



Legal Review of Donation-Based Crowdfunding Arrangements in Indonesia

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Article Info	Abstract
Corresponding Author: wandilaiya35@gmail.com History: Submitted: 01-01-2023 Revised: 18-01-2026 Accepted: 18-01-2026 Keyword: Crowdfunding; Donation-Based Crowdfunding; Legal Protection; Legal Responsibility; Online Fundraising.  Copyright ©2026 by Wandilaiya All writings published in this journal are personal views of the authors and do not represent the views of the Estudiante Law Journal.	Online fundraising through donation-based crowdfunding has grown rapidly in Indonesia, but the misappropriation of donations by the Aksi Cepat Tanggap foundation exposed the weakness of the governing rules. This article examines the legal arrangements for the donation-based crowdfunding system under Indonesian positive law and the legal responsibility of online fundraisers operating that system. The study uses normative legal research with a statutory approach; legal materials were collected through documentary study of legislation, journals and books and were analysed qualitatively. The study finds that Indonesia already has regulatory instruments for the collection of donations, namely Law Number 9 of 1961, Government Regulation Number 29 of 1980 and Regulation of the Minister of Social Affairs Number 11 of 2015, but that these instruments regulate licensing and administration only and do not fully guarantee legal protection for donors, because the form and mechanism of enforcement against the suspected misuse of donated funds remain unclear. Legal responsibility currently extends no further than the obligation of foundations to submit audited annual financial statements.

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1. Introduction

The development of technology gave rise to the diversity of digital media in this internet era. Various media converge can be used for various purposes, one of which is for fundraising or *crowdfunding activities*. Media convergence allows for the rapid participation of large audiences in *crowdfunding* activities without geographical distance constraints. Effectiveness and efficiency in participating are very necessary, especially when faced with the Covid-19 pandemic that has hit Indonesia today demanding the government to focus more on fulfilling the right to health, as well as the right to a better life as a form of fulfilling the human rights of its citizens. The rights of citizens correspond to the obligations of the state, which take three forms: to respect, to protect and to fulfil.¹

One of the things that are present in today's era is online *fundraising*, which is online funding which is usually used for entrepreneurs who are looking for external funding. Funding activities involving this website can be called *crowdfunding*. The term *crowdfunding* derives from *crowdsourcing*. Within the Indonesian legal order there is no regulation that specifically governs *crowdfunding* activities, so that the potential for disputes cannot be properly anticipated. Now, *crowdfunding* is mostly done by entrepreneurs in the creative economy to raise funds.²

The Financial Services Authority (OJK) has so far grouped crowdfunding into 4 (four) types, namely *equity-based crowdfunding* (based on capital or share ownership), *lending-based crowdfunding* (based on credit or debt receivables), *reward-based crowdfunding*, and *donation-based crowdfunding* (which is donation-based).³ In this discussion, we will focus on the *donation-based crowdfunding* system.

Disbursement of funds in Indonesia itself is generally driven by charitable organizations or NGOs (Non-Governmental Organizations). The method used is a traditional method, for example by raising funds directly face-to-face. But now it is driven by *the technique of donation-based crowdfunding*, which is online fundraising, be it a website or application-based. Several institutions in Indonesia have used *donation-based crowdfunding* techniques, such as *kitabisa.com*, *benihbaik.com*, *wecare.id* and the ACT (Aksi Cepat Tanggap) Foundation.⁴

Indonesia itself already has regulatory instruments for donation collection activities, namely Law Number 9 of 1961 concerning the Collection of Money or Goods, and Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection. Especially for online donation collection activities, it must comply with the Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 11 of

¹ Mustika, Septiani, and Mellisa (2021), "*The State 's Responsibility in Fulfilling Human Rights during the COVID-19 Pandemic*" 592, 113.

² Safira Hasna and Irwansyah(2019), "*Pengaruh Inovasi Crowdfunding Terhadap Keputusan Berdonasi.*" 10, no. 2, 146.

³ Hariyani and Serfiyani (2015), "*Perlindungan Hukum Sistem Donation Based Crowdfunding Pada Pendanaan Industri Kreatif Di Indonesia.*" 12, no. 4, Hal 4.

⁴ Nurhadi and Irwansyah (2018), "*Crownfunding Sebagai Konstruksi Sosial Teknologi Dan Media Baru*" 2, no. 2, 2.

2015 concerning Standard Operating Procedures for Free Lottery Permit Services with Prizes and Collection of Money or Goods with an Online System, as amended by Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 22 of 2015. To protect donors, online donation collection activities must also be subject to the provisions in Law Number 8 of 1999 concerning Consumer Protection. However, in reality, the existence of regulations as mentioned above has not been able to fully guarantee legal responsibility for online *fundraising* for the *donation-based crowdfunding* system considering that there are still unclear rules regarding the form of business entities or the legality of establishing institutions/organizations to be able to operate legally. It is necessary to first ascertain the legality of the establishment of the organization that carries out the online-based collection of donations.

Some *platforms* are established in the form of legal entities of the Foundation, so their establishment is subject to Law Number 16 of 2001 concerning Foundations as amended by Law Number 28 of 2004, but seen in PP No. 29 of 1980 concerning the Implementation of Donation Collection article 3 paragraph (1) states that "the effort to collect donations is carried out by organizations and voluntarily without direct and indirect coercion". Law Number 9 of 1961 and PP Number 29 of 1980 in this case do not explicitly mention the form of business entities or organizations that are allowed to carry out money donation collection activities.

The above proves the need for a progressive legal presence, because the presence of progressive law is not something coincidental, not something born without cause, nor is it something that falls from the sky. Progressive law is part of a process of *searching for the truth* that does not stop. Progressive law, which can be viewed as a concept that is seeking identity, departs from the empirical reality of legal work in society, in the form of dissatisfaction and concern for the performance and quality of law enforcement.⁵

In addition to the legality of the business of *crowdfunding* site managers who carry out community fundraising as mentioned above, various things must be considered, namely the amount of the levy that can be used by fundraising organizers for development costs and the form of responsibility for fundraising organizers.

Based on a search of online donation websites, these *platforms* are supported by a Limited Liability Company for technology development. Regarding the collection of online-based donation fees, foundations, organizations, or limited liability companies (parties organizing fundraisers) are only allowed to collect 5%-10% of the funds obtained for technology development.⁶

The reality is that in the field some *fundraising* organizers take more levies than they should, such as the case of the ACT (Rapid Response Action) which led to their recognition, they used 13.5% of the funds for company operations and other purposes. In addition, they also do not provide transparency reports and publications for the public to know, which is contrary to article 23 of the Minister of Social Affairs Regulation Number

⁵ Faisal, *Menerobos Positivisme Hukum*. (Jakarta:Gramata Publishing, 2018), 99.

⁶ Peraturan Pemerintah Nomor 29 Tahun 1980 Tentang Pelaksanaan Pengumpulan Sumbangan.

8 of 2021 concerning the Implementation of Collection or Goods which states that "The public can supervise the implementation of PUB by the provisions of laws and regulations." As well as article 26 paragraph 2 letter b of the Minister of Social Affairs Regulation Number 8 of 2021 states that collections above IDR 500,000,000.00 (five hundred million rupiahs) must be reported through the audit documents of the public accountant to the supervisor. In this case, it includes the public if it refers to article 23 of the Regulation of the Minister of Social Affairs Number 8 of 2021.⁷⁸ Based on the things above, it can be seen that there is a difference between implementation and existing concepts. Thus, the author is interested in raising a study on the Legal review of the regulation of the donation-based crowdfunding system in Indonesia.

2. Method

In this study, this study uses normative legal research. Normative research focuses on the study of legal norms as well as juridical reviews. This normative legal research uses a *statute approach*, examining all laws and regulations related to the legal issues being handled. Data collection techniques are carried out through literature studies carried out by analyzing legislation, journals, and reading books and other sources that are directly related to existing problems. To analyze the data collected from literature searches, the study uses qualitative juridical analysis.

3. Legal Arrangements for the Donation-Based Crowdfunding System under Indonesian Positive Law

Until now, there are several *Online Donation Based Crowdfunding* arrangements in the Indonesian Legal System. In this section, the author will describe the arrangements for fund-raising activities, both direct/general fundraising and online fundraising in Indonesia. Some of the regulations that must be considered include :

3.1. Law Number 9 of 1961 concerning the Collection of Money or Goods

This law is the main rule of a general nature regarding the activity of collecting money or goods. The scope of this rule is for fundraising activities by conventional methods, without involving Internet technologies. According to Article 2 of Law Number 9 of 1961, the legality of organizing the collection of donations must be based on the existence of permission from authorized officials, except for activities to collect money or goods required by religious law, customary law and customs, or those organized in, a limited environment.

According to Article 4 paragraph (1) of this Law regarding the granting of permits, officials who are authorized to grant permits for the collection of money or goods are the Minister of Social Affairs for the scope of foreign affairs to the entire territory of the

⁷ Hantoro (2022), "This is the Fact of the ACT Case Journey Until the Top Brass Becomes a Suspect.", *Tempo.co*, July. Available at: <https://nasional.tempo.co/read/1615828/ini-fakta-perjalanan-kasus-act-hingga-petinggi-jadi-tersangka>. Retrieved 10 August 2022.

⁸ "Regulation of the Minister of Social Affairs Number 8 of 2021 concerning the Implementation of Collection or Goods".

country, the Governor for the scope of the entire province, and the Regent/Mayor for the scope of the entire district/city area. Article 8 paragraph (1) of this law threatens criminal sanctions for implementers of unlicensed money or goods collection activities, with imprisonment for a period of 3 (three) months or a fine of up to IDR 10,000 (ten thousand rupiah).⁹

Behind the very high concern and enthusiasm of the community in helping others, there is still joint homework that must be completed by stakeholders related to money and goods collection activities, namely the revision of Law Number 9 of 1961 concerning the Collection of Money or Goods which increasingly feels incompatible with the development and needs of the times, according to the author, Law Number 9 of 1961 concerning the Collection of Money or Goods must be revised because is no longer relevant to the current situation, this follows a case of misappropriation of funds by the Philanthropy of Aksi Cepat Tanggap (ACT) institution, this is momentum to, revise Law Number 9 of 1961. Revisions to this arrangement are necessary because they have a different nature and atmosphere to the current conditions.

According to the author, the sanctions regulated in Law Number 9 of 1961 are too light so they are irrelevant to current conditions. The issuance of a new law must have been preceded by a need, especially since 1961 has been too long and now it is 2022, meaning that new regulations are urgently needed as a complement to fill the shortcomings by following the pattern of symptoms that exist in society as the time's change. In the current era, the Law on the Collection of Money or Goods promulgated in 1961 must be reviewed because of existing and various donation collection institutions, such as the Indonesian Red Cross, the National Amil Zakat Agency, and others that were previously unborn and now exist, Similarly, the conditions and procedures for the formation of its institutions considering that in fund-raising activities, especially those from the community, there needs to be strict management because The responsibility is public accountability, therefore, the Law on the Collection of Money or Goods must be aligned with current conditions, if the revision to Law Number 9 of 1961 concerning the Collection of Money or Goods is implemented, the issue of licensing needs to be emphasized.

Licensing remains necessary because the presence of the country is not to hinder but at least to monitor the direction of the use of the collection of funds in question. Do not let the funds be used for negative things, money, and goods collection activities at least with the knowledge or permission of the regional leadership. According to the author, this does not mean intervention but a form of openness and accountability that the state is present so that if there is a problem, it can be addressed or supervised so as not to deviate from the purpose of using the funds concerned.

3.2. Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection

This regulation is an implementing regulation of Law Number 9 of 1961 concerning the Collection of Money or Goods. According to Article 1 number 3 of this PP, the collection

⁹ Undang - Undang Nomor 9 Tahun 1961 tentang Pengumpulan Uang atau Barang.

of donations is an effort to get money or goods for development in the fields of social welfare, mental/religious / spirituality, physical affairs, education, and cultural fields. According to Article 6 of this PP, the implementer of donation collection activities is allowed to deduct the proceeds of donation income as much as 10% (ten percent) of the proceeds from the collection of donations concerned. The author argues that the rule justifies the collection of fees, so it is quite possible to make a profit from fund-raising activities.

This Government Regulation regulates, a Decree relating to a donation collection permit that is determined for a maximum period of 3 (three) months and can be extended 1 (one) time for a maximum period of one (one) month. To protect donors and to achieve order, donation collection activities should be monitored. According to Article 13 of this PP, supervision of granting permits is the responsibility of the Minister. Article 14 paragraphs (1) and (2) give an obligation to the permit holder/organizer of the collection of donations, to account for the use of donations collected to the approver. The permitting officer shall make periodic reports to the Minister.

In the event of an action that gives rise to potential deviations, according to Article 18, efforts will be made to regulate with preventive and repressive measures. And according to Article 20, duties in the field of supervision are carried out by employees of the Ministry of Social Affairs. Irregularities in the use of funds that meet the elements of a criminal offense will be further processed by the Investigator.

According to the author of Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection, it is no longer compatible because so far the regulation does not have a clause that states that it must provide budget transparency to the public, especially since this transparency clause is important so that the public can know how charitable institutions such as the ACT, Kitabisa, Yappika, and others carry out audits conducted by public accountants on fund management and parties who cooperate with the institution in this regard that transparency needs to be carried out by charities related to the distribution of funds collected.

The audit report is one of the proofs that the charity is carrying out transparency, such as the purpose of using funds for the relief of victims of natural disasters in an area. In addition, charities must also include proof of symbolic handover of assistance both online and offline assistance to local governments or community representatives. The government must also make efforts to revise this regulatory arrangement because it only prioritizes regulatory aspects, or has not reached aspects, such as the target of disbursement of funds collected, the revision of PP No. 29 of 1980 also needs to be directed at the transparency aspect of the distribution target of public funds that have been collected by charitable institutions because the current regulations are many public fund collection institutions in the name of humanity.

3.3. Regulation of the Minister of Social Affairs Number 11 of 2015 on Standard Operating Procedures for Online Collection of Money or Goods

This regulation is a complementary regulation to the pre-existing regulations that specifically regulate the activities of Collecting Money or Goods with an online system

and regulate the implementation of licensing in an administrative, coaching, and supervisory manner. Based on Article 19 of the Permensos, guidance, and supervision are carried out by the Central Government, Provincial Governments, and District/City Governments to ensure that the activities carried out are by the permits granted and to prevent irregularities. The government must also conduct monitoring to find out any irregularities. In addition to the active role of the government, community participation is needed in the context of monitoring donation collection activities.

As a form of transparency and accountability, each organizer must submit a report on the results of the collection of funds, provided that the PUB organizer submits a report on the implementation to the Minister of Social Affairs through echelon II officials in charge of PUB implementation affairs by uploading: (1) details and amount of collection results; (2) details of aid distribution; (3) a statement of absolute responsibility; (4) the audit report of a public accountant for collections above IDR 500,000,000.00 (five hundred million rupiah); and (5) documentation of the implementation of the distribution.

The above provisions govern the principles and technicalities of online donation collection activities. Fundraising activities from the community cannot be viewed as just an activity that is in the realm of private law alone. Government participation is needed in terms of supervision

Based on the research conducted on the rules and regulations described above, the author observes, some things need to be considered in connection with the arrangement for collecting donations online, including:

1. Regarding the legality of institutions/organizations that carry out online donation collection activities.
2. Regarding the enforcement process in the event of irregularities in donation collection activities.

On the basis of the rules set out above, the further action to be taken after provincial and district or city governments submit complaints to the Central Government, have not been explicitly regulated so this is contrary to the concept of legal certainty theory as well as to legal protection theory.

If refers to the above theory regarding the absence of explicit rules for further action after provincial governments and district/city local governments make complaints to the Central Government, not fulfilling the concept of legal protection for preventive and repressive government actions as a necessity of the nature of the law which should be predictive and anticipatory. This is because according to the author, there is a vagueness of existing rules and policies, in fact, contrary to the provision that the existing rules should aim to prevent disputes from occurring, which directs the government's actions to be careful in the formulation of rules and decision-making based on discretion, as well as resolving disputes, including handling them in the government to the judiciary.

Based on the description of the findings above, the author concludes that there have been legal arrangements related to the *donation-based crowdfunding system according to Indonesia's positive law*. In the form of Law Number 9 of 1961 concerning the Collection of Money or

Goods and Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection and Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 11 of 2015 concerning PUB and UGB.

The two basic regulations above only regulate the bureaucratic and licensing system, there are no rules regarding accountability and sanctions in case of fraud or misappropriation and misuse of funds. It is seen that the shortcomings in the above legal instruments are not in line with the concept of protection and legal certainty. So to realize justice and legal certainty. The author argues that it is very necessary to make clearer arrangements and detail and strengthen sanctions through the revision of the Law in legal arrangements related to ¹⁰*the donation-based crowdfunding system* according to Indonesia's positive law.

In addition, according to the author's observation of the Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 11 of 2015 concerning PUB and UGB, related to Guidance and Supervision, the Government appears to have been negligent in the case of Aksi Cepat Tanggap (ACT), where this organisation consistently received an unqualified audit opinion (*wajar tanpa pengecualian*, WTP), which is difficult to reconcile with the facts of the case; an unqualified opinion therefore does not mean that an institution is free from corruption, collusion and nepotism.

The Constitution stipulates that Indonesia is a state based on law, as provided in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. In a state based on law, the law has a fundamental role in the life of the nation and the state, which means that the law must display its role as a central point in the entire life of individual people as well as the life of the nation and state.¹¹

Now that Indonesia has entered an era of reform in all fields including the field of law, the empowerment of the legal field is an absolute thing. because from what we already know together the constitution has clearly outlined that Indonesia is a country of law, not a country based solely on power. It is therefore appropriate that the present reforms be directed towards legal reform, that is, towards reviewing the body of the law and correcting what is deficient or excessive in it.¹²

4. Legal Responsibility for Online Fundraising under the Donation-Based Crowdfunding System in Indonesian Positive Law

All sources of funds derived from public funds must be transparent in their management and accountability. Moreover, the funds come from almsgiving. The responsibility of the fund is a responsibility to Allah SWT, and also a responsibility to the community that provides the funds, The concept of real responsibility does not only concern the law but

¹⁰ Ramadhan (2022), "BNPT Proposes Revision of the Law on Collecting Money to Prevent Misappropriation to Terrorists." *Detiknews*, July. Available at: <https://news.detik.com/berita/d-6168946/bnpt-usul-revisi-uu-pengumpulan-uang-demi-cegah-penyelewengan-ke-teroris>. Retrieved 10 August 2022.

¹¹ Ahmad Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (2020): 785.

¹² Abdussamad (2010), "Kebijakan Hukum Menuju Sistem Hukum Nasional." Vol. 7, no. 3, 5.

also concerns the question of moral values or general decency adopted by a society or groups in society, this is done so that the accountability is addressed by fulfilling justice.¹³

According to the author, fundraising conducted online against the *donation-based crowdfunding* system that is widely carried out by fundraising *platform* organizers in Indonesia forms a legal entity, namely a foundation in raising funds that are *socially oriented*. Provisions regarding foundations are regulated in Law No.28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations.

Article 1 number 1 states that: " A foundation is a legal entity consisting of segregated wealth and intended to achieve certain goals in the social, religious, and humanitarian spheres, which have no members. The Foundation shall submit its annual report which is regulated in articles 48 to 52, in article 48 states that "Article 48 (1) The Management shall make and keep records or writings containing information about rights and obligations and other matters relating to the business activities of the Foundation. (2) In addition to the obligations as referred to in paragraph (1) the Management shall create and maintain financial documents of the Foundation in the form of bookkeeping evidence and supporting data for financial administration."¹⁴ So that all financial transactions carried out by the foundation management are required to make books and keep all evidence in carrying out the Foundation's business activities.

Article 49 explains that (1) within a period of no later than 5 (five) months from the date the Foundation's financial year closes, the Board shall prepare an annual report in writing containing at least: a. a report on the state and activities of the Foundation during the past financial year and the results achieved; b. financial statements consisting of statements of financial position at the end of the period, statements of activity, statements of cash flows, and notes of financial statements. (2) If the Foundation enters into a transaction with another party that gives rise to rights and obligations for the Foundation, the transaction shall be included in the annual report.

Article 50 explains that paragraphs 1 and 3 explain that the annual report is signed by the management and supervisors by the provisions of the articles of association, and ratified by the meeting of trustees. And if the annual report is untrue, or misleading, then the administrators and supervisors are responsibly responsible for the aggrieved party, this is regulated in article 51. The foundation's annual report should be posted on the notice board at the foundation's office, to provide financial transparency that can be seen by the public, and if a foundation is in this case. obtaining assistance from the state or other parties in the amount of ≥IDR 500 million in one financial year, or having a wealth outside the waqf property of ≥IDR 20 billion. An overview of the foundation's financial statements must be announced in the Indonesian-language daily newspaper. The financial statements must also be audited by a public accountant, and for the results of the audit to be submitted to the foundation trustees and their copy to the Minister of Law and Human

¹³ Mahrus, "Sistem Pertanggung Jawaban Pidana.", Cetakan pertama, (Jakarta: Rajawali Pers, 2015), hlm 16.

¹⁴ "Undang-Undang No.28 Tahun 2004 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2001 Tentang Yayasan".

Rights and related agencies, some of these things are regulated in article 52 of the Foundation Law.¹⁵

If it is related to the theory of legal liability by Sugeng Istanto which states that liability means the obligation to provide answers which is a calculation of all things that occur and the obligation to provide recovery for losses that may be caused,¹⁶ if it is attributed to the subject of existing law, a form of criminal liability by the agency with corporate actions in the form of expropriation by the state of all assets of the ACT foundation including money that flowing to administrators and family members and redistributing to credible humanitarian agencies transparently to people in need, according to the author, the above provisions are a form of accountability of the foundation to the public in carrying out social activities. This refers to the provisions for fundraising carried out by the organizers and *campaigners* in the form of a foundation legal entity, which must submit an annual report as a form of calculation which is regulated in Law No.28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations.

There are several related provisions regarding the legal liability of online fundraising to the *donation-based crowdfunding* system in Indonesia's positive law as follows:

1. Law No. 9 of 1961 on the collection of money or goods
2. Government Regulation No. 29 of 1980 concerning the executor of donations.
3. Regulation of the Minister of Social Affairs No. 11 of 2015 concerning PUB and UGB

The provisions of the articles above, regulate the principles and technicalities of online donation collection activities. Fundraising activities from the community cannot be viewed as just an activity that is in the realm of private law alone. The government's participation is needed in terms of the necessary supervision because the law enforcement process in Indonesia seems to be facing obstacles related to the development of society that occurs. Various cases illustrate the difficulty of law enforcement finding ways to make the law appear to be in line with societal norms.

Several cases have come to the fore because they are a type of crime with a new technique and *modus operandi*. The condition of Indonesian society and the applicable criminal law have led to the emergence of ambiguous attitudes. This attitude is an attitude that can be taken so that the two interests can be protected without having to leave each other. Pitlo's view is that a statute as a whole contains hundreds of thousands of sentences. The meaning and thoughts behind the sentence aim to meet needs that often contradict each other. Often an outdated law still has to be applied to a new, completely different situation.¹⁷

According to the author, the legal responsibility of online fundraising to the *donation-based crowdfunding* system according to Indonesian positive law is a form of the consequence of the collection of funds from each individual carried out online by the *platform* organizers

¹⁵ Pasal 52 Undang-undang No.28 Tahun 2004 tentang Yayasan.

¹⁶ Istanto, "International Law Cet.2." (Atma Jaya University Yogyakarta, Yogyakarta, 2014), p. 41.

¹⁷ Dalimunthe, Puluhulawa, and Wantu(2021), "Peradilan Pidana Di Masa Yang Akan Datang ' Design Of The Criminal Prosecution In A Criminal Jurisdiction System In The Coming Time." Vol. 1, no. 1, 2.

entrusted to the organizers to distribute the donations. So that there is a need for rules regarding criminal sanctions or administrative sanctions given to platform organizers, fundraisers (*Campaigners*), or donors in the event of misuse of donations, and this case, the platform organizers must be carried out in a Participatory, Transparent, and Accountable manner. For this reason, the *platform* organizers are required to submit their financial statements periodically to be audited by public accountants, these reports can be easily known by each individual who donates.

The transparency of financial statements must be conveyed to the public through the website, and the link containing the results of the report must be easily accessible to the public. Legal protection for donors / prospective donors can be fulfilled with the support of cooperation and community participation in terms of supervision, according to Lili Rasjidi and I. B. Wyasa Putra argue that the law can be used to realize protection that is not only adaptive and flexible but also predictive and anticipatory.¹⁸ Sunaryati Hartono said that the law is needed for those who are weak and not yet strong socially, economically, and politically to obtain social justice.¹⁹

Gustav Radbruch said legal certainty is "*Sicherheit des Rechts selbst*" (legal certainty about the law itself). Four things have a relationship with the meaning of legal certainty, including That the law is positive, which means that the law is legislation (*gesetzliches Recht*), the Law is based on facts (*Tatsachen*), and the Positive law should not be changed frequently.²⁰

The law is for man, so society expects expediency from the implementation or enforcement of the law. Do not let it happen, in the implementation or enforcement of this law, unrest arises in the community. In addition, the community is also interested in the implementation or enforcement of the law and pays attention to the values of justice. However, it must be remembered that law is not synonymous with justice because the law is general, binding on everyone, and is symbolic or does not discriminate against the circumstances, status, or deeds done by humans. For the law, for every crime by the litigants, then a criminal/punishment is imposed by what is stated in the article in the law so that justice according to the law is not necessarily the same as moral justice or community justice.²¹

Based on the existing regulatory provisions, according to the author, there are already rules that regulate the principles and technicalities of online donation collection activities but do not detail the form of liability and sanctions in the misuse of online donation funds against the *donation-based crowdfunding* system. , In addition, the public can also make complaints and then follow up by law enforcement. Misuse of donation funds can be categorized as a criminal offense (embezzlement of funds) according to Article 372 of the Criminal Code, and the perpetrators can be processed by the applicable criminal

¹⁸ Lili Rasjidi dan I.B Wyasa Putra, "*Hukum Sebagai Suatu Sistem*". (Bandung, Remaja Rusdakarya, 2018),h 118.

¹⁹ Hartono, "*Politik Hukum Menuju Satu Sistem Hukum Nasional*", (Bandung: Alumni, 2017), hlm 55.

²⁰ Ali, "*Menguak Teori Hukum (Legal Theory) & Teori Peradilan (Judicialprudence) Termasuk Undang-Undang (Legisprudence)*." Volume I Pemahaman Awal, Kencana Prenada Media Group, Jakarta, 2017, hlm 288.

²¹ Sutrisno, Fenty, and Tijow(2020), "*Penerapan Asas Keadilan, Kepastian Hukum Dan Kemanfaatan Dalam Putusan Hakim Tindak Pidana Korupsi*."Vol.3, no. 2, 168.

procedure law. In addition, the party organizing the fundraiser can also be subject to administrative sanctions if misappropriation is found, as happened in the case of the ACT which was sanctioned to revoke the Foundation's License.

5. Conclusion

Based on the results of the analysis and discussion that have been presented above, it can be concluded that Indonesia already has regulatory instruments for donation collection activities related to the *donation-based crowdfunding system* according to Indonesia's positive law, namely Law Number 9 of 1961 concerning Collection of Money or Goods and Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection. Especially for online donation collection activities are regulated in the Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 11 of 2015 concerning PUB and UGB. In addition, based on the author's research referring to the findings of facts and the theory of legal responsibility, there has been a form of collection liability arrangement, namely annual financial statements by the Foundation for audit, but it does not regulate accountability to platform organizers or donors or fundraisers, in case of misuse of donations, which is in this regulation, namely reporting in the case of complaints to the central government. However, even so, if there is a misappropriation of funds, the party organizing the fundraiser may be subject to sanctions related to criminal acts (embezzlement of funds) according to Article 372 of the Criminal Code, and the perpetrators can be processed by the applicable criminal procedure law and may be subject to *administrative* sanctions for the revocation of the operating license.

References

- Abdussamad, Zamroni. "Kebijakan Hukum Menuju Sistem Hukum Nasional." *Jurnal Inovasi* 7, no. 3 (2010): 1.
- Ahmad, Ahmad, and Novendri M. Nggilu. "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution." *Jurnal Konstitusi* 16, no. 4 (2020): 785.
- Ali, Achmad. "'Menguak Teori Hukum (Legal Theory) & Teori Peradilan (Judicialprudence) Termasuk Undang-Undang (Legisprudence).'" Volume I Pemahaman Awal, Achmad Ali, 288. Jakarta: Jakarta:Kencana Prenada Media Group, 2017.
- Dalimunthe, Indra Feri, Fenty U Puluhulawa, and Fence M Wantu. "Peradilan Pidana Di Masa Yang Akan Datang ' Design Of The Criminal Prosecution In A Criminal Jurisdiction System In The Coming Time '" 1, no. 1 (2021): 1-21.
- Faisal. *Menerobos Positivisme Hukum*. Jakarta: Jakarta:Gramata Publishing, 2018.
- Hanafi M. "Sisitem Pertanggung Jawaban Pidana". *Jurnal Hukum* No.1 (2015):1.
- Hantoro, Juli. "Ini Fakta Perjalanan Kasus ACT Hingga Petinggi Jadi Tersangka." 2022. July, 2022. <https://nasional.tempo.co/read/1615828/ini-fakta-perjalanan-kasus-act-hingga-petinggi-jadi-tersangka>. Diakses 10 Agustus 2022.

- Hariyani, Iswi, and Cita Yustisia Serfiyani. "Perlindungan Hukum Sistem Donation Based Crowdfunding Pada Pendanaan Industri Kreatif Di Indonesia." *Jurnal Legalisasi Indonesia* 12, no. 4 (2015): 1-22.
- Hartono, Sunaryati. "Politik Hukum Menuju Satu Sistem Hukum Nasional",. Bandung: Bandung: Alumni, 2017.
- Istanto, Sugeng. "Hukum Internasional Cet.2," 41. Yogyakarta, 2014.
- Lili Rasjidi dan I.B Wyasa Putra. "Hukum Sebagai Suatu Sistem." Bandung: Bandung, Remaja Rusdakarya, 2018.
- Mahrus, Hanafi. *Sisitem Pertanggung Jawaban Pidana*. Cetakan pertama. Jakarta: Jakarta: Rajawali Pers, 2015.
- Mustika, Waode, Nova Septiani, and Tomayahu Mellisa. "The State s Responsibility in Fulfilling Human Rights during the COVID-19 Pandemic" 592, no. Ich (2021): 113-20.
- Nurhadi, Wahyu, and Irwansyah. "Crownfunding Sebagai Konstruksi Sosial Teknologi Dan Media Baru." *Jurnal Komunikasi Dan Kajian Media* 2, no. 2 (2018): 1-12.
- Pasal 52 ayat 2 Undang-undang No.28 Tahun 2004 tentang Yayasan.
- Peraturan Menteri Sosial Nomor 8 Tahun 2021 Tentang Penyelenggaraan Pengumpulan Atau Barang.
- Peraturan Pemerintah Nomor 29 Tahun 1980 Tentang Pelaksanaan Pengumpulan Sumbangan.
- Ramadhan, Azhar. "BNPT Usul Revisi UU Pengumpulan Uang Demi Cegah Penyelewengan Ke Teroris," 2022. Diakses 10 Agustus 2022.
- Safira Hasna, and Irwansyah. "Pengaruh Inovasi Crowdfunding Terhadap Keputusan Berdonasi." *Digital Zone: Jurnal Teknologi Informasi Dan Komunikasi* 10, no. 2 (2019): 144-56.
- Sutrisno, Puluhaulawa Fenty, and Lusiana Margaereth Tijow. "Penerapan Asas Keadilan, Kepastian Hukum Dan Kemanfaatan Dalam Putusan Hakim Tindak Pidana Korupsi." *Gorontalo Law Review* 3, no. 2 (2020): 168-87.
- Undang - Undang Nomor 9 Tahun 1961 tentang Pengumpulan Uang atau Barang.
- Undang-undang No.28 Tahun 2004 Tentang Perubahan atas Undang-undang Nomor 16 Tahun 2001 tentang Yayasan.