



Juridical Analysis of Non-Profit Principles in The Formation of Business Entities by Foundations

Analisis Yuridis Prinsip Asas Nirlaba Dalam Pembentukan Badan Usaha Oleh Yayasan

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Abstrak

Pendirian organisasi nirlaba seperti yayasan bertujuan mendukung tujuan sosial, keagamaan, dan kemanusiaan. Namun, fleksibilitas operasional yang diberikan oleh Undang-Undang Nomor 16 Tahun 2001 tentang Yayasan, sebagaimana diubah dengan Undang-Undang Nomor 28 Tahun 2004, memungkinkan yayasan mendirikan badan usaha untuk menghasilkan pendapatan. Penelitian ini mengkaji penerapan asas nirlaba dalam pendirian badan usaha oleh yayasan, dengan menekankan keseimbangan antara fungsi karikatif dan komersialnya. Dengan menggunakan penelitian hukum normatif dengan pendekatan sosio-legal, penelitian ini menganalisis bahan hukum primer dan sekunder untuk mengevaluasi kepatuhan terhadap asas nirlaba dan praktik tata kelola. Hasil penelitian menunjukkan bahwa meskipun fleksibilitas mendirikan badan usaha mendukung keberlanjutan yayasan, tata kelola yang ketat, transparansi, dan akuntabilitas diperlukan untuk mencegah penyalahgunaan sumber daya. Penelitian ini menyimpulkan bahwa penerapan asas nirlaba penting untuk menjaga kepercayaan publik dan memastikan yayasan tetap mematuhi misinya. Penelitian ini juga menyoroti urgensi penguatan kerangka regulasi dan mekanisme pengawasan.

Kata kunci: *Badan Usaha; Non-Profit; Yayasan*

Abstract

The establishment of non-profit organizations such as foundations aims to support social, religious, and humanitarian causes. However, the operational flexibility provided by Law Number 16 Year 2001 on Foundation, as amended by Law Number 28 Year 2004, allows foundations to establish business entities to generate income. This research examines the application of the non-profit principle in the establishment of business entities by foundations, emphasizing the balance between its charitable and commercial functions. Using normative legal research with a socio-legal approach, this study analyzes primary

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and secondary legal materials to evaluate compliance with the non-profit principle and governance practices. The results show that although the flexibility of establishing a business entity supports the sustainability of the foundation, strict governance, transparency, and accountability are required to prevent misuse of resources. The research concludes that the application of the non-profit principle is important to maintain public trust and ensure the foundation remains true to its mission. The research also highlights the urgency of strengthening the regulatory framework and oversight mechanisms.

Keywords: *Business Entities; Non-Profits; Foundations*

Introduction

The intersection between the non-profit principle and the establishment of business entities by foundations poses complex legal challenges. Foundations are basically designed to carry out social, educational, or religious activities based on the principle of non-profit.² However, the phenomenon of establishing business entities by foundations becomes contentious when the business activity is considered contrary to the main purpose of the foundation. According to Law No. 28/2004, foundations are allowed to establish business entities as long as their activities support the foundation's objectives, but do not aim to seek profits for the personal interests of the foundation's management.³ From a legal perspective, this management requires a philosophical, juridical, and sociological foundation to ensure the integrity of the foundation is maintained.

Previous research shows significant attention to the establishment of business entities by foundations, especially in the context of law and organizational governance. Prasetyorini (2024) revealed that "legal arrangements related to foundations establishing business entities in Indonesia are often inadequate, thus creating legal loopholes that are prone to abuse."⁴ Another study by M. Abas, et al (2023) highlights the conflict between the non-profit principle and the business activities of foundations, where there is often a lack of clarity in the use of business entity profits to support the foundation's social activities.⁵ However, there is still an analytical gap in evaluating the alignment of the non-profit principle with the practice of establishing this business entity. This

² Fernanda T. Treinta dkk., "Design and Implementation Factors for Performance Measurement in Non-Profit Organizations: A Literature Review," *Frontiers in Psychology* 11 (7 Agustus 2020): 5, <https://doi.org/10.3389/fpsyg.2020.01799>.

³ Republik Indonesia, *Undang-Undang No. 28 Tahun 2004 tentang Perubahan atas Undang-Undang No. 16 Tahun 2001 tentang Yayasan*, 2004.

⁴ Sinto Adi Prasetyorini, *Reformulasi Pengaturan Pendirian Lembaga Bantuan Hukum dalam Upaya Mewujudkan Kepastian Hukum* (Semarang: Penerbit Lawwana, 2024), 47.

⁵ M. Abas dkk., *Pengantar Hukum Bisnis : Pengetahuan Dasar-dasar Hukum Bisnis di Indonesia* (Jambi: PT. Sonpedia Publishing Indonesia, 2023), 88.

research provides a more focused approach to the juridical analysis of the application of the non-profit principle in the establishment of business entities by foundations.

In addition, foundation governance in Indonesia often faces challenges related to transparency and accountability, especially in the management of established business entities. Foundations that do not adhere to the non-profit principle often reduce the level of public trust, which ultimately impacts the sustainability of the social activities they undertake. Therefore, this research is also important to provide a critical analysis regarding how foundations can maintain a balance between economic needs through business entities with their social and humanitarian goals. This is in line with the research results which show that weak internal supervision is the main factor of irregularities in the financial management of foundations.

The urgency of this research is based on the importance of increasing public trust in foundations that establish business entities. In the *ius constituendum*, a more detailed regulation of the non-profit principle is needed to ensure the transparency and accountability of foundations. The existence of "misuse of business entities by foundations for the purpose of seeking personal gain has undermined public trust in non-profit organizations in Indonesia."⁶ In addition, this phenomenon has the potential to reduce the integrity of the governance of non-profit organizations as a whole. Therefore, a comprehensive legal analysis is needed to provide policy recommendations that can support the management of foundations in a transparent and accountable manner.

In addition, in a global context, nonprofit organizations that successfully maintain their nonprofit principles tend to have a better reputation in the eyes of the public. International studies show that organizations that are able to integrate good financial governance with social accountability practices have a greater chance of gaining public support. This research is expected to be a significant contribution in developing a legal framework that is able to ensure the sustainability of foundations in Indonesia, especially in the management of business entities that support their social goals.

The main issue of focus in this research is how the non-profit principle can be applied in the establishment of a business entity by a foundation in accordance with positive law in Indonesia. The main challenge faced is to ensure that the foundation's

⁶ Dodi Togatorop dan Evi Retno Wulan, "Limitation Of The Crime Of Embezzlement Of Foundation Financial Management," *Jurnal Hukum Sehasen* 10, no. 1 (9 April 2024): 86, <https://doi.org/10.37676/jhs.v10i1.5806>.

business activities do not conflict with the social and educational objectives upon which it was established. In addition, this research will also analyze the legal implications related to transparency, accountability, and governance of business entities established by foundations.

This research aims to analyze the application of the non-profit principle in the establishment of business entities by foundations in Indonesia. The main focus of this research is to evaluate the alignment between the foundation's social objectives and the activities of the established business entity. In addition, this research also aims to provide policy recommendations to improve the transparency and accountability of foundations in the management of business entities. Thus, the results of this research are expected to make a significant contribution to the development of non-profit organization law and encourage the preparation of regulations that are more in line with current social and economic conditions.

Method

This research is a normative legal study with a socio-legal approach. Normative legal research focuses on analyzing the applicable legal rules, using primary, secondary, and tertiary legal materials to comprehensively understand the legal issues under study. The socio-legal approach is used to examine the application of the non-profit principle in the establishment of business entities by foundations, by linking juridical analysis to the relevant social context and legal practices. This approach aims to understand the legal implications arising from the establishment of business entities by foundations, both from normative aspects and practices in society.⁷

Primary legal materials used in this research include:

- Constitution of the Republic of Indonesia Year 1945
- Law of the Republic of Indonesia Number 16 of 2001 concerning Foundations
- Law of the Republic of Indonesia Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations

Secondary legal materials are used to provide explanations and support primary legal materials. Secondary legal materials include various publications containing analysis, expert views, or other documents related to the research topic.⁸ In this research,

⁷ Fachrizal Afandi, "Penelitian Hukum Interdisipliner Reza Banakar: Urgensi dan Desain Penelitian Sosio-legal," *Undang: Jurnal Hukum* 5, no. 1 (11 Juli 2022): 235, <https://doi.org/10.22437/ujh.5.1.231-255>.

⁸ HS Salim dan Erlies Septiana Nurbani, *Penerapan teori hukum pada penelitian tesis dan disertasi* (Jakarta: Rajawali Pers, 2017), 1.

secondary legal materials include relevant law books, previous research results, as well as papers discussing the formation of business entities by foundations.⁹

Tertiary legal materials include sources that provide additional references and explanations to primary and secondary legal materials. In this research, tertiary legal materials include the Big Indonesian Dictionary and Legal Dictionary.

This research method is designed to answer the research focus outlined in the introduction, namely how the non-profit principle is applied in the establishment of business entities by foundations, and how the legal approach can provide recommendations to improve transparency and accountability in the management of these business entities.¹⁰ By integrating normative and socio-legal approaches, this research is expected to contribute both theoretically and practically in understanding and developing regulations related to foundations in Indonesia.

Result and Discussion

A. Application of the Non-Profit Principle in the Context of Business Entities by Foundations

Criminal law policy in environmental law enforcement efforts based on development principles needs to organize environmental protection and management in the context of environmentally sustainable development, must pay attention to the level of public awareness and environmental developments nationally and globally as well as legal instruments related to the environment. The problem in this study is how the law enforcement efforts in the Policy.

With the presence of Law Number 16 of 2001, which was amended through Law Number 28 of 2004, foundations have a strong legal basis as legal entities oriented towards social, religious and humanitarian purposes. As confirmed by Article 1 number 13 of the Foundation Law, a foundation is a legal entity consisting of assets that are separated and intended for certain purposes. This normative approach in applying the non-profit principle provides legal protection to the wealth of the

⁹ Y. Sogar Simamora, "Karakteristik, Pengelolaan Dan Pemeriksaan Badan Hukum Yayasan Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 1, no. 2 (31 Agustus 2012): 179, <https://doi.org/10.33331/rechtsvinding.v1i2.95>.

¹⁰ Desi Patul, Yudi Kornelis, dan Diki Zukriadi, "Penguatan Mekanisme Check and Balances Untuk Mencegah Korupsi Dalam BUMN: Perspektif Hukum Ketatanegaraan," *Causa: Jurnal Hukum Dan Kewarganegaraan* 5, no. 4 (28 Juni 2024): 13, <https://doi.org/10.3783/causa.v5i4.4196>.

foundation, ensuring that its use is in accordance with the intent and purpose of the foundation's establishment.¹¹

As a legal entity, a foundation is allowed to establish a business entity to support its main purpose. However, such commercial activities must comply with the limitations as stipulated in Article 7 of the Foundation Law, namely limiting capital in business entities to 25% of the foundation's total assets.¹² Resources obtained from the foundation's economic activities must be fully used to support the foundation's social objectives and may not be utilized for the personal interests of its management.¹³

No.	Foundation Economic Activation	Description
1.	Establishment of a Business Entity	Foundations can establish business entities to support social, religious and humanitarian purposes.
2.	Capital Participation	The foundation's capital participation in the business is limited to 25% of the foundation's total assets.
3.	Limitation of Engagement	Foundation members are not allowed to hold concurrent positions in business entities established by the foundation.

Source: Analyzed from Article 7 and Article 8 of the Foundation Law.

These activities reflect the implementation of the non-profit principle on which the foundation's operations are based. However, challenges remain, especially in ensuring that the foundation's economic activities do not deviate from its social purpose. As expressed in the General Guidelines for the Governance of Indonesian Non-Profit Organizations (PUG-ONI), the implementation of the non-profit principle in foundations requires good governance to ensure accountability and transparency.¹⁴

B. Oversight and Accountability in Foundation Economic Activities

In a theoretical perspective, the non-profit principle is closely related to the concept of social responsibility and accountability, two elements that form the foundation of the foundation's operations as a non-profit organization. Foundations that are able to maintain a balance between social activities and economic activities

¹¹ Abriana Kusuma Dewi, "Implikasi Yuridis Badan Hukum Yayasan (Suatu Tinjauan Normatif)," *Novum Argumentum* 1, no. 1 (12 Desember 2022): 27, <http://ejournal.uki.ac.id/index.php/noa/article/view/4460>.

¹² Badan Pembinaan Hukum Nasional (BPHN), "Kompedium Hukum Yayasan," [bphn.go.id](https://bphn.go.id/data/documents/komp_2012_yayasan.pdf), 2012, https://bphn.go.id/data/documents/komp_2012_yayasan.pdf.

¹³ Farhan Abdul Mughni, "Aspek Moralitas Hukum Pengaturan Tujuan Yayasan Dalam Undang-Undang Nomor 28 Tahun 2004 Tentang Yayasan (Analisis Praktik Pembentukan Badan Hukum Oleh Yayasan Untuk Rekrutasi Keperluan Komersial)" (masters, Jakarta, Universitas YARSI, 2022), 41, <https://doi.org/10.17.%20BAB%20V.pdf>.

¹⁴ Andi Ilham Said, "Pedoman Umum Governansi Organisasi Nirlaba Indonesia (PUG-ONI)," *Policy Brief Yang Diterbitkan Oleh Komite Nasional Kebijakan Governansi* 2022, Mei 2022, <http://repo.ppm-manajemen.ac.id/2251/>.

tend to have a higher level of public trust.¹⁵ This public trust becomes an important capital for the foundation to ensure the sustainability of its social programs. However, there are significant obstacles in the implementation of the non-profit principle, especially in terms of the lack of strict supervision of the foundation's financial management. The lack of supervision can open a loophole for irregularities in the use of the foundation's assets and business activities that are not in accordance with its social objectives.¹⁶ In addition, the lack of a regular evaluation mechanism of the foundation's governance can be an obstacle in identifying potential risks early on. This mechanism is necessary to prevent violations of the non-profit principle that can damage the foundation's reputation.

As stipulated in Article 3 paragraph (2) of the Foundation Law, profits from the foundation's economic activities may not be allocated for the personal interests of the management, trustees, or supervisors. This provision is a manifestation of the non-profit principle which is the main foundation of the foundation's operations. In this context, the foundation is not only required to ensure that its economic activities are in accordance with applicable laws, but also to ensure that the foundation's governance reflects high transparency and accountability. Good governance will minimize potential conflicts of interest and misuse of the foundation's assets.

Arnaboldi and Lapsley (2004) showed that non-profit organizations in the healthcare sector adopted the Activity-Based Costing (ABC) method as a modern management strategy to improve the efficiency of their resource management.¹⁷ Although this method is not required by the government, its adoption gives a professional image and supports better external control. In the context of foundations in Indonesia, the adoption of modern methods such as ABC can be applied to improve the efficiency of managing business entities established in accordance with Article 3 paragraph (1) of the Foundation Law. This method also

¹⁵ Muhkamat Anwar, "Green Economy Sebagai Strategi Dalam Menangani Masalah Ekonomi Dan Multilateral," *Jurnal Pajak Dan Keuangan Negara (PKN)* 4, no. 1S (17 Desember 2022): 349, <https://doi.org/10.31092/jpkn.v4i1S.1905>.

¹⁶ Diatul Fajri, Rizal Rizal, dan Nofrivul Nofrivul, "Akuntabilitas Dan Transparansi Keuangan Di Yayasan Pendidikan Dan Dakwah Islam Wihdatul Ummah Qurrata A'Yun Batusangkar," *Jurnal Akuntansi Syariah (JAKSya)* 1, no. 1 (28 Februari 2021): 14, <https://doi.org/10.31958/jaksya.v1i1.2733>.

¹⁷ Michela Arnaboldi dan Irvine Lapsley, "Modern Costing Innovations and Legitimation: A Health Care Study," *Abacus* 40, no. 1 (2004): 11, <https://doi.org/10.1111/j.1467-6281.2004.00143.x>.

supports transparency and accountability, which are key pillars in foundation governance.¹⁸

Another challenge the foundation faces is ensuring that the financial statements of its business entities are prepared in a transparent manner and can be audited by external parties. Weak governance in this regard can result in a loss of trust from stakeholders, including donors, partners and the general public. During the COVID-19 pandemic, the importance of efficient financial management has become even more apparent, as many foundations are facing financial challenges due to declining donations and increasing operational needs. By implementing an integrated governance strategy, foundations can strengthen their financial resilience and ensure the sustainability of their social activities.

According to the General Guidelines for the Governance of Indonesian Non-Profit Organizations (PUG-ONI), effective oversight requires a clear separation between the assets of the foundation and the business entity established by the foundation. In addition, accurate financial reporting and transparency in asset management are important elements in maintaining the integrity of the foundation.¹⁹ In a global perspective, it shows that good data governance can increase efficiency in the management of foundation assets and encourage the financial independence of non-profit organizations.²⁰

Foundations must also be able to manage assets and human resources strategically. Strategic management in non-profit organizations not only includes day-to-day operational management but also includes long-term planning that focuses on sustainability. As a legal entity, the foundation needs to ensure that all of its economic activities are in line with the social, religious, and humanitarian objectives on which it was established. Article 7 and Article 8 of the Foundation Law provide clear guidance on how foundations can establish and manage business entities without deviating from the non-profit principle.²¹

¹⁸ Komite Nasional Kebijakan Governansi, "Pedoman Umum Governansi Organisasi Nirlaba Indonesia (PUG-ONI)," *KNKG* (blog), diakses 28 November 2024, <https://knkg.or.id/publikasi/>.

¹⁹ Komite Nasional Kebijakan Governansi.

²⁰ Amirulloh Dwi Febriyanto dan Desi Adhariani, "Rekomendasi Pengelolaan Donasi Corporate Social Responsibility Pada Yayasan Perusahaan Sektor Pertambangan," *Jurnal Akuntansi Manado (JAIM)*, 30 Agustus 2023, 246, <https://doi.org/10.53682/jaim.vi.6456>.

²¹ Riska Wulandari, "Analisis Badan Hukum Yayasan Dalam Bentuk Rumah Sakit Untuk Kepentingan Kemanusiaan" (Master Thesis, Universitas Islam Indonesia, 2019), 63, <https://dspace.uui.ac.id/handle/123456789/13957>.

Public trust is a key element of the foundation's success. Foundations that succeed in maintaining public trust tend to more easily gain support from the community, both in the form of donations and participation in foundation programs. To achieve this, foundations need to ensure that their governance reflects high transparency, accountability and efficiency. In addition, foundations must adapt to changes in the social and economic environment, including adopting digital technology to improve operational efficiency and community engagement.

The establishment of a business entity by a foundation is a strategic step to support the sustainability of its social programs. However, according to Article 3 paragraph (2) of the Foundation Law, the profits from the business activities may not be allocated for the personal interests of the management, trustees, or supervisors. This emphasizes the non-profit principle as the basic principle of foundation operations.²² As a non-profit legal entity, the foundation must ensure that its economic activities do not deviate from the main purpose.

In conclusion, strict supervision and good governance are non-negotiable elements in ensuring the sustainability of foundation operations. By adopting the principles of transparency and accountability, foundations can strengthen their integrity and enhance public trust. This is not only important to maintain the sustainability of the foundation but also to ensure that the foundation remains true to its mission as a non-profit organization committed to social, religious, and humanitarian causes.

C. The Importance of Transparent and Accountable Governance in Foundations

In order to comply with the non-profit principle, foundations are expected to be able to implement good governance, including transparency in financial reports and efficiency in the use of assets. Integrated data governance can improve efficiency in the management of foundation assets, thereby promoting financial independence. During the COVID-19 pandemic, this has become even more important as many foundations are facing significant financial challenges due to declining donations and increasing operational needs.²³

²² Nimrot Siahaan dkk., "Subjek Hukum Dalam Pendirian Yayasan Menurut Undang-Undang Nomor 28 Tahun 2004 Atas Perubahan Undang-Undang Nomor 16 Tahun 2001 Tentang Yayasan," *Jurnal Ilmiah Advokasi* 8, no. 1 (2 April 2020): 6, <https://doi.org/10.36987/jiad.v8i1.1593>.

²³ Chen-Shu Wang dkk., "An integrated data analytics process to optimize data governance of non-profit organization," *Computers in Human Behavior* 101 (1 Desember 2019): 499, <https://doi.org/10.1016/j.chb.2018.10.015>.

One of the main challenges in managing a foundation-owned business entity is maintaining a balance between economic sustainability and social accountability. Foundations that manage their assets well tend to have a higher level of public trust. This public trust is important to ensure continuity of support, both in the form of donations and community participation in foundation programs.²⁴

In this regard, the National Committee on Governance Policy (KNKG) states that the implementation of transparency and accountability principles can increase stakeholder trust.²⁵ The Indonesian General Guidelines for the Governance of Non-Profit Organizations emphasize the importance of good governance in maintaining the integrity of the foundation, especially in the management of business entities. This governance includes transparent financial reporting, clear separation between foundation and business entity assets, and effective internal control.

The COVID-19 pandemic has taught many foundations an important lesson about the importance of diversifying funding sources. Foundations that rely on a single source of funding, such as donations, are more vulnerable to economic changes compared to foundations that have business entities as an additional source of income. This is in line with the findings of Panggabean (2002), which states that good financial management and accounting are key to ensuring the continuity of foundation operations.²⁶

By analyzing the implementation of the non-profit principle in the context of establishing a business entity, it can be concluded that foundations have a strategic role in supporting social development. However, to ensure that its economic activities are in accordance with the non-profit principle, the foundation must prioritize good governance and strict supervision. Foundations that are able to maintain transparency and accountability will more easily gain support from the community and other stakeholders.²⁷

²⁴ Bernd Helmig, Marc Jegers, dan Irvine Lapsley, "Challenges in Managing Nonprofit Organizations: A Research Overview," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 15, no. 2 (1 Juni 2004): 110, <https://doi.org/10.1023/B:VOLU.0000033176.34018.75>.

²⁵ Komite Nasional Kebijakan Governansi, "Pedoman Umum Governansi Organisasi Nirlaba Indonesia (PUG-ONI)."

²⁶ Henry P. Panggabean, *Praktik peradilan menangani kasus aset yayasan (termasuk aset lembaga keagamaan) dan Upaya penanganan sengketa melalui alternatif penyelesaian sengketa* (Jakarta: Pustaka Sinar Harapan, 2002), 60.

²⁷ Ilman, "Bidang Usaha yang Diperbolehkan Bagi Yayasan | Klinik Hukumonline," 16 Juli 2012, <https://www.hukumonline.com/klinik/a/yayasan-dan-usaha-lt4fe2cf33e850f/>.

The charitable function and commercial function are two elements that must be managed in a balanced manner in the foundation's operations. The charitable function reflects the non-profit purpose of the foundation, as stipulated in Article 3 paragraph (1) of the Foundation Law, which emphasizes social, religious, and humanitarian purposes. Foundations engaged in this field often rely on community donations to support their operational activities. Dependence on donations without good resource management can threaten the sustainability of the foundation, especially in the face of economic fluctuations. Therefore, innovation in the creation of sustainable funding sources is crucial.

On the other hand, the commercial function gives the foundation the ability to establish a business entity as per Article 7 paragraph (1) of the Foundation Law. This approach allows the foundation to generate additional income that can be used to support its charitable purposes, provided that the profits are not used for the personal interests of the foundation's organ members. However, the management of business entities by foundations requires strict supervision to prevent conflicts of interest and misuse of assets.²⁸

The effectiveness of foundation management is highly dependent on good governance, including in the management of business entities. Foundation boards must have a structured management strategy and focus on accountability and transparency in financial reporting.²⁹ Therefore, strategic management in non-profit organizations plays an important role in ensuring the sustainability of the organization.

Article 8 of the Foundation Law stipulates that the foundation's economic activities must be in line with its social objectives and must not violate applicable regulations. The Sustainance Framework, as outlined by Bruwer and Smith (2021), can be applied to strengthen the financial sustainability of foundations through a strategic approach that includes asset management, risk management, and innovation in fundraising. With the implementation of this framework, the

²⁸ Suriani Bt Tolo dkk., "Peran Pemerintah Dalam Mencegah Pengambilalihan Harta Yayasan Oleh Ahli Waris Pendi," *Sultra Research of Law* 6, no. 1 (31 Maret 2024): 10, <https://doi.org/10.54297/surel.v6i1.73>.

²⁹ Efrizal Syofyan, *Good Corporate Governance (GCG)* (Malang: Unisma Press, 2021), 32.

foundation can minimize dependence on temporary donations and improve its financial stability.³⁰

From a social planning perspective, the importance of the foundation's role in strengthening the social fabric through tangible contributions in the areas of education, health, and community empowerment.³¹ However, to achieve this, the foundation needs to ensure that its economic operations remain within the applicable legal framework. For example, Article 5 paragraph (1) of the Foundation Law prohibits the transfer of the foundation's wealth for personal interests, which aims to maintain the integrity and public trust in the foundation.³²

By analyzing the charitable and commercial functions, it can be concluded that both complement each other in supporting the sustainability of the foundation's operations. However, to ensure that the foundation remains true to the non-profit principle, good governance, strict supervision, and commitment to the principles of transparency and accountability are required.

Conclusion

The conclusion of this research confirms that the application of the non-profit principle in the establishment of business entities by foundations is a fundamental principle underlying the operations of foundations, as stipulated in Law Number 16 of 2001 concerning Foundations which has been amended by Law Number 28 of 2004. The non-profit principle ensures that all economic activities of the foundation, including the establishment of business entities, are fully intended to support social, religious, and humanitarian purposes, without being allocated to the personal interests of the foundation's organs. The novelty of this research lies in the holistic approach in analyzing the balance between the charitable and commercial functions of the foundation, by highlighting the importance of transparent governance, accountability, and strict supervision to ensure the integrity of the foundation. This research also highlights that the application of non-profit principles in the foundation's economic activities has a strategic role in supporting the sustainability of the organization,

³⁰ Juan-Pierré Bruwer dan Judith Smith, "The Sustainability of Newly Established Business Entities: The Sustenance Framework," *Expert Journal of Business and Management* 9, no. 2 (31 Desember 2021): 81, <https://business.expertjournals.com/23446781-908/>.

³¹ Manoj Sharma, *Theoretical Foundations of Health Education and Health Promotion* (Burlington: Jones & Bartlett Learning, 2021), 9.

³² Zulfi Diane Zaini dan Putri Septia, "Pertanggungjawaban Pengurus Dalam Pengelolaan Badan Hukum Yayasan Di Indonesia," *Justice Voice* 1, no. 1 (5 Agustus 2022): 40, <https://doi.org/10.37893/jv.v1i1.65>.

especially through efficient asset management and innovative funding diversification. In the social and economic context, the urgency of this research lies in the need to strengthen regulation and implementation of good governance to ensure that foundations remain true to their mission as non-profit institutions, while being able to make significant contributions in supporting sustainable social development.

Bibliography

- Abas, M., Anisa Anisa, Mahliyanti Adelia Warman, Helfira Citra, Asri Wijayanti, Wagiyo Wagiyo, Khairina Khairina, dkk. *Pengantar Hukum Bisnis : Pengetahuan Dasar-dasar Hukum Bisnis di Indonesia*. Jambi: PT. Sonpedia Publishing Indonesia, 2023.
- Afandi, Fachrizal. "Penelitian Hukum Interdisipliner Reza Banakar: Urgensi dan Desain Penelitian Sosio-legal." *Undang: Jurnal Hukum* 5, no. 1 (11 Juli 2022): 231–55. <https://doi.org/10.22437/ujh.5.1.231-255>.
- Anwar, Muhkamat. "Green Economy Sebagai Strategi Dalam Menangani Masalah Ekonomi Dan Multilateral." *Jurnal Pajak Dan Keuangan Negara (PKN)* 4, no. 1S (17 Desember 2022): 343–56. <https://doi.org/10.31092/jpkn.v4i1S.1905>.
- Arnaboldi, Michela, dan Irvine Lapsley. "Modern Costing Innovations and Legitimation: A Health Care Study." *Abacus* 40, no. 1 (2004): 1–20. <https://doi.org/10.1111/j.1467-6281.2004.00143.x>.
- Badan Pembinaan Hukum Nasional (BPHN). "Kompendum Hukum Yayasan." bphn.go.id, 2012. https://bphn.go.id/data/documents/komp_2012_yayasan.pdf.
- Bruwer, Juan-Pierré, dan Judith Smith. "The Sustainability of Newly Established Business Entities: The Sustenance Framework." *Expert Journal of Business and Management* 9, no. 2 (31 Desember 2021). <https://business.expertjournals.com/23446781-908/>.
- Dewi, Abriana Kusuma. "Implikasi Yuridis Badan Hukum Yayasan (Suatu Tinjauan Normatif)." *Novum Argumentum* 1, no. 1 (12 Desember 2022): 23–31. <http://ejournal.uki.ac.id/index.php/noa/article/view/4460>.
- Fajri, Diatul, Rizal Rizal, dan Nofrivul Nofrivul. "Akuntabilitas Dan Transparansi Keuangan Di Yayasan Pendidikan Dan Dakwah Islam Wihdatul Ummah Qurrata A'Yun Batusangkar." *Jurnal Akuntansi Syariah (JAKSya)* 1, no. 1 (28 Februari 2021): 12–25. <https://doi.org/10.31958/jaksya.viii.2733>.
- Febriyanto, Amirulloh Dwi, dan Desi Adhariani. "Rekomendasi Pengelolaan Donasi Corporate Social Responsibility Pada Yayasan Perusahaan Sektor Pertambangan." *Jurnal Akuntansi Manado (JAIM)*, 30 Agustus 2023, 241–53. <https://doi.org/10.53682/jaim.vi.6456>.
- Helmig, Bernd, Marc Jegers, dan Irvine Lapsley. "Challenges in Managing Nonprofit Organizations: A Research Overview." *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 15, no. 2 (1 Juni 2004): 101–16. <https://doi.org/10.1023/B:VOLU.0000033176.34018.75>.

- Ilman. "Bidang Usaha yang Diperbolehkan Bagi Yayasan | Klinik Hukumonline," 16 Juli 2012. <https://www.hukumonline.com/klinik/a/yayasan-dan-usaha-lt4fe2cf33e85of/>.
- Komite Nasional Kebijakan Governansi. "Pedoman Umum Governansi Organisasi Nirlaba Indonesia (PUG-ONI)." *KNKG* (blog). Diakses 28 November 2024. <https://knkg.or.id/publikasi/>.
- Mughni, Farhan Abdul. "Aspek Moralitas Hukum Pengaturan Tujuan Yayasan Dalam Undang-Undang Nomor 28 Tahun 2004 Tentang Yayasan (Analisis Praktik Pembentukan Badan Hukum Oleh Yayasan Untuk Rekayasa Keperluan Komersial)." Masters, Universitas YARSI, 2022. <https://doi.org/10.17.020BAB020V.pdf>.
- Panggabean, Henry P. *Praktik peradilan menangani kasus aset yayasan (termasuk aset lembaga keagamaan) dan Upaya penanganan sengketa melalui alternatif penyelesaian sengketa*. Jakarta: Pustaka Sinar Harapan, 2002.
- Patul, Desi, Yudi Kornelis, dan Diki Zukriadi. "Penguatan Mekanisme Check and Balances Untuk Mencegah Korupsi Dalam BUMN: Perspektif Hukum Ketatanegaraan." *Causa: Jurnal Hukum Dan Kewarganegaraan* 5, no. 4 (28 Juni 2024): 11–20. <https://doi.org/10.3783/causa.v5i4.4196>.
- Prasetyorini, Sinto Adi. *Reformulasi Pengaturan Pendirian Lembaga Bantuan Hukum dalam Upaya Mewujudkan Kepastian Hukum*. Semarang: Penerbit Lawwana, 2024.
- Republik Indonesia. *Undang-Undang No. 28 Tahun 2004 tentang Perubahan atas Undang-Undang No. 16 Tahun 2001 tentang Yayasan*, 2004.
- Said, Andi Ilham. "Pedoman Umum Governansi Organisasi Nirlaba Indonesia (PUG-ONI)." *Policy Brief Yang Diterbitkan Oleh Komite Nasional Kebijakan Governansi* 2022, Mei 2022. <http://repo.ppm-manajemen.ac.id/2251/>.
- Salim, HS, dan Erlies Septiana Nurbani. *Penerapan teori hukum pada penelitian tesis dan disertasi*. Jakarta: Rajawali Pers, 2017.
- Sharma, Manoj. *Theoretical Foundations of Health Education and Health Promotion*. Burlington: Jones & Bartlett Learning, 2021.
- Siahaan, Nimrot, Toni Toni, Agus Anjar, dan Panggi Nur Adi. "Subjek Hukum Dalam Pendirian Yayasan Menurut Undang-Undang Nomor 28 Tahun 2004 Atas Perubahan Undang-Undang Nomor 16 Tahun 2001 Tentang Yayasan." *Jurnal Ilmiah Advokasi* 8, no. 1 (2 April 2020): 1–10. <https://doi.org/10.36987/jiad.v8i1.1593>.
- Simamora, Y. Sogar. "Karakteristik, Pengelolaan Dan Pemeriksaan Badan Hukum Yayasan Di Indonesia." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 1, no. 2 (31 Agustus 2012): 175–86. <https://doi.org/10.33331/rechtsvinding.vi2.95>.
- Syofyan, Efrizal. *Good Corporate Governance (GCG)*. Malang: Unisma Press, 2021.
- Togatorop, Dodi, dan Evi Retno Wulan. "Limitation Of The Crime Of Embezzlement Of Foundation Financial Management." *Jurnal Hukum Sehasen* 10, no. 1 (9 April 2024): 83–96. <https://doi.org/10.37676/jhs.v10i1.5806>.
- Tolo, Suriani Bt, Muh Fitriadi, Mustahul Jannah, La Ode Bariun, Winner A. Siregar, dan La Ode Munawir. "Peran Pemerintah Dalam Mencegah Pengambilalihan Harta

Yayasan Oleh Ahli Waris Pendiri.” *Sultra Research of Law* 6, no. 1 (31 Maret 2024): 8–14. <https://doi.org/10.54297/surel.v6i1.73>.

- Treinta, Fernanda T., Louisi F. Moura, José M. Almeida Prado Cestari, Edson Pinheiro de Lima, Fernando Deschamps, Sergio Eduardo Gouvea da Costa, Eileen M. Van Aken, Juliano Munik, dan Luciana R. Leite. “Design and Implementation Factors for Performance Measurement in Non-Profit Organizations: A Literature Review.” *Frontiers in Psychology* 11 (7 Agustus 2020): 1–14. <https://doi.org/10.3389/fpsyg.2020.01799>.
- Wang, Chen-Shu, Shiang-Lin Lin, Tung-Hsiang Chou, dan Bo-Yi Li. “An integrated data analytics process to optimize data governance of non-profit organization.” *Computers in Human Behavior* 101 (1 Desember 2019): 495–505. <https://doi.org/10.1016/j.chb.2018.10.015>.
- Wulandari, Riska. “Analisis Badan Hukum Yayasan Dalam Bentuk Rumah Sakit Untuk Kepentingan Kemanusiaan.” Master Thesis, Universitas Islam Indonesia, 2019. <https://dspace.uui.ac.id/handle/123456789/13957>.
- Zaini, Zulfi Diane, dan Putri Septia. “Pertanggungjawaban Pengurus Dalam Pengelolaan Badan Hukum Yayasan Di Indonesia.” *Justice Voice* 1, no. 1 (5 Agustus 2022): 35–44. <https://doi.org/10.37893/jv.v1i1.65>.