance with the original used to perform a legal act, the notary can be held for civil liability by indemnifying the party concerned. It is false with the legalization of a fake ID card that the legal engagement or acts committed becomes invalid or null and void, and of course this causes harm to others involved in the said engagement. Therefore, disadvantaged may hold the account of the notary in question as a result of an act which is not based on the rules governing the implementation of its obligations or it is known as an act against the law.

a. The act against the law

Acts committed against the law of the law. Elements against the law are defined in a broad sense, thus encompassing Acts in violation of the Act. In article 16, paragraph 1 (a) toward Notary's office, in running his position, a notary must be honest, independent, thorough, impartial, and keep the interest of related parties in legal action. This means that in the law it is expressly stated that a notary must be honest and impartial. The implication is that there are clients who do not carry the original documents or bring false documents to request legalization, a notary must reject them. In such a situation, if the notary disregards the rule, it can be said to have violated the notary law by not being honest and impartial.

b. Faults

This error can be measured objectively and subjectively. Objectively it must be proved that in such circumstances normal

human beings may suspect the possibility of a consequence and this possibility will prevent the human being from doing or not doing. Subjectally, it should be observed whether the mistake maker is based on the expertise he possesses or does not actually have an awareness of the consequences of his actions¹².

Based on the persuasion in the form of subjectivity and objectivity, if a notary does not accept the original ID card but to do the legalization, it is a fault because one should have wide insight and suspicion considering there are many forgery of ID card that happened. Hence, if an original *KTP* has been shown to a notary and has been legalized but later known to be a fake ID, the notary does not make a mistake in terms of objective or subjective terms because the notary does not have the authority of an investigator in the case of authenticating the data material given to him.

c. A loss

In Article 1365 of the Civil Code it is said: "Any unlawful act, which carries harm to another person, obliges the person who because of his misrule to issue the loss is liable for damages".

Furthermore, in Article 1366 of the Civil Code, it is stated: "Everyone shall be responsible not only for the loss caused by his actions but also for the harm caused by his negligence or lack of caution".

d. Relationship of Causality between Faults and Losses

Causal relationships can be seen from the consequences of mistakes made by a notary, such as the legalization of a fake ID card used as the basis for land registration in the Land Office resulting in third party loss or loss of rights to the land. If a notary knows that the ID is a fake but does legalize it, or legalize an unauthentic *KTP*, he/she can be said to be the cause of the loss incurred.

e. Indemnifying

It is stated in Article 1246 of the Civil Code there are three kinds of compensation that can be filed by the plaintiff against the official, ie cost, loss and interest.

Regarding the accountability of officials according to Kranenburg and Vegtig there are two theories underlying, namely:

1) *Fautes personalles* theory, which is a

theory that states that third party losses are imposed on officials whose consequences from his actions cause harm. In this theory the burden of responsibility is directed to the human as a person;

2) *Fautes de service* theory, which is the theory that losses to third parties are addressed or charged to the agency or agency from which the official comes from. This theory shows that responsibility is charged to officials. In doing so, the imposition of responsibility must be made by reviewing how wrong the officer made. Because big and small an error also affects the responsibility that must be borne by the perpetrator¹³.

On the basis of the above stated facts, if the notary is found guilty of an act against the law, he personally shall be held liable by compensating for the losses suffered and the responsibilities of his position of that of a notary who may be a dismissal from the post.

3. Criminal Liability

Notary in performing duties based on his/her position is not only responsible morally or civil, but also can be criminally liable if found to be committing an act unlawfully committed as a person or as an official act something that indicates criminal. The regulation on the criminal liability of the notary office is characterized by a review of whether in performing its obligations the notary performs an act which has an indication of a criminal act or not. In the event that a Notary is legalizing a fake ID, he or she is deemed to be more understanding and aware that the function of the Legalization on a copy of the Identity Card is to legally guarantee that the legalized copy is indeed the same or in accordance with the original ID. If a notary deliberately authorizes a copy he or she knows to be a fraudulent one, he or she may be said to intend to assist in counterfeiting. This is prohibited in the Indonesian Criminal Code Article 55 (also contributes to) and Article 56 of the Criminal Code (KUHP) (helping to undertake):

In Article 55 of the Criminal Code it is stated:

"(1) Convicted of a criminal offense; The person who commits, commands, or contributes to the act; Persons who by

12. Purwahid Patrik, *Dasar-Dasar Hukum Perikatan*, Mandar Maju, Bandung, 1994, p. 82

13. Ridwan H.R, *Hukum Administrasi Negara*, Raja Grafindo Persada, Jakarta, 2006, p 335-337.

giving, covenant, misuse of power or influence, violence, threat or trickery or by giving opportunity, effort or explanation, intentionally persuade to do any deeds."

Article 56 of the Criminal Code reads:

"Convicted of helping a criminal:

- a. Whoever deliberately helped do the crime;
- b. Whoever deliberately provides an opportunity, effort, or information to commit the crime"

R. Soesilo in his book entitled "*Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal*" explains what is meant by "*medepleger*" in Article 55 of the Criminal Code. According to R. Soesilo, "taking part" means "to do together". In the concept of this phrase, there must be at least two people, the person who did (*pleger*) and the person who participated (*medepleger*) criminal events. Here it is requested that the two persons do the act of execution, so they do anasir or element of the event of a certain crime. In this case, it is not permissible to do only the preparatory work or the meritorious acts, for if so, the helpful person does not include the "*medepleger*" but is punished as a "*meditlichtige*" in Article 56 of the Criminal Code¹⁴.

A Notary may be sought in a criminal offense if he has done a legalization of an ID card that is not in accordance with the original given to him or if legalizing a *KTP* clearly known by him/her that the ID is false. However, if the *KTP* looks like the original and the notary does not know that the ID is false, when it has been legislated the notary cannot be held criminally liable if in the future the ID card is proved to be a fake but has been used to commit the act against the law.

4. CONCLUSION

Sanctions in the form of liability of a notary for legalizing documents, such as ID cards that are not in accordance with the original can be given morally, civil and criminal. Sanctions with civil liability are generally granted if a notary is found guilty of harming others such as deliberately legalizing an incorrect *KTP* which is actually used to commit a particular legal act that harms the other party. Therefore, the notary concerned may be held accountable for civil liability by compensating for losses suffered. This

is because the legalization of a fake ID card involves a legal engagement or deed done to be invalid or null and void, so that the consequences of the cancellation of such an action by law are detrimental to the other party. A notary has a moral responsibility regulated by a Notary Code of Ethics that applies as long as a notary delays office duties as a notary both in his or her daily life and when performing his/her duty at the office/working area. This moral is the embodiment of good morals where the contents of the code of ethics is to set or impose certain restrictions to the notary in behaving. In the event that the identity card identification is a fake or not in accordance with the original but legalized, the notarial morally can be held responsible for having acted dishonestly as stipulated in the Notary's Code of Conduct, and the most severe sanctions may be a dismissal from a notary or a notary public.

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Informants

Notaris Hendry Prambakat Wirasasmita, Notary/PPAT in Denpasar City, the interview was conducted on May 5, 2018.

Notaris Richard Yeri Puriatma, Notary/PPAT in Badung, wawancara dilakukan the interview was conducted on May 5, 2018.

Notaris I Ketut Wirata, Notary/PPAT in Badung, the interview was conducted on May 5, 2018.