

Legal Protection of Donation-based Crowdfunding *Zakat* on Financial
Technology
(Digitalization of *Zakat* under Perspective of Positive Law and Islamic Law)

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ABSTRACT

The aim of this research is to see the legal protection of Donation-based Crowdfunding zakat on financial technology due to the huge spreading of startup with zakat fund in Indonesia. Meanwhile there is still no specific regulation protecting various risks that will arise especially the risk of unobvious identity, potential disputes, dissimilarity of the zakat purpose and the implementation of zakat distribution, and the other deviations. This type of research is library legal research with conceptual and state approach. The result of the research shows that in positive law there is no legal protection regulation in Zakat based on Donation-based Crowdfunding. The regulation only crowdfunding contains investment element and generate profit as described in Act Number 21 Year 2011 regarding Financial Services Authority. While Zakat-based Donation-based Crowdfunding is a nonprofit-oriented type of product. This makes the absence in the elements of justice and legal certainty. The regulation on zakat only described in Law number 23 year 2011 which is not contained that system. In the protection of Islamic law, the certainty of the implementation of the contract is stipulated in the zakat based on sharia agreement that must comply with the various principles and provisions of sharia, whether the arrangement starts from the intention, the process of agreement, transparency, and all aspects relating to Amil, Muzakki and Mustahiq zakat (Who is the mustahiq and what kind and how the implementation). finally, the researcher hopes that this research will bring inputs for government to make more comprehensive regulations on zakat in its digital form.

Keywords: Crowdfunding, Zakat Collection, Law

INTRODUCTION

The influence of digital era nowadays has impacted in all sectors of human life such as economic, culture, social, and etc. The friction of old system in economic, social and culture has moved on to more sophisticated systems because of technology. In economic sector, the influence of technology in the form of internet and social media has become a new profitable market for businessman amount the internet users that increasingly rising very significant. Meanwhile, the internet has become a new world and

mandatory consumption that cannot be separated on this human life era.

This phenomenon creates a new theory that is called by theory of *disruptive innovation*. A first term put forward by Clayton M Christensen and Joseph Bower in 1995 (Clayton and Joseph, 1995). *Disruptive innovation* usually takes a certain market segment which is considered unimportant by market rulers but the innovation is breakthrough or capable for redefining the existing market system.

This phenomenon of *disruptive innovation* also occurs in the financial

industry that has disrupted the landscape of the financial services industry globally. It starts from the industrial structure, intermediation technology until marketing model to consumers. All of these changes and encourage the emergence of new phenomenon called by financial technology. Financial technology are terms which derived from two words: financial and technology (Muliawan, 2017). So, a simple understanding of financial technology is innovation that involves modern technology in the field of financial services. If previously, the phenomenon has been done on conventional *ojek's* drivers challenging online-based service *ojek*, for now the same experience has happened to conventional banking versus financial technology with the same products with banking but gives the easiness aspects that more attract consumers (2017).

Joseph Schumpeter (1934) argues with his creative destruction theory that entrepreneurial values will create new markets through new method. If Schumpeter's thinking is collided with legal instruments, then, of course, the law is not able to pursue the dynamic of this business, especially those that will occur in the financial world.

Especially, if that phenomenon is implemented in Indonesia of course it also brings its own challenges for Indonesia as a technology actor and user. Indonesia, which adheres to the dual economic system, namely the conventional economic system and the Islamic economic system must continually adjust to new technological products that are included in the realm of its economic system because technology cannot be denied entry but must be protected by security regulations. The acceleration of technological growth that enters the economic realm, especially financial, has to be balanced with the acceleration of the rules governing it.

If the conventional economic system, technological innovation brought must be kept in line with the principles of

the rules and requirements of legality in Indonesia, the Islamic economic system itself is embraced by economic in Indonesia. Product of globalization is also not automatically be entered and become a legalized Islamic economic product, but also through additional criteria considering that Islamic economics is an economic system that criticizes many conditions on *halal* aspects, lack of fraud, speculation, ambiguity, lack of elements of usury, and other aspects of Islamic economics and also, it must be legalized by MUI as the fatwa publisher and Islamic regulator.

Financial technology as the product of that phenomenon nowadays has 3 types. First is payment that has used by almost Indonesian people in their daily life like Grab-Pay, Go Pay, OVO and other payment startups. The second is lending which is created a same product with banking credit but in online system. The third types is what will be discussed on this paper, that's crowdfunding which has become a product that moves rapidly and widely in the field of financial technology in Indonesia. One of crowdfunding form is donation based crowdfunding that is usually called by community fundraising. Crowdfunding developed on online fundraising products and social services is the form whose fund rising was assisted by startup and social media. They provide administrative rates for each service so that social funds are not 100% channeled to objects in need.

This new phenomenon has led to the issue of Cak Budi one of influencer of social media who misappropriated the donation funds he had collected by buying a Toyota Fortuner and iPhone 7 smartphone for personal use (2018) even though public trust has been built with the number of followers reaching more than 700k and also the posts. Therefore, there are also many risks from the collection of funds both in terms of transparency and misuse of funds and profits taken. There should be a regulation on how the fundraiser can be created trustworthy for

the people in Indonesia. In fact, the regulation has not been made until today so that there is legal protection and certainty. Whereas, the product is already massive not only in conventional form, but also especially sharia funds such as *zakat*.

Zakat which is actually kind of worship that the regulation has regulated clearly in Al Quran in terms of *Akad*, subjects, and terms might change and adjust to the crowdfunding based on donation in financial technology's system. *Zakat* which is actually donation based on non-profit oriented needs a suitable regulation to protect any profit oriented and speculation which will be made by crowdfunding startups.

So, based on that background of research, the writer wants to write further research entitled: "Legal Protection of Donation-based Crowdfunding *Zakat* on Financial Technology (Digitalization of *Zakat* under Perspective Positive Law and Islamic Law)". The author hopes that this research is able to find a bright spot for Indonesian regulations that provide more legal protection for service users that is in accordance to the validity of contract law as well as in terms of Islamic law which will provide a legal certainty for Crowdfunding services which is based on sharia in the future

LITERATURE REVIEW

Zakat

Zakat literally has many meanings, which are *al-barakatu* which has the meaning of blessing, *ath-thaharatu* which means purity, *al-namaa* which has the meaning of growth and development, and *ash-shalahu* which has the meaning of success. Whereas *zakat*, terminologically, is defined in various meanings by various scholars, but basically have the same purpose, namely *zakat* which is part of property with certain requirements, which Allah SWT requires the owner to submit to

someone who has the right to receive it, with certain requirements (didin, 2002).

Zakat is the third pillar of Islam and Allah SWT obliges muslim to pay *zakat*. (Sabiq, 1988) *Zakat* is mandatory (*fardhu 'ain*) for every Muslim if he has fulfilled the requirements set by the Sharia (Kurnia, 2008).

People who are reluctant to pay can be fought. The person who rejects his obligation is considered an infidel, because he denies the basic religious case. However, whoever acknowledges the obligation of *zakat*, but he does not want to fulfill it, then he is only considered as a Muslim who acts as a mate, because he does not want to fulfill religious orders, as well as someone who has committed a big sin (Kurnia, 2008)

The legal basis for *zakat* is one of the words of Allah SWT an-Nur 56: *Meaning: And establish prayer, give zakat, and obey the apostle, that you may be given mercy* (2005). in another letter Attaubah: 103: *Take charity from some of their property, with that charity you cleanse and purify them and pray for them. Verily your prayer is (to be) the peace of the soul for them. and Allah is the hearer, the Knower* (2005).

The pillars of *zakat* include people who pay tithes, donated property, and people who are entitled to receive *zakat* (Amir, 2003). Someone who has fulfilled the requirements to pay tithe must issue a portion of their assets by giving their ownership rights, then handing over their ownership to those who have the right to receive it through the imam or the officer who collects the *zakat* (Wahbah, 2010)

Requirements for *Zakat* are a) Healthy and Adult, *Zakat* is obliged to people who are sensible and adults, because children who are immature and people who are not intelligent do not have legal responsibility; b) Freedom, the scholars had agreed to that *zakat* is only obliged to an independent Muslim and fulfills the *nishab*. A slave servant does not have ownership of property, because

the one who owns his property is his parents (Wahbah, 2010); c) Perfectly Owned, Perfectly owned is the ability of the owner of the property to control and manage his property without mixing the rights of others at the time of the obligation to pay *zakat*; d) Real Growth or Estimation, Developing in real terms is the property owned by a person can potentially grow and develop through business activities and trade. Whereas, what is meant by estimation is that assets whose value is likely to increase, such as gold, silver and currencies all have the possibility of value added by buying and selling reached *Nisab*, *Nisab* is a number of assets that reach a certain amount determined legally, which is not obligatory for *zakat* if the property is less than that amount. The intended *Nishab* exceeds the primary needs needed (clothing, house, household appliances, cars, etc. that are used alone) (Kurnia, 2008). e) Enough Haul, Assets must be available or owned for one year. f) Free from Debt, perfect ownership which is used as a mandatory requirement for *zakat* and must be more than primary needs must also be enough one nishab that is free from debt (Yusuf, 2007)

Legal Requirements or *Zakat* are;
 a) Intention, the *fuqoha'* agreed that it was required to intend to issue *zakat*, namely the intention must be shown to Allah SWT. By holding fast that *zakat* is an obligation that has been set by God and always wishes for pleasure. Because of the intention is to differentiate between *fard* and *sunnah*; b) *Tamlík* (transferring the ownership of the property to those who are entitled to receive it), *Tamlík* becomes a condition of the validity of the implementation of *zakat*, namely the ownership of *zakat* must be released and given the ownership to the *Mustahiq* (Wahbah, 2010)

Various types of *Zakat* are; a) *Zakat mal* (property), namely *zakat* related to ownership of certain assets and fulfilling certain conditions. This alms

includes *zakat* for plants, *zakat* of livestock, *zakat* for trade, *zakat* for mining goods, and *zakat* for gold and silver; b) *Zakat Fitrah*, *Zakat fitrah* is the charity ordered by the prophet Muhammad to the Muslims in the year of Ramadan fasting until the last day of Ramadan before the *Idhul Fitri* prayer (Fathoni, 2015). People who are qualified to receive *zakat* are; a) The people who are very miserable in their lives, they do not have assets and ability to fulfill Their own and their *family* needs such as eating, drinking, clothing and housing; b) Poor, that are people who do not have enough live hood and are in a state of deprivation. Even though in a condition of deprivation they neither beg nor ask for mercy from others. (Fathoni, 2015); c) *Amil Zakat*, who are people appointed by the government to take care of the issue of *zakat*, including collectors, depositors, security guards, writers, and counters whose duty is to calculate how much *zakat* must be paid and to whom it will be distributed. In another sense, *Amil Zakat* is a person / guardian appointed by the Imam / head of state to collect *zakat* from the *muzakki*, and to distribute it to the people *Mustahiq*.

The task given to the *Amil* is *wakalah* (represent) of the tasks which should be carried by the Imam / head of state. Because, the law of origin of the task of taking and distributing *zakat* is the duty of the Imam. Require meant to be called as *amil zakat* is to be directly appointed and given the authority by the Muslim authorities to take *zakat* and distribute it. From this perspective, the *zakat* committees in various mosques and those who appointed themselves as *amil* are not *amil* in shariah. This is in accordance to the term *amil* because what is called *amil* is a worker employed by a particular party (Sabiq: 1968).

Amil Terms according to Yusuf Qardhawi are: a) He should be a Muslim, b) The *zakat* officer should be a Mukallaf; c) Honest; d) Undertanding and Comprehending the laws of *zakat*; e)

Having the ability to carry out duties; f) *Amil* is required by a man (Yusuf, 2000).

Conceptually it can be understood that the higher the level of *Amil* professionalism, means the higher the level of welfare of the *Mustahiq*, especially *Amil*, considering the concept of Jurisprudence clearly proclaims that their rights are 12.5% or 1/8 of the assets collected.

In the fatwa, the MUI stated that *Amil Zakat* who had already received salary from the state or private institutions in their duties as *Amil* are not longer qualified to receive a portion of the *zakat* funds that become *Amil* section. While *amil zakat* who are/is not getting paid from a state or private institution are qualified to receive a portion of the *zakat* funds that become *Amil's* part in return for the principle reasonableness, *Amil* must not accept gifts from *muzakki* regarding his duties as *Amil*. On the other hand, *Amil* Should not give its to *muzaki* comes from *zakat* property.

To implement *zakat* management, the government established the National *Zakat* Agency (BAZNAS). BAZNAS is an institution that carries out *zakat* management nationally, domiciled in the capital and is a non-structural governmental institution that has independent candidates and is responsible to the president and the minister. In carrying out its duties, BAZNAS organizes functions 1) planning the collection, distribution and utilization of *zakat*; 2) the implementation of collecting, distributing and utilizing *zakat*; 3) controlling the collection, distribution and utilization of *zakat*; and 4) reporting and accountability for the implementation of *zakat* management

To assist BAZNAS in the implementation of collecting, distributing and utilizing *zakat*, the community can form the *Amil Zakat* Institution (LAZ) which is an institution formed by the community that has the task of assisting the collection, distribution and

utilization of *zakat*. In the Constitutional Court's latest regulation, *Amil* does not need Basnaz's permission. This written in the decision of the Constitutional Court number 86 / PUU-X-2012 stating article 18 paragraph 2 letter a and b uu 23/2011 which states: a. registered as an Islamic community organization that teaches education, preaching and social / b. The form of a legal entity is contrary to the 1945 Constitution and does not have binding legal force insofar as it is not interpreted as an Islamic social organization that manages the education, *da'wah* and social sectors or legal entities, must obtain permission from the authorized official. Then, it is explained in article 3 ministerial regulation number 5 of 2016 concerning the procedure for imposing administrative sanctions and *zakat* management regulating *zakat* management, namely: 1) individual *Amil zakat* or association of people who carry out *zakat* management must notify in writing the head of the local district religious affairs office. 2) in carrying out *zakat* management, individual or association *zakat amil* are obliged to: a) make records and bookkeeping on *zakat* management and b) make distribution and utilization of *zakat*, infaq, alms, and other socio-religious funds in accordance to Islamic law and in accordance with the allotment which the giver made. If *Amil Zakat* does not notify the local religious affairs office, it will be subjected to administrative sanctions in the form of termination of *zakat* management activities. on the other hand, if they do not carry out their obligations in accordance to *zakat* management, administrative sanctions are imposed in the form of written warnings, temporary suspension of activities, and revocation of operational permits.

Then next is d) *Mu'allaf*, is an infidel who has the hope of entering Islam and a person who has just converted to Islam whose faith is still weak but has a strong stance in the midst of his *family*

who are still infidels e) *Riqob* is freeing slaves, which includes also releasing Muslims who are held captive by unbelievers. f) *Gharim* is a person who owes money because of non-immoral interests and unable to pay it. As for people who owe to, g) *Fi sabilillah* is a person who fights for the defense of Islam and the Muslims. among the scholars there are those who argued that *fi sabilillah* includes general interests whose purpose is to do good such as establishing schools, hospitals and others, h) *Ibnu Sabil*, is a person who is on his way out of his area that is not a sinful destination experiencing misery and running out of supplies on his journey (Abdul, 1998)

Particular Review of Electronics Contract

Under article 1, paragraph 17 of Law No. 11 of 2008 ITE load electronic contracts sense of "the agreement that made through the electronic system". Electronic systems into contract manufacturing media according to article 1, paragraph 5 of the law is a set of tools and procedures in place to drill, collect, process, analyze, store, display, publish, transmit and/ disseminate information electronically.

Electronic systems that are used as a medium by the parties to create an electronic contract, according to general explanation of the law number 11 in 1008 on ITE used to explain the existence of the information system is the application of information technology and electronic media, the design work, process, analyze, display and transmit or disseminate electronic information (2016)

Article 6a of Law No. 19 of 2016 concerning amendment of Law No. 11 of 2008 describes that the company of electronic systems is any person, state company, business entity, and society that provides, manages, and / or operates electronic systems, either singly or jointly to the user of the electronic system for his or her other purposes (2016)

Differences in electronic contract with the contract in general, is that an electronic contract is made through the electronic system, while a contract is generally made not through the electronic system. Electronic contract is a contract that is not named, whose creation is realized through real legal act in the form of electronic transactions carried out by the parties (2016)

Financial Technology

According to the definition set forth by the National Digital Research Center (NDRC), financial technology usually called as fintech. Fintech is a term used to describe an innovation in the field of financial services. Fintech word itself is derived from the financial and technology that refer to financial innovation with a touch of modern technology. Fintech in Indonesia are many kinds, such as the startup of payments, lending, crowdfundings, financial planning (personal finance), retail investment, financing (*crowdfunding*), remittances, financial research (2018).

METHODOLOGY

This research uses normative juridical method, with conceptual approach and statute approach which is reviewed by the concept that appear from the doctrine of islamic law and state. the writer uses the type of literature research. By interpretation, the writer uses analysis of grammatical and systematic interpretation. Grammatical interpretation is Is used to define the law by describing its word's meaning. While systematic is to interpret the law as part of the whole system of legislation by connecting with other laws (Sudikno : 2001) In addition, legal methods of analogy are used in the form of searching for a more general essence of an existing legal event or legal act or no rules. The analysis then described with the form

of sentences descriptively and the conclusion explained inductively with a description from a specific to a general conclusion

RESULTS AND DISCUSSION

Crowdfunding and Generally Settings in Indonesia

The term "crowdfunding" is derived from two separated words in English "crowd" means crowds and "funding" is funding. Thus, the combination of both words refers to the funding carried out by a group of people.

There are three main parties in this case involved in *crowdfunding*. First are those who are called initiators, creators or facilitators, both individuals and groups, who have projects or ideas that need funding. Second is the party that supports the idea, or is interested in the products that will be produced from the project, which then flows the financial support to the first party. Third, between the two parties, there is an organization or can be said to be a *platform* that carries out the intermediary function; which allows the relationship between the two parties on a foundation of trust (2018)

Crowdfunding is divided into 4 types, the first is *donation-based crowdfunding*. In this type of *crowdfunding*, donors will not get any reward. Usually it is used for non-profit projects such as building sanitation facilities, scholarships, and others. The examples of *donation-based crowdfunding startup* types include Kitabisa.com and GoFundMe.com. The second type is *reward-based crowdfunding*. Donors will get reciprocity in the form of goods, services or a right in *reward-based crowdfunding*. However, it does not provide a share of the profits from the project. Usually it is intended for projects from creative industries such as games, where donors who fund the project will be

given interesting features from the games. The examples of *reward-based crowdfunding startups* include Kickstarter.com and Indiegogo.com

Third is *debt-based crowdfunding*. Actually, this type of *crowdfunding* is the same as an ordinary loan, which is in the form of debt. Debtor candidates will submit their proposals meanwhile the donors or creditors will deposit capital which is considered as a loan with an interest in the form of interest. One example of this *debt-based crowdfunding startup* is crowdfund.co. Finally, there is *equity-based crowdfunding*. The concept is the same as stock, where the money deposited will be equity or part of ownership of the company in return for dividends. Example of *equity-based crowdfunding type startup*: Akseleran.

In this case, the author's focus is crowdfunding the type of donation for startup fundraisers. In Indonesia there are already a lot of startups running them including: Kitabisa.com.

Kita bisa.com is an official and well-known fundraising site that runs for a long time. This company is managed By Pt Kita Bisa Indonesia with Yayasan Kita Bisa. The agreement here is done as in fundraising, usually the funder chooses the object that is funded and transfers the funds, some of the funds belong to kitabisa.com are used for operations

Description of Crowdfunding general settings

From the data presented by the author, we can obtain the following general *Crowdfunding* product settings:

- 1) Crowdfunding Law Subject is Legal subject or *subjeck van een recht*, that is "person" who has the right of a private person or legal entity who has the right or who commits a legal act. In this case the legal subject in *Crowdfunding* is:

- a) A startup company that organizes *crowdfunding*, and b) Donors,
- 2) Legal Object Crowdfunding is everything that is useful for legal subjects (human or legal entity) and that can be the subject of a legal relationship because it can be controlled in a legal subject (Soedjono, 2003). In this case the legal object of *crowdfunding* is the Fund/Amount of money from donors
 - 3) Crowdfunding Legal Events are events in the community that can cause legal consequences that can move certain regulations so that the regulations contained in them can be valid (Soedjono, 2003). Legal events in this case are two-faceted contracts, namely contracts between donors and *Crowdfunding* companies:

Furthermore, contracts that become legal events contain the rights and obligations of the three as follows:

- a) *Crowdfunding* company rights : Get funds from donors, Distributing funds, Attract administrative costs
- b) Obligation of *Crowdfunding* Companies: Provides information platform for peny Umbang, Data protection by being encrypted using SSL industry standards, The right not to be responsible for the disbursement or the disappearance of funds that arise later
- c) Distributor Rights : Get information, Choose the subject to be funded, Knowing information on transparency of fund distribution,
- d) Company Obligations is providing transparency of data channeled financially to both donors and funded subjects
- e) Subject rights funded : Get funds, Get service for the process of submitting funds
- f) Obligations of subjects funded : ill identity, Uploading needs related to personal data and **file**

files needed for the loan process such as information, purpose of funds , etc, Comply with the core contents of the contract

- 4) In terms of setting based on the data exposure that the author got and the author has been described in the previous chapter, it was obtained that the nature of the contract in *Crowdfunding* and the result is that there are all platforms. *Crowdfunding* companies named themselves only as institutions that channel funds online with random, it is difficult to know transparency of funds channeled because it consists of many contributors . An adverse standard clause can also be a legal consequence.

Digitalization of Zakat (Donation based of Crowdfunding Zakat) in Indonesia

Modernity and human life that cannot be separated from gadgets make application products and online systems that provide *zakat* services become increasingly widespread. On top of that, *zakat* is even commercialized by a number of stars. There are a number of *zakat* stars in Indonesia ranging from legal ones to those that are still vaguely recognized, some examples are: *Zakat.or.id*, *Zakatpedia.com*, *tokopedia.com/berbagi*, *startzakat.com*, *kitabisa.com*, dll One of the institutions engaged in *zakat* and issuing an online system is the *zakat* house. CEO of Rumah *Zakat*, Nur Efendi, said that the total donation of *zakat* through his institution in 2016 was Rp230 billion. As many as 70 percent of them are paid by donors in non-cash. Nur said, that number continues to increase every year. In the first quarter of 2017, non-cash *zakat* distribution had reached 80 percent. They have a target amount of donations in 2017 reaching Rp 250 billion. He predicts that up to the end of the year there will be 90 percent of them paid online (2018)

*Legal Protection Digitalization of Zakat
(Donation based of Crowdfunding Zakat)*

Under Perspective Positive Law

Previously, fundraising was once regulated in Law No. 9 of 1961 regarding fundraising, but this law has been too long and many different aspects of the crowdfunding concept because it can no longer be used and revisions are needed. While this new platform with all its systems does not yet have regulations that govern. Therefore, in the law it is explained that the regulations used are general or pre-existing regulations. In terms of the Civil Code, the authors review that article 1313 explained that " *An agreement is an act whereby one person or more ties himself to one another or more*" (Chairul, 2008). *Crowdfunding* products are an agreement made by 2 people, namely *crowdfunding* companies with funders and companies with recipients of funds.

Because the agreement was made in writing, it was referred to as a contract that gave rise to a legal relationship, namely the rights and obligations of both parties. This is regulated in Article 1338 paragraph (1) of the Civil Code stated that: "*All agreements made legally apply as laws for those who make it*(Subekti). However, in this case it is still limited if the contract does not violate the law, decency, public order as explained in Article 1337 of the Civil Code. So according to the authors the clauses of the *crowdfunding* agreement which would lead to violations of the laws in force in Indonesia could be said to be invalid or null and void because they violated the objective conditions (Subekti)

Crowdfunding which is electrical agreement also explained under article 1, paragraph 17 of Law No. 11 of 2008 ITE load electronic contracts sense of "*the agreement that made through the electronic system*". Electronic systems into contract manufacturing media according to article 1, paragraph 5 of the

law is a set of tools and procedures in place to drill, collect, process, analyze, store, display, publish, transmit and / disseminate information electronically.

So far the *crowdfunding* regulations issued by the government are only *crowdfunding* which contains elements of investment and generate profits as explained in Law Number 21 of 2011 concerning the Financial Services Authority .While *Zakat* is based on *Donation-based Crowdfunding* is a *nonprofit-oriented product* .This makes the absence of an element of justice and legal certainty.

In the absence of this rule, there is no standard system that explains the mechanism of *zakat* crowdfunding both in terms of administration rates, agreements, allotment of funds and transparency, so that many developing *zakat* startups still use various systems according to their own desires .

Therefore still only rules described in Law number 23 of 2011 relating to sanctions for managing *zakat* without authorized permission, affirmed in article 41, Law No. 23 of 2011. The content is that everyone who commits violations management collects and distributes *zakat* without permission , can be sentenced to a criminal sentence for a long time one knows.Or a fine of Rp. 50 million.

Under Islamic Law Perspective (Intention, Agreement,Transparacy)

In terms of legality legally the MUI as a board that has authority in making fatwas and rules in the field of sharia has yet to issue a fatwa regarding crowdfunding in general, so specifically the derivative products that are sharia both with *zakat* models and other models have not been accommodated by the rules.

If viewed from *ijtihad* which departs from the opinion of crowdfunding-based *zakat* scholars, it is classified in *zakat* with an online system.The ability of online-based *zakat* refers to the opinion of

Shaykh Yusuf Al-Qardhawi, in *Fiqhuzzakat* which argues that: "A provider of *zakat* does not have to state explicitly to mustahik that and what he gives is *zakat*. Therefore, if a *muzakki* (giving *zakat*) without stating to the recipient of alms that the money he is giving is *zakat*, then the *zakat* remains valid". That is, a person can submit his *zakat* online to the *Amil Zakat* institution.

The most important thing in paying *zakat* online that must be taken into consideration is the statement of *zakat* and the prayer of the recipient of *zakat*. And also do not forget to confirm to the *amil zakat* institution accompanied by a confirmation of *zakat* in writing in the form of a statement of *zakat*. With *zakat* confirmation or transfer to *zakat* accounts in particular, it will be easier for *amil* to distribute *zakat* assets to those who are qualified. From the description above, the conclusion is that paying *zakat* through online is permissible. But it is under some circumstances as mentioned previously (2018)

In terms of crucial legitimacy, which lies in the *ijab qobul*, in terms of being divided into several opinions including those who consider that *zakat* is a kind of charity, which is not obligatory for the pronunciation of *qabul* permission. enough to hand over the property to the recipient is valid. In addition, there are some who say that *Ijab* alone or *qabul* may also be allowed (2014). In the case of crowdfunding transactions the *qobul* permit is done on writing without words, so this is also allowed

As we know that *Crowdfunding* is a modern transaction that has no face to face or meetings between the two parties. However, this transaction is permissible by looking at the requirements regarding *qabul* permission, namely:

Jala'ul Ma'na (he explained *Ijab and Qabul*): The contract can be carried out verbally or in writing, the important thing is that the contract is clear, certain and can be understood by both parties who

make the engagement (Gemala, 2006). In this case the agreement on *Crowdfunding* is done by writing by filling in the form on the website, in Islam, writing is considered as a greeting as explained in the rules: *الْكِتَابَةُ كَالْخِطَابِ* "The writing is the same as the power of law with speech (Sabiq, 1988)

Ittishalul qabil bil ijab / tawafuq (compatibility between *Ijab and Qabul*) This can be seen from the nominal suitability agreed with the disbursement received by the recipient of the fund, the suitability of the disbursement date and the clarity of the funded object. There must be a telephone verification number even if needed, so that it is more targeted and funds are not misused.

Jazmul iradataini (showing the will of the parties) Volunteering in *Crowdfunding zakat* can be seen from the transactions made through the opening of the website filling in the form and clicking on the agreement, both approval of funds and withdrawal of rewards for administration and management *The aspects of Islamic law that must be considered in Zakat are crowdfunding*

Amil aspect

Amil is the most important subject in the crowdfunding-based *zakat* discussion because the distributor is startup run by humans, not real humans. Therefore, those who are chosen as someone behind the startup screen who takes care of communication with *Muzakki* must indeed be chosen according to *Amil's* qualifications.

Amil Terms according to Yusuf Qardhawi: a) He should be a Muslim, b) The *zakat* officer should be a Mukallaf, c) Honest, d) Understanding the laws of *zakat*, e) Having the ability to carry out duties, f) *Amil* is required by a man (Yusuf, 2000). These 5 things must be considered well to recruit one to become a *zakat/amil* distribution team. Because of that for legal certainty, *Muzakki* really has

to really look for startups who are already registered with Baznas and verified. Because the *amil* requirement is also explained in the *zakat* law that must be registered and also must report *zakat* regularly to the baznas.

Zakat Aims / Implementations

In Al Quran in surat at taubah verse 60 the word "*innama*" as the letter "*hasr*" or limitation shows the desired meaning of *dzahir* which limits the *Mustahiq zakat* / people who are qualified to receive *zakat* so that people who are not in this category are not entitled to receive *zakat*

This rule must be considered by crowdfunding *zakat*. Allotment of *zakat* must be truly in accordance to 8 groups / *asnaf*, not necessarily channeling *zakat* funds for the public interest that do not comply with the criteria of 8 *asnaf* for example for road construction.

In contemporary jurisprudence pioneered by Yusuf Qordhowi, the broad meaning of *Asnaf*, especially in *Asnaf Sabilillah* does open the door to the channeling of *zakat* in the fields of education, as well as natural disasters, and all that includes the benefit of the people and social welfare. *Fisabilillah* meaning is not only limited to jihad because of war alone (yusuf, 2000)

In terms of Zakat funds

Zakat funds in this case must be *Kholish*, namely pure, not to mix with other funds, for example alms or endowments or other funds. This is what must be considered by the startups operating in the field of *zakat* raising

CONCLUSION

The result of the research shows that in positive law there is no legal protection regulation in *Zakat* based on Donation-based Crowdfunding. The regulation only

crowdfunding containing investment element and generate profit as described in Law Number 21 Year 2011 regarding Financial Services Authority. While *Zakat*-based Donation-based Crowdfunding is a nonprofit-oriented type of product. This makes the absence in the elements of justice and legal certainty. The regulation about *Zakat* only described in Law number 23 year 2011 which did not contain that system.

In the protection of Islamic law, the certainty of the implementation of the contract is stipulated in the *zakat* based on shariah agreement that must comply with the various principles and provisions of sharia, whether the arrangement starts from the intention, the process of agreement, transparency, and all aspects relating to *Amil*, *Muzakki* and *Mustahiq zakat* (Who is the *Mustahiq* and what kind and how the implementation is). In Legality itself, MUI still do not make regulation yet so there are one center system.

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