

ABSTRAK

Nor Risnawati. NIM 210211040104, Analisis Layanan *Crowdfunding* Berbasis Donasi (*Donation Based Crowdfunding*) Perspektif Hukum Positif dan Hukum Ekonomi Syariah Pembimbing (I) Prof. Dr. Syaugi Mubarak Seff, MA dan Pembimbing (II) Dr. Mahmud Yusuf, M. Si, pada Program Studi Hukum Ekonomi Syariah/Pascasarjana UIN Antasari Banjarmasin.

Kata Kunci: Analisis, *Donation Based Crowdfunding*, Hukum Positif, Hukum Ekonomi Syariah

Perkembangan teknologi informasi dan komunikasi telah berdampak dan menyebabkan perubahan dibidang sosial, ekonomi, maupun budaya yang berlangsung dengan cepat. Perkembangan teknologi dan perubahan zaman yang sudah semakin canggih turut mempengaruhi kegiatan pengumpulan donasi yang dulu hanya dilakukan secara tatap muka dan bertemu secara langsung namun kini sudah dapat dilakukan melalui media *platform* dengan sistem online yang terhubung melalui jaringan internet. *Financial technology* atau biasa di singkat *fintech* adalah penggunaan teknologi untuk memberikan solusi keuangan. *Crowdfunding* adalah salah satu bentuk dari adanya *financial technology*. Terdapat empat jenis *crowdfunding* yang ada di masyarakat yaitu *crowdfunding* berbasis ekuitas (*Equity based crowdfunding*), *crowdfunding* berbasis pinjaman (*Debt based crowdfunding*), *crowdfunding* berbasis hadiah (*Reward based crowdfunding*) dan *crowdfunding* berbasis donasi (*Donation Based Crowdfunding*).

Penelitian ini merupakan jenis penelitian yuridis normatif dengan menggunakan pendekatan perundang-undangan dan pendekatan konseptual. Teknik analisis data yang digunakan dalam penelitian ini adalah teknik deduktif dengan menggali data-data yang bersifat umum kemudian ditarik kesimpulan yang bersifat khusus. Penelitian ini fokus membahas tentang Analisis terkait regulasi pelaksanaan *crowdfunding* berbasis donasi dan Analisis penerapan pemotongan donasi pada pelaksanaan *crowdfunding* berbasis donasi (*Donation Based Crowdfunding*).

Hasil dari penelitian ini menunjukkan bahwa regulasi terkait pelaksanaan *Donation Based Crowdfunding* belum bisa mewadahi pelaksanaan pengumpulan sumbangan yang sudah mengalami perubahan zaman dan perkembangan pesat saat ini, sehingga memunculkan probelematika hukum yaitu tidak terwadahnya pelaku penyelenggara PUB yang sifatnya individu atau komunitas, tidak adanya Lembaga Pengawas Khusus diluar Kemensos yang mengawasi jalannya pelaksanaan *Donation Based Crowdfunding*, rendahnya sanksi yang diberikan kepada pelaku penyelewengan dana donasi dan tidak termuatnya aturan mengenai perlindungan hak-hak donatur. Sedangkan potongan biaya yang dijadikan sebagai biaya operasional oleh pihak *platform* sudah sesuai dengan konsep *ujrah* dalam hukum ekonomi syariah dan akad yang digunakan antara pihak yaitu *wakalah bil ujarah*.

ABSTRACT

Nor Risnawati. NIM 210211040104, Analysis of Donation Based Crowdfunding Services from Sharia Economic Law Perspective Supervisor (I) Prof. Dr. Syaugi Mubarak Seff, MA and Supervisor (II) Dr. Mahmud Yusuf, M. Si, at the Sharia Economic Law / Postgraduate Study Program at UIN Antasari Banjarmasin.

Keywords: Analysis, Donation Based Crowdfunding, Positive Law, Sharia Economic Law

The development of information and communication technology has had an impact and caused rapid changes in the social, economic and cultural fields. Technological developments and changes in increasingly sophisticated times have also influenced donation collection activities, which previously were only done face to face and in person, but can now be done through media *platforms* with online systems connected via the internet network. Financial technology or commonly abbreviated as fintech is the use of technology to provide financial solutions. Crowdfunding is a form of financial technology. There are four types of crowdfunding in society, namely equity-based crowdfunding, debt-based crowdfunding, reward-based crowdfunding and donation-based crowdfunding.

This research is a type of normative juridical research using a statutory and regulatory approach and a context approach. The data analysis technique used in this research is a deductive technique by exploring general data and then drawing specific conclusions. This research focuses on discussing analysis related to regulations for implementing donation-based crowdfunding and analysis of the application of donation deductions in the implementation of donation-based crowdfunding.

The results of this research indicate that the regulations related to the implementation of Donation Based Crowdfunding have not been able to accommodate the implementation of collecting donations which has experienced changing times and rapid developments at this time, giving rise to legal problems, namely the lack of accommodation for PUB organizers who are individuals or communities, so that this happens. legal requirements, the absence of a Special Supervisory Institution outside the Ministry of Social Affairs that supervises the implementation of Donation Based Crowdfunding, the low level of sanctions given to perpetrators of misappropriation of donation funds and the absence of regulations regarding the protection of donors' rights. Meanwhile, the discounted costs used as operational costs by the *platform* are in accordance with the concept of *ujrah* in sharia economic law and the contract used between the parties, namely *wakalah bil ujah*.