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## The Liability of Criminal Law towards a Notary Official in the Crime of Embezzlement at the Denpasar District Court

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### Abstract

This study aims to investigate three issues namely the legal consequences of Criminal Acts against Victims of Misappropriated Crimes by a Notary Officer, the factors cause a Notary Officer to commit a Criminal Act in the Legal District of the Denpasar District Court and the qualifications of criminal acts, responsibilities and formulations Criminal system for the perpetrators of embezzlement by a notary at the Denpasar District Court. The method used is Normative Juridical collaboration method with Empirical Juridical. The techniques of data collection is interview. The results show that criminal law consequences of perpetrators and victims of embezzlement crimes by a notary officer is that the perpetrators must be held accountable for their actions legally, whereas victims who suffer losses due to criminal acts are processed to be given criminal sanctions through the criminal justice process at the Denpasar District Court. Then, factors causing crime that are internal and external factors. There are some external factors, namely residence factor, economic factor, political factor and legal system factor. Furthermore, the forms of embezzlement are included in the forms/qualifications of types of non-violent acts, embezzlement criminal responsibility is an individual criminal liability not a legal entity, the system of punishment against perpetrators of embezzlement is the application of criminal law sanctions through the criminal justice process so that against the crime of embezzlement convicted of committing sanctions in the form of imprisonment and fines.

**Keywords:** Criminal Law Liability; District Court; Notary

### 1. INTRODUCTION

The philosophical basis for the existence of a Notary is listed in the consideration considering Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary, one of the considerations determines that: "Notary as a public official who runs the profession in providing legal services to the public, needs to be protected and guaranteed in order to achieve legal certainty". The philosophy of appointing a Notary Public General, namely providing protection and guarantees for the

achievement of legal certainty. Legal protection is an effort to provide a sense of security to a Notary Public so that a Notary can properly exercise his authority. In addition, the philosophy of appointing a notary public officer is to provide legal certainty, order and legal protection for every citizen who uses his services.

The juridical basis as regulated in the politics of forming legislation through the law making process, namely Article 15 paragraph (1) of Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning Notary Position,

determines " The notary is authorized to make an authentic deed, regarding all deeds, agreements, and provisions required by legislation and / or that is desired by the interested parties to be stated in an authentic deed, guaranteeing the certainty of the date of making the deed, storing data, providing grosses, copies and quotations deeds, all of them as long as the making of the deeds are not also assigned or excluded to other officials or other people determined by law ".

Sociologically the regulation regarding the position of Notary is set forth in the form of a law because there are quite a number of problems that befall the Notary in carrying out his authority, such as being sued civilly or being reported criminally before Law Enforcement officials by the parties or by the public in general. With this problem, the notary needs to get legal protection, from the state set forth in the law, but empirical facts say differently by referring to the principle of equality before the law, all people / citizens are equal before the law. That is immune to the law, so when there are parties who feel aggrieved by the issuance of a notarial deed, they can find justice and certainty as well as legal benefits through litigation (the Court).

Authentic deed as written evidence that has perfect evidence strength is not uncommon to be the object of criminal cases in court, because in fact it turns out that the deed-making official was made by a notary official based on the will or ill-intention intentionally asking for money from his client but the deed was not done temporarily the client's money has been used by a notary against those who are facing the notary official, so that the deed which should be a perfect proof of a legal act carried out by the parties will become legally flawed, or result in null and void because only funds which is spent but the act is not done by a notary official.

In summary, the case is illustrated by a Notary Officer using client money by cheating / embezzling his client's money, the Notary must be accountable for these legal actions in the criminal law aspects as happened in the case of embezzlement of

money by a Notary Officer, Agus Satototo, S.H. It turns out that the Land Purchase document was not completed but the client's funds had been used by the Notary Officer.

The author identifies all the problems of obscurity of legal norms (unclear legal norm) relating to the actions of every person / legal entity both ordinary people in general / Officials who because of their position abuse the power or anyone commits a crime either a General / Special criminal offense when examined from the research method approach Juridical-Normative, the politics of formulation of Criminal sanctions when examined from the legal substance there is still a blurring of legal norms because of its arrangements both in the formulation of Books II and III of the Criminal Code as well as the formulation of criminal provisions in the criminal provisions of several Laws Specifically outside the Criminal Code the threat of minimum punishment is not formulated, so that the formulation does not reflect the truth, justice, certainty and legal benefits for victims, perpetrators and society in general as the ultimate goal of the Law is to realize justice and legal certainty. Based on the description above, this present study discusses three issues, namely what are the legal consequences of the Criminal Act on a Perpetrators and Victims of Darkening Crimes by a Notary Officer, What factors cause a notary official to commit a criminal offense in the jurisdiction of the Denpasar District Court and What are the qualifications of criminal offenses, responsibilities and formulations of the Criminal system against the perpetrators of embezzlement by a notary at the Denpasar District Court.

## **2. METHOD**

The method used in this study is Mix Method, which is collaboration of the Juridical-Normative Research Method and the Juridical-Empirical research method because when examined empirically there are factors that cause a person to commit a crime besides factors outside the law as well as legal factors namely because there are vague legal norms in the formulation criminal sanctions provide a loophole for

perpetrators to commit crimes. The techniques of data collection used is interview. Therefore, in this study tried to find an alternative solution in solving juridical and empirical problems.

### **3. RESULTS AND DISCUSSION**

#### ***Criminal law Consequences of Perpetrators and Victims of Embezzlement of a Criminal Act by a Notary Official***

The results of research in the Denpasar District Court by outlining a sample Criminal case Number: 300 / Pid.B / 2015 / PN. The Criminal Acts that occurred were: that the defendant Agus Satoto, S.H., M.Hum, on; January 3, 2012 or at other times at least in January 2012 or at least in 2012, located at the Notary Defendant's Office on Jln. Raya Batubulan, Gianyar Bali, then based on Article 185 of the Criminal Procedure Code of the Denpasar District Court has the authority to prosecute because the witnesses domiciled more in the Denpasar District Court area, intentionally and unlawfully owning goods which have the whole or a part of someone else's possession, but those in his authority not because of a crime which is done in a summary manner, namely "whereas around April 2011 the Procurement Agency, which is now PT. Pegadaian intends to buy land in the Gianyar jurisdiction and the parties agree to make a Purchase Deed before the Notary Agus Satoto, SH, M.Hum, all administrative and financial completeness including the Notary services have been paid but until the Defendant is submitted before the Court of Defense the Defendant does not complete the letter letters related to the sale and purchase of the land so that PT. The procurement felt disadvantaged and proceeded with the Defendant before the Denpasar District Court."

The defendant's actions were proven so that based on the consideration of the Panel of Judges before passing the verdict it was necessary to consider matters that

incriminated the defendant and lightened the defendant:

Incriminating matters:

- The defendant's actions as a Notary did not fulfill the obligation in completing the payment to issue the certificate;
- The defendant's actions harmed other people / PT. Procurement Lightening things
- The defendant was polite in the trial and finished his actions;
- The defendant has never been convicted;
- The defendant is the backbone of the family;
- The defendant paid IDR. 114,500,000 (one hundred fourteen million five hundred thousand rupiah) for the tax on the acquisition of land and building rights (BPHTB) on the date; November 12, 2014

In view of Article 372 of the Indonesian Criminal Code, as well as the Criminal Procedure Code and the relevant laws and regulations, the defendant Agus Sattoto, S.H., M.Hum has been legally and convincingly proven to have carried out a "Dark" Crime. That the defendant's actions caused the victim to suffer losses according to an interview with witness G. Firsya Yudistira works in Procurement, the legal department states, "The process of buying and selling transactions has been carried out at Notary Agus Satoto, S.H., M.Hum on the date; January 3, 2012, until the case is processed until the Certificate Court is not finished, then before the defendant's buying and selling process has provided details of the buying and selling process costs as follows: SSB / BPHTB / purchase tax of IDR. 114,500,000, - the cost of obtaining a certificate and transfer of name is IDR. 6,500,000, - Notary fee of IDR. 23,500,000, - Notarial Deed 3 fee of IDR. 3,500,000, - blank and stamp service fees of IDR. 1,000,000 total cost of IDR. 149,000,000

(one hundred forty nine million rupiah) and the payment is paid."

Based on the aspect of proof, according to G.A. Firsya Yudistira proof of a letter in the form of a payment receipt has been transferred through the BCA Bank KCP Teuku Umar account on behalf of the defendant (Agus Satoto, S.H., M.H.), Who paid Mr. DIJONO as regional leader representing PT. Pawnshop.

Based on the example of the embezzlement case that has been proven to be carried out by a Notary Officer in the jurisdiction of the Denpasar District Court, the legal consequences of the perpetrators are the perpetrators convicted in prison because of the criminal conduct of the defendant against the victim, the victim has suffered a material loss of IDR. 149,000,000 and morale in the form of mental illness despite all the evidence ordered to remain attached in the case file and ordered to be returned to the victim, but the time, energy, expenses, thoughts have been wasted, so that legally due to acts of perpetrators harming the victims incarcerated and fined.

With regard to the discussion of the legal consequences of the defendant's actions, they analyzed using a knife analysis using the theory of Justice, John Rawls concerning the principle of Rule of law. Rawls (1995) stated that the role of justice as the main policy in social institutions, as is the truth in systems of thought. A theory, however elegant and economical, must be rejected or revised if it is not true, so is law and institutions, no matter how efficient and neat, must be reformed or abolished if they are unfair and Legal Certainty Theory according to Van Kan states that the law is in charge of guaranteeing legal certainty in human association, therefore every perpetrator found guilty must be punished for justice and legal certainty. Interview with Notary I Made Priya Darsana, SH, MKn that for every Notary official who commits a criminal offense must be subject to punishment, so as a result of the actions of

a Notary official who is proven to violate the law must be punished according to the applicable provisions

### ***Factors that cause a Notary Officer to carry out the Crime of Embezzlement in the Denpasar District Court***

Crimes in the form of a series of crimes are read in terms of the philosophy of science, so researchers look at the aspect of ontologism that "crime is basically a series of actions carried out by everyone since birth because humans are basically born with the nature and basic characteristics of innate evil / good or good / evil, in Balinese Hindu philosophy known (*Rua Bineda*) ", so crime is an anti-social act and contrary to good norms of religious, social and legal norms. Sahetapy JE (1982) writes that "crime is nothing but a mere investment imposed by the government as the ruling party which in its implementation is imposed on the shoulders of the judge to provide an assessment / consideration of whether an issue raised to him is a criminal offense or not.

Soesilo (2013) distinguishes the notion of "Crime in terms of Juridical and Sociological". Judged in terms of the definition of crime is an act / behavior that is contrary to the law ". The juridical understanding emphasizes that in order to be able to judge whether the act is contrary to the law, the regulations and laws must be formed / formulated first, before the existence of a criminal act, other than to prevent arbitrary actions from the authorities, also in order to provide justice, expediency, and legal certainty.

The principle in criminal law is referred to as "*Nullum de lictum nulla poena siane proviea lege*", as the character of criminal law is known as the principle of legality, as referred to in Article 1 of the Code Penal (KUHP) specifies: "No act may be subject to punishment other than based on statutory provisions that have been formed previously ". Examples of juridical formation /

formulation, Article 372 of the Criminal Code prescribes: "Anyone who intentionally and unlawfully possesses goods which are wholly or partly owned by others and that are not due to crime are punishable for embezzlement with a maximum of four years in prison or a maximum fine or as much as IDR. 900,-. Other juridical factors are referring to the legal system theory according to Friedman (2001) about "Legal System Theory" there are 3 (three) legal system factors namely Legal Structure, Legal Substance and Legal Culture.

Based on the theory as a supporter of the theory of justice and legal certainty, the formulation of the provisions of Article 372 contains the formulation of injustice, and legal uncertainty because from the aspect of the legal substance element there is a formulation of article 372 of the Criminal Code there is a blurring of legal norms according to the formula "... punish forever, not at a minimum ... and maximum, maximum fines ... not minimum ... and maximum ... "then it is unfair if anyone who is proven unlawfully violates the provisions of both the perpetrators who harm victims hundreds of millions, billions and trillions of rupiah the same as the perpetrators who harm victims as much IDR. 900, -. Up to tens of millions of rupiah, in terms of legal certainty in the formulation of these provisions there is no found the minimum sentence but the maximum sentence formulation.

Based on the understanding of crime in the aspects of philosophy, science, juridical and sociological, the factors causing crime include: Regional, Innate Factors, Environmental Factors, Economic Factors, Social Factors, Politic Factors, Legal Factors (legal structure, legal considerations and legal culture).

The legal system theory (legal system) from law expert Lawrence M. Friedman is used to analyze the factors causing the perpetrators of embezzlement as regulated in Article 372 of Code Penal because in terms

of legal structure, legal substance and legal culture, each criminal act is structurally structured / hierarchically processed. Law enforcement agencies start from the Police, the Attorney General's Office and the Court. The theoretical argument shows that one of the factors inhibiting law enforcement against the perpetrators of embezzlement is every person or legal entity including a notary public officer because the legal sanctions are minimal or mild.

### ***Qualification of Types / forms of Criminal Acts and Responsibilities and Formulation of the System of Criminal Acts against Perpetrators of Misappropriation by a Notary at the Denpasar District Court***

The form of qualifications in the form of types of criminal offenses in Indonesia is explained that the types of distribution of criminal acts are divided into violations, namely the actions of the perpetrators of intentional criminal acts and crimes, namely the actions of the perpetrators of deliberate criminal acts. According to the system of the Criminal Code (abbreviated KUHP) is divided into crime (*misdriven*) and violations (*overtredingen*). The division into these two types, is not clearly determined in a KUHP article but has been considered as such, and it turns out among other things from Articles 4, 5, 39, 45 and 53 first book. Book II regulates Crimes and Book III regulates Violations. Article 4 of the Indonesian Criminal Code stipulates that "every person, both an Indonesian citizen and a foreign national who commits a crime as intended in this article, even though outside Indonesian territory, may be subject to Indonesian criminal provisions".

Moeljatno (2008) writes that, in the Criminal Code, it divides into two types. First the crime in Dutch is *rechtsdelicten*, which is an act even though it is not specified in the law, as a criminal act, but has been perceived as an act that is contrary to law.

Second, violations in Dutch (*wetsdelicten*), namely acts that are illegal in nature can only be known after there is a law that regulates such. Moreover he said that, aside from the general nature that criminal threats for crime are more severe than violations, it can be said that:

1. Criminal imprisonment is only threatened by crime.
2. If facing a crime then the form of error (intentional or negligence) needed there, must be proven by the Prosecutor, whereas if facing a violation it is not necessary. Related to this crime is also distinguished in crimes that are *dolus* and *culpa*.
3. Attempts to commit violations cannot be convicted (Article 54). Also assistance in an offense is not punished (Article 60).
4. The period of expiry, both for the right to determine and the right to carry out the criminal for violations is shorter than the crime is one year and two years, respectively.
5. In the case of *concursum*, the method of punishment is different for violation and crime. Easy criminal accumulation is easier than serious crime (Articles 65, 66, 70) (Moeljatno, 2008).

Description of qualifications / types of criminal acts that distinguish violations in the form of intentional acts and crimes in the form of intentional acts, according to Moeljatno, in relation to embezzlement, *culpa* is not regulated but *dolus* is regulated in Article 372 of the Criminal Code. Qualification of crime and violation of criminal sanctions against perpetrators of embezzlement in Bali is very necessary because the application of criminal sanctions is not only through criminal penal confinement, imprisonment and fines but there are minimum and maximum penalties, while criminal sanctions are imposed on perpetrators who are proven negligent and intentional (*culpa and dolus*) violates the

Law. Researchers note that in addition to qualifying other types of crimes in the form of crimes committed intentionally (*dolus*) and accidentally (*culpa*), in the development of criminal law Nahak writes that criminal acts are divided into 3 forms, structured crime (by structure/ system), circumstances (by accident), and needs (by need). In addition, criminal acts are divided into 2 forms, including:

1. Acts of Violence: depriving others of their freedom until death, rape, theft by violence, mugging, torture, destruction, terrorism, etc.
2. Non-violent acts: counterfeiting, fraud, embezzlement, corruption, drugs, theft, money laundering, bribery, etc.

In this study the perpetrators of embezzlement, including non-violence, were directly interviewed by the Denpasar District Court judge Mr. I Wayan Sukanila, S.H., M.H. that the crime of non-violence in the form of embezzlement in the Denpasar District Court is quite high because in addition to being carried out by the public in general it is also widely carried out by public officials including several Notaries in the form of money embezzlement, document embezzlement and fraud.

Criminal Responsibility and formulation of the Criminal system against the culprits of embezzlement by a notary at the Denpasar District Court. Researchers view that in general there are 2 (two) types of legal subjects that are legally accounted for namely; Individual legal subjects and Legal Entity subjects.

Individual legal liability and legal entity subject both in the scope of civil law liability in the form of compensation through liability, administrative liability through administrative sanctions in the form of dismissal, business closure, cancellation of decision of the State Administration Officer, fines and accountability to officials as well as criminal liability.

The author notes that specifically criminal law there are 2 (two) types of legal responsibilities namely:

1. Individual criminal liability
2. Legal responsibility in legal form.

Based on the description, individual criminal liability is a very basic responsibility, which means that for every person who commits a criminal act in the form of a series of general / special criminal acts and is inherent in it. Individual criminal liability today in the Indonesian Criminal Code still uses criminal law liability individually because in the substance of the Criminal Code only regulates "whoever commits a criminal act..." whoever is referred to in the Criminal Code is "every person / individual not a legal entity" . The responsibility of criminal law individually in the Criminal Code is based on the principle of personality or the national principle actively rests on the citizenship of the offender. Indonesian criminal law follows its citizens wherever they are. This principle is like a backpack / hanging bag attached to the back of every person who is an Indonesian citizen wherever he travels. This principle is regulated in Article 5 of the Criminal Code specifies: "Criminal provisions in the laws of the Republic of Indonesia apply to Indonesian citizens who commit crimes outside the territory of Indonesia". Liability for legal subjects in the Darkening Crimes as a General Criminal Act, namely individual legal liability to a Notary who is proven to have committed a Darkening Crime can be divided into several stages, namely: The first stage, in the process of investigation and investigation as a suspect, where a person before being investigated is always asked one of them age and condition of physical and spiritual health, physical health and no mental disorders, is there a health disorder, this is where criminal liability begins to be examined what he do the criminal act which is formulated in the Official Report of the Examination (abbreviated BAP) which is the responsibility of a person as a suspect, in the

Official Report of this Examination is very vulnerable for every person suspected or suspected of committing a crime then before answering the question of the investigator (Police, The Prosecutor's Office, Civil Servant Investigator / PPNS), must first truly, understand, understand the rights as a suspect. Article 117 of the Criminal Procedure Code (abbreviated as KUHAP) determines:

1. Information of the suspect and / or witness to the investigator is given without pressure from anyone and or in any form;
2. In the event that the suspect provides information about what he has actually done in connection with the criminal act alleged to him, the investigator records in the Minutes as precisely as possible in accordance with the words used by the suspect himself.

Sukinto (2012) said that "it is very prone to be concerned about suspects and witnesses, that investigators often act in making the BAP not refer to the words used by the suspect and witnesses themselves, but rather the words of the investigator in question so that the case is in accordance with the wishes of the investigator, so that it is matched with the elements of the article that are intended to be charged in order to be charged with criminal law, in the case that the case is not a criminal case. On the other hand in the investigation process a suspect has a responsibility to be cooperative and must be present every time an investigation call is made by the investigator to conduct an examination in order to make light of the alleged criminal event that has occurred."

Second Stage: Responsibility of legal subjects in the Judicial Process as the Defendant is always required to be present in every trial, the Judge always asks before the start of the trial always asks the defendant's identity as formal requirements

namely: Name, Date of Birth, Age, Residence, Occupation, Gender, Nationality and religion (Pedoman Teknis, 2008).

The judge also questioned the health condition on the day of the trial, before the hearing continued, so that if the defendant's condition was in good health then the trial of the defendant's case was followed by a criminal case charged by the defendant, this process occurred if the defendant was not detained, but if the defendant was held responsible bring the defendant to the Public Prosecutor (abbreviated JPU), if the defendant is not present at the trial there must be an appropriate legal reason. In the trial the defendant's responsibility must answer if there are any questions, or the defendant's right to deny. Article 17 paragraph (1) and paragraph (2) of the Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power (State Gazette of the Republic of Indonesia of 2009, Number 157 and Supplement to the State Gazette of the Republic of Indonesia Number 5076) specifies "A person's right to deny in the trial process".

Stage Three: The responsibility of the criminal law subject as a Convicted, after being found guilty by a Judge, the Judge will impose a verdict, in the ruling a person who is proven guilty and convincingly is sentenced to imprisonment within a certain time and accompanied by a fine to be paid, and if an unpaid fine is replaced with a subordinate sentence, which is a substitute penalty if not paying the fine according to Article 30 paragraph (1), (2), (3), (4), (5) and (6) of the Code Penal determine: (1) A fine of at least twenty-five cents (2) If a fine is imposed, and the fine is not paid, then it is replaced with a sentence of imprisonment (KUHP 41) (3) The length of the substitute confinement sentence is at least one day and up to six months (KUHP 80-2) (4) In a judge's decision, it is determined that for a fine of half a rupiah or less, the length of imprisonment in lieu of the fine is one day, for fines greater than that, then for each half

of the rupiah replaced no more than one day, and for the rest that is not enough half a rupiah, how long is one day (KUHP 97) (5) The sentence of imprisonment may be up to eight months, in which case the maximum fine is increased, because of the number of crimes committed, because of repeated crimes or because of the things specified in Article 52 (6) The sentence must never exceed eight months (KUHP, 68-2, 70-2).

Description of the three stages of responsibility of individual legal subjects, the government issues funds sourced from the State Revenue Budget (abbreviated APBN). Whereas if the individual legal subject is not processed according to these stages to be responsible before going through the three stages of the legal process as regulated in the Criminal Procedure Code described above, then the individual legal subject in this case a Notary official will flee before being processed by law, and leave the goods / assets that are the object of the case are confiscated for the state. Moeljatno (2008) wrote the notion "responsibility in criminal law is whether in carrying out this act he has a mistake? Because the principle of accountability in criminal law is that it cannot be convicted if there are no mistakes (*geen straf zonder schuld; actus non facit reum nisi mens sir rea*).

Hans Kelsen in Jimly Asshiddiqie's writings that the definition of accountability in law can be distinguished, namely: "Culpability and absolute liability, a concept related to law with the concept of legal liability is the concept of responsibility (liability), a person said to be legally responsible for a particular act is he may be subject to a sanction in cases of acts against the law. Normally in the case of sanctions imposed on the *deliquent* because of his own actions that make the person must be responsible. In this case the subject of responsibility and the subject of legal obligations are the same. According to traditional theory there are 2 (two) types of



responsibilities that are distinguished namely:

1. Liability based on fault;
2. Absolute responsibility.

Primitive law sees that the relationship between actions and their effects has no psychological qualifications. Whether an action has been anticipated or taken with the intent of causing an effect or not is irrelevant. It is enough that his actions have had the effect that the legislator declared as harmful, which meant showing an external relationship between the act and its effect. There is no need for the mental attitude of the offender and the effects of these actions. Such accountability is called absolute liability. The latest legal techniques require a difference between the case that an individual action has been planned and intended for certain effects of the act and the case when an individual's actions carry harmful effects without being planned or intended so by the perpetrator. The idea of individual justice requires that a sanction must be given an individual action only if the harmful effects of an action have been planned and the intention so by the individual perpetrators, and the intention is prohibited. Consequences that legislators consider harmful may be intentionally carried out by individuals without the intention of harming other individuals. For example, a child might kill his father who is not recovering with the aim of stopping his suffering. So the intention of the child over the death of his father is not a prohibited act (malicious).

The principle of giving sanctions to an individual's actions only because the results of the act have been planned and with the wrong intention is not fully accepted in modern law. Individuals are legally responsible not only if objectively harmful effects are carried out forbidden, but also because the actions have been intended even without wrong intentions, or if the consequences occur without the intention or planned by the individual perpetrators, but

the sanctions may differ in different cases different. A mental attitude *delinquent*, or called *men rea*, is an element of offense. This element is called fault receipt (in the broadest sense it is called *dolus* or *culpa*). When sanctions are imposed only on offenses with psychological qualifications this is referred to as responsibility based on fault (responsibility based on fault or culpability).

The theory used as a legal argument (legal reasoning) with a knife analysis uses the theory of the penal system in the form of a combined theory, namely the theory of the punishment system (punishment) also intends to correct people who have committed crimes, called the theory of reparation (*verbeterings theorie*), in addition there is also an opinion that says that the basis of the sentence is retaliation but other intentions (prevention, fear, maintain, maintain order of shared life, improve the people who have done, should not be ignored, this theory is called the combined theory (Soesilo, 2013). Furthermore, the legal certainty theory also used according to Van Kan states that the law is tasked with ensuring the existence of legal certainty in human relations (Utrecht & Jindang, 1989). Furthermore stated: "Legal capacity is the instrument of a State that is able to guarantee the rights and obligations of every citizen. The legal capacity is divided into two types, namely: 1) legal certainty, namely the law guarantees certainty between one party against another party, meaning that there is consistency in the application of law to all people indiscriminately, and, 2) certainty in or from the law This means that legal certainty is achieved if the law is as much as possible by law, there are no conflicting provisions (laws based on legal and certain systems), made based on legal reality (*rechtswerkelijkheid*) and there are no terms that can be interpreted differently (closed) (Manullung, 2007).

The theory of legal protection according to Hadjon (2007) Preventive legal protection

for prevention and repressive aims to resolve disputes. Thus, the handling of legal protection for the people by the general court in Indonesia is included in the category of repressive legal protection.

Criminal legal protection according to Nahak (2019) wrote "legal protection in the form of legal certainty of the rights and obligations of witnesses, victims and perpetrators of a general crime or special crime, non-criminal in the form of mediation of penalties that always maintain the relationship between the perpetrators and the victims of the relationship between the perpetrators and victims the perpetrator's family and the victim's family. Preemptive, and Preventive, namely handling crime outside the judicial process.

In the form of penal repressive measures, namely the application of criminal law through the judicial process. Based on the description of some of the theories, the combined Joint Criminal system theory is used against the perpetrators of embezzlement by a Notary official because his actions have been proven to be processed and threatened with repressive criminal penalties by applying the provisions of Article 372 of the Criminal Code through the criminal justice system in the Denpasar District Court. Criminal responsibility in this case research is the responsibility of individuals who have been convicted in accordance with the chronology of events based on the principle of *tempus delicti* and location of the case / *locus delicti* as described in the sub-chapter due to the legal conduct of the defendant above, then based on the decision of the Denpasar District Criminal Court Number: 300 / Pid.B / 2015 / PN. Dps with the verdict as described below: In view of Article 372 of the Indonesian Criminal Code, as well as the Criminal Procedure Code and the relevant laws and regulations, the defendant Agus Sattoto, S.H., M.Hum has been legally and convincingly proven to have carried out a "Dark" Crime PUNISH 1. Declaring

Defendant Agus Sattoto, S.H., M.Hum, has been proven legally and convincingly to have committed the "Darkening" Criminal Act 2. Dropping the criminal offense against the defendant Agus Satoto, SHMHum with imprisonment for 6 (six) months provided that the defendant does not need to be served by the defendant except for a period of 10 (ten) months there is another order in the decision of a judge who has a permanent legal power of the Defendant proven to have committed a crime 3. Stating evidence is confiscated to be returned to the victim. Based on the description of the ruling on the perpetrators of embezzlement by Agus Satoto, S.H., M.Hum as a notary official, the criminal responsibility is the individual responsibility and the criminal sanctions imposed are imprisonment and fines. Criminal sanctions and criminal sanctions are in accordance with Article 10 of the Criminal Code, which is a basic sentence in the form of a physical sentence (prison) and a fine in the form of an order ordered by the Panel of Judges against the defendant to carry out imprisonment and criminal fines.

#### **4. CONCLUSION**

Based on the research results above, the researcher concludes that Criminal law Consequences of Perpetrators and Victims of embezzlement Crimes by a Notary Officer is that the perpetrators must be held accountable for their actions legally, whereas victims who suffer losses due to criminal acts are processed to be given criminal sanctions through the criminal justice process at the Denpasar District Court. Then, factors causing crime, among others, internal factors because in humans from birth to adulthood to old age still have good innate traits and evil, in addition there are external factors, namely factors of the area of residence, economic factors due to the need for food and clothing, patterns luxury living, social factors influencing high social status, political factors due to political pressure to seize power by all means, and legal system factors, for each criminal act

processed structurally/institutional hierarchy of law enforcement agencies starting with the police, prosecutors and the court. As a substance there are inhibiting factors from the aspect of the legal substance there is a blurring of legal norms, the formulation of the substance with the longest imprisonment or the most fines proves that the evidence is vague because there is injustice and legal uncertainty by not including the shortest imprisonment and the least fine, so it becomes inhibiting factors of law enforcement against perpetrators of embezzlement by a public official because of the sanctions and minimal penalties. Meanwhile, in terms of legal culture, namely bribery towards law enforcers, both perpetrators, advocates or perpetrators' families are involved. Furthermore, the forms of embezzlement are included in the forms/qualifications of types of non-violent acts, embezzlement criminal responsibility is an individual criminal liability not a legal entity, the system of punishment against perpetrators of embezzlement is the application of criminal law sanctions through the criminal justice process so that against the crime of embezzlement convicted of committing sanctions in the form of imprisonment and fines.

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