








LEX JOURNAL: KAJIAN HUKUM DAN KEADILAN

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**ANALYSIS OF LEGAL LIABILITY FOR FOUNDATIONS THAT MAKE
CAPITAL INVESTMENTS IN BUSINESS ENTITIES**

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ABSTRACT

Capital participation by foundations is a form of asset management that has sparked legal debate, considering that a foundation is a non-profit legal entity established to carry out social, religious, and humanitarian activities. This study aims to examine the regulation and supervision of capital participation by foundations, as well as the legal liability of foundation administrators, drawing on theories of legal utility, legal entity, and legal responsibility. The results of the study indicate that normatively, capital participation is permitted; however, in practice, it still faces regulatory ambiguity, particularly regarding its limits, forms, and supervision mechanisms. Foundation administrators play a crucial role in the decision-making process of capital participation as technical executors, thereby bearing significant responsibility. Their liabilities include civil liability in the event of losses, criminal liability for legal violations, organizational accountability to the foundation's supervisory board, administrative responsibility through financial reporting, and moral responsibility to the public and donors.

Keywords: Foundation, Capital Participation, Legal Liability

1. INTRODUCTION

A foundation is one of the legal entities that, according to the law, is engaged in the social field. In the beginning, the legal entity of the foundation was born from the collective will of the community to create a platform that focuses on social, educational,

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religious, and humanitarian. This goal is achieved through an institution that regulates the foundation and its operational activities. The term foundation is derived from the term “stichting,” which is Dutch or “foundation” in English (Kristianti, 2021b). This makes it clear that the history of foundations has existed and developed since the Dutch East Indies period, when people needed a platform to manage funds and resources for social interests.

The purpose of establishing a foundation is different from a Limited Liability Company (PT). If a Limited Liability Company is established for profit, then a foundation is established with a philosophical goal that is not commercial, namely non-profit or non-profit. However, foundations often experience a shift in purpose due to difficulties in defining appropriate social activities, leading to changes in orientation and priorities (Fauzia et al., 2022). For example, educational foundations that are categorized as social activities are often used as a means to make a profit, thus changing their original purpose into a commercial one (Pratiwi, 2018).

The tendency of people to establish foundations to take refuge behind the legal entity status of the foundation, which is not only used as a forum for developing social, religious, and humanitarian activities, but also aims to enrich the founders, administrators, and supervisors. If a social organization conducts business activities, its purpose is not to seek profit, but to carry out something philanthropic or charitable, although it is not impossible for the foundation to gain profit (Borahima, 2010).

The foundation management as the executor has guidelines for implementation, namely the laws and regulations on foundations, the Articles of Association of the foundation and the notarial deed regarding the decision to approve the foundation's capital participation activities in limited liability companies, however, it does not rule out the possibility that the management makes deviations in the capital participation activities in limited liability companies, namely for their benefit or certain parties.

The law on foundations, when considered, contains uncertainty regarding the term “investment in business entities”. The use of this term is not accompanied by a specific explanation of the type of participation in question. This leads to various interpretations

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and potential legal uncertainty. Implicitly, this lack of clarity allows foundations to make equity participation.

One of the forms of participation that foundations can make is capital participation through a limited liability company. The capital investment in a company makes the foundation will get shares and act as a shareholder in the receive shares. Shares are evidence of the full deposit of capital taken by the shareholders of the company. Shares show the shared ownership of all shareholders in a company (Widjaja, 2008).

The equity participation by the foundation in the company directly transfers part of the foundation's wealth into the ownership structure of the business entity. This certainly has the potential to cause risks, both to the assets of the foundation itself and to the credibility of the institution in the eyes of the public. Therefore, the supervisory mechanism for capital participation is very important. In this case, the foundation's supervisory organ plays a strategic role not only in supervising the management but also in providing advice so that every step of the foundation remains in line with the intent and purpose of its establishment. Unfortunately, in practice, there is still a lack of clarity in understanding the legal status of foundations that make capital investments, especially regarding the boundaries between the actions of the management to run the foundation as a non-profit institution and its involvement in business activities.

Furthermore, the supervision system of the foundation's wealth also needs to be reviewed in order to avoid conflicts of interest or abuse of authority in the management of the foundation's wealth included including business entities. With weaknesses in the regulation and implementation of supervision, the existence of a foundation can be utilized for personal interests, contrary to the non-profit spirit on which it was established.

In accordance with the description above, it is known that the legal status of foundations in Indonesia is less clear and can cause confusion in understanding foundations as non-profit organizations and business entities. Thus, a more in-depth legal study is needed regarding the responsibility of the foundation when investing in business entities and the system of monitoring the wealth of foundations that include capital.

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2. RESEARCH METHODS

The type of research used in writing this article is normative legal research. Normative legal research is a research process to examine and study the law as norms, rules, legal principles, legal principles, legal doctrines, legal theories, and other literature to answer the legal problems under study. Therefore, normative legal research is usually “only” a document study, which is a source of using legal materials in the form of laws and regulations, court decisions/decrees, contracts/agreements, contracts, legal principles and principles, legal theories, and doctrines/opinions of legal experts (Muhaimin, 2020).

Normative legal research focuses on rules or principles in the sense that the law is conceptualized as norms or rules derived from laws and regulations, court decisions, and doctrines from leading legal experts. So that normative legal research is defined as a process to find legal rules, legal principles, and legal doctrines to answer the legal issues at hand. Legal research is carried out to produce new arguments, theories, or concepts to solve the problem at hand, so that the results obtained already contain value (Marzuki, 2011).

3. DISCUSSION

Foundation Capital Participation in Limited Liability Company and its Supervision

Capital participation by the foundation in a limited liability company is one form of wealth management activity allowed by Indonesian laws and regulations, especially as stipulated in Law Number 16 of 2001 concerning Foundations. Law Number 28 Year 2004. In this case, the foundation can make capital participation or even establish a business entity in the form of a limited liability company, provided that all proceeds or profits obtained from these activities are fully used to support the achievement of the foundation's goals and objectives, such as social, humanitarian, religious, or educational activities. In addition, the capital participation may not be utilized for the personal interests of the foundation's management, trustees, or supervisors.

For foundations, it is possible to run a business entity to make a profit by:

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- a. The foundation can establish and/or participate in business entities whose activities are by the purpose and objectives of the foundation, which are social, religious, and humanitarian.
- b. The foundation can participate in various forms of business by investing in other business entities in the form of limited liability companies, provided that the business does not conflict with public order, decency, and/or applicable laws and regulations. Foundation capital participation that is prospective in a business entity may not exceed 25% of the total value of the foundation's assets.

From the description of the foundation's business, currently in practice, there are many foundations that are not purely non-profit oriented, but have led to commercial purposes. Even some educational institutions are labeled as foundations (Kristianti, 2021a).

The juridical basis for foundations to establish business entities or join other business entities, in this case, equity participation, is Article 3 of Law No.16 of 2001. Article 3 states that the Foundation is allowed to conduct business activities to support the achievement of its goals and objectives by establishing a business entity and/or participating in a business entity. There are no further provisions regarding what types of business entities are allowed by law to be established by foundations.

In terms of legal entity status, business entities are divided into 2 (two) types, namely, business entities that are legal entities and business entities that are not legal entities. A limited liability company is one of the business entities that may be established by a foundation.

It is a question of whether a foundation can establish an individual limited liability company. Foundations cannot establish an Individual Limited Liability Company, because, based on the criteria of Micro, Small, and Medium Enterprises, foundations are not included in these criteria. Foundations are not business entities, but foundations are non-profit legal entities. So that the foundation can only establish or join in a limited liability company (ordinary PT).

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As a founder of a limited liability company or to include capital in a limited liability company, the foundation must take shares. The amount of the foundation's participation in a company is at most 25% (twenty-five percent) of the entire value of the foundation's assets. The foundation is not allowed to include all of its assets to establish a business entity. This is as regulated in Article 7 of Law No.16 Year 2001. The assets of the foundation that are included in a limited liability company become separate assets from the assets of the foundation. This is because the assets included as capital of the limited liability company have become the property of the Limited Liability Company. As we know that a limited liability company is a legal entity.

All rights and obligations of the foundation towards the limited liability company follow the rules of rights and obligations of shareholders as determined by law. All profits obtained by the foundation from the establishment of a limited liability company become the assets of the foundation if the profits are separated or removed from the Limited Liability Company and put into the foundation's treasury. For example, every year the GMS organizes an annual meeting, at which the annual meeting dividends are distributed. This dividend is an addition to the wealth of the foundation, which can be used by the foundation to develop its institution.

The foundation is not responsible for exceeding the amount of capital included in the limited liability company if the limited liability company suffers a loss. Although foundations are allowed to establish business entities, there are some restrictions, namely (Kasiani, 2021):

- a. Profits from business entities established by the foundation, are not allowed to be distributed to the Management, Trustees, and supervisors of the foundation. The profit must be put into the foundation's treasury, as an addition to the foundation's assets.
- b. Foundation management, trustees, and supervisors are prohibited from concurrently serving as members of the Board of Directors or commissioners in business entities established by the foundation. This is, of course, to avoid a conflict of interest and also to avoid abuse of power.

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c. The business activities carried out must be in line with the purpose and objectives of the establishment of the foundation and not contrary to public order, decency, and/or laws and regulations. As an illustration, for educational foundations, the business entity established must be related to education. For example, educational foundations are allowed to have business activities of printing, photocopying to support educational activities.

The business entity established by the foundation must be in line with the purpose and objectives of the foundation's establishment and not contrary to public order, decency, and/or laws and regulations.

The forms of participation that can be done by the foundation are:

- a. Direct Investment as a Shareholder in a Limited Liability Company. The foundation, as a non-profit legal entity, can make direct capital participation in a limited liability company by becoming one of the shareholders, both in a previously established limited liability company and a limited liability company established with other parties (Diani & Rochayati, 2024).
- b. Establishment of Limited Liability Company by the Foundation. In addition to being a shareholder, a foundation can also establish a company in the form of a limited liability company as an instrument to raise funds that will be used to achieve the foundation's social goals and objectives (Kurniawan & Rahayu, 2024).
- c. Equity Participation Through an Affiliated Company. In another more complex form, capital participation by a foundation can be done indirectly through an affiliated company, which is another company controlled by the foundation or has a shareholding relationship (Nora et al., 2024).

In practice, several foundations in Indonesia have invested in business entities in the form of Limited Liability Companies (PT) as one of the strategies to support the sustainability of the social and educational programs they manage. This investment is generally sourced from the unrestricted wealth of the foundation and must still comply with the restrictions set out in the Foundation Law, especially regarding the maximum

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proportion of investment and the separation between the foundation and the business entity.

One concrete example is the Telkom Foundation, which oversees a number of private universities and schools. The foundation established and invested in various PTs, such as PT Edu Jasa Utama and PT Jaringan Solusi Utama, to support education and information technology activities. The profits from these PTs are used to finance the operations of educational institutions, provide scholarships to outstanding students, and improve the quality of learning facilities. In this way, the foundation can reduce dependence on donor funds and become more financially independent.

Another example is the Dompet Dhuafa Foundation, which, through its subsidiary PT Wasila Nusantara, manages productive waqf assets in the form of buildings, business land, and commercial spaces. The proceeds from the management are not used for personal gain, but are returned to the foundation in the form of waqf surplus. This surplus is then channeled to social programs such as health assistance for the poor, education for orphans, and economic empowerment of the poor. This model shows that equity participation is not always aimed at financial gain, but can actually be an instrument to strengthen the foundation's social mission.

In the field of primary and secondary education, there is also the Cendana Education Foundation. The foundation invests in businesses that support school operations, such as facilities management and logistics services. Profits from these businesses help fund teachers' salaries, staff training, and the construction of school facilities without having to rely on external subsidies.

Through these examples, it can be concluded that equity participation by foundations in PTs is not taboo, as long as it is done professionally, by the foundation's founding intentions, and with strict supervision. This kind of participation can strengthen the foundation's capacity to carry out its mission in a sustainable manner.

In terms of supervision, the foundation can supervise the limited liability company in which it invests through mechanisms available in its capacity as a shareholder,

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especially through the GMS forum, voting rights, and appointment of management. The foundation remains a non-profit legal entity and does not transform into a limited liability company, despite having share ownership. Every step of supervision and capital participation must always refer to applicable legal provisions in order to remain in line with the principles of transparency, accountability, and compliance with the principles of the foundation.

The urgency of transparency and accountability is necessary to ensure that foundation organs carry out their duties solely to achieve the foundation's objectives, and not other objectives. As part of the pillars of good governance, transparency and accountability need to be applied not only by public organs but also by private organs. Even though the foundation is a private organ, there is a demand by stakeholders that the wealth of the foundation is not used for any other purpose by the foundation's organs other than the purpose as stated in the articles of association.

Transparency and accountability thus also function as a means of control by the public over the performance carried out by the foundation's organs and at the same time to protect the wealth of the foundation from being misused. Transparency in the management of the foundation includes at least two things, namely: the announcement in the Supplement to the State Gazette of the Articles of Association, and the announcement of the annual report.

Foundation Management Accountability

In the Indonesian legal system, the Foundation and Limited Liability Company (PT) are two forms of legal entities that have different organizational structures due to the purpose of their establishment. This difference in character is reflected in the composition and authority of the organs in it. The foundation has three main organs, namely the trustees, administrators, and supervisors. On the other hand, a limited liability company is structured by three main organs, namely the General Meeting of Shareholders (GMS), the Board of Directors, and the Board of Commissioners. GMS is the highest organ of

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power in a limited liability company because it represents the owners of capital or shares. The GMS has the authority to determine the direction of company policy, approve annual reports, distribute dividends, and appoint and dismiss Directors and Commissioners.

The implementation of limited liability company operations is carried out by the Board of Directors, which is responsible for the running of business activities and acts for and on behalf of the company. The Board of Directors has broad authority in carrying out daily business activities, including entering into agreements, managing assets, and preparing financial and operational reports.

If in the company, the implementation is carried out by the board of directors, then in the Foundation known as the management. The management has the duty and authority to carry out day-to-day management of the foundation. The second duty and authority is the duty/authority of representation, meaning as an organ authorized to represent the foundation in carrying out legal acts. According to Article 31 paragraph (1) of Law No. 16 Year 2001, it is the management that is in charge and authorized to carry out management of the foundation.

Each member of the management board must, in good faith and with full responsibility, carry out his/her duties with due observance of the applicable laws and regulations. But it is not enough just to heed the applicable laws and regulations; but absolutely must also heed all the provisions of the Articles of Association. If the management in exercising its authority is contrary to or not by the provisions of the articles of association, then, as in the literature, it is said that the management has committed *ultra vires*.

It is said that *ultra vires* has occurred when it turns out that the management, in carrying out actions on behalf of the body, the management has taken actions contrary to or not by the articles of association of the body concerned. This incident is what is called *ultra vires* in the literature. In this case, the action of the management does not become void, but remains valid. In this case, the party who enters into a transaction with the

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foundation cannot sue the foundation, but can only sue the management personally against whom they entered into the transaction.

In carrying out their functions, foundation administrators not only bear moral responsibility but also legal responsibility (Aribawa, 2021). When irregularities, negligence, or violations of the law occur in the management of the foundation, the management as the main executive organ can be held accountable in three forms: administrative, civil, and criminal. These three forms of responsibility are complementary and depend on the type of violation that occurred.

Administrative liability of foundation administrators refers to the responsibility that must be borne by foundation administrators if they violate the legal provisions and administrative rules governing the foundation's operations, without touching the criminal or civil realm. This usually relates to violations of governance, reporting, or formal procedures required by applicable laws or regulations. Administrative liability is rooted in negligence of the foundation's reporting and administrative legal obligations stipulated in the laws and regulations (Rinaldi, 2023).

Administrative Sanctions that can be imposed on foundation administrators (Desmiyati, 2024):

- a. Written warning from the relevant agency
- b. Temporary suspension of Foundation activities
- c. Cancellation of legal entity validation
- d. Revocation of the Foundation's operational license
- e. Obligation to carry out restoration or repair.

Furthermore, civil liability arises if the management is proven to have committed errors or negligence in carrying out management duties that result in losses to the foundation. This is explicitly regulated in Article 28, paragraph (1) of Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations, which states that the management is personally and jointly liable for the losses of the foundation if proven negligent or committing errors in the performance of their duties.

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For example, when the management includes the foundation's capital in a limited liability company (PT) without conducting an adequate risk analysis, without obtaining the approval of the trustees, or deviating from the purpose and objectives of the foundation, the management can be sued to compensate for the loss. This lawsuit can be filed by other foundation organs (such as the trustees) or by third parties who feel aggrieved.

Finally, the criminal liability of the foundation's management occurs if the management commits an act that fulfills the elements of a criminal offense according to the applicable law and causes harm. At first glance, people recognize that a foundation is a legal entity that does not aim to seek profit. In fact, behind all that, the foundation can be used as a tool to seek profit; even further, the foundation can be used as a cover to commit criminal acts, especially for the theft of illicit money (money laundering) (Imaliya, 2018). Another mode is to direct the foundation into business areas. Then the business is managed to make a profit. The foundation then establishes another institution, which may be the source of funds for the institution also comes from somewhere else that is not known where it comes from. Of course, the apparatus or other people do not know that the funds to run the institution do not come from the foundation.

A legal entity cannot have a will in the same sense that a human being has a will. Therefore, they explain that the human organs of the legal entity will, on behalf of the legal entity, manifest the will of the legal entity. The main fallacy of the theory of a legal entity being represented by its organs, such as a person under guardianship being represented by his guardian or a represented person being represented by his representative, is that it depicts a legal entity as a type of human being. The theory that a legal entity has a will, albeit a fictional one, namely, the will of the organs attributed to it, is therefore not so different from the theory that a legal entity, especially a corporation, is a real entity that has a will of its own rather than the will of its members.

Thus, the corporation is not the subject of a criminal offense. If the management does not fulfill its obligations, which is a unity of persons or legal entities, then the management is responsible under criminal law. Criminal acts are committed by

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corporations, but criminal liability is imposed on those who give orders and/or those who act as leaders. Criminal acts are committed by a corporation, but criminal liability is not imposed on the corporation, but on those who are mentioned in detail who must be responsible, for example the management of legal entities, active allies, foundation management, representatives or proxies in Indonesia of companies domiciled outside the territory of Indonesia, and those who deliberately lead the relevant actions.

Personal responsibility and board responsibility after the enactment of Law Number 23 Year 2004 for the management of foundations related to funds and their use are the responsibility of the foundation. For the use of assets related to personal interests, let alone harming the foundation, it is the personal responsibility of the board. In practice, it shows that the boundaries of the authority of the foundation owner related to the management of the foundation's assets and the management of personal assets are still mixed, making it difficult to prosecute and prove when the foundation owner uses the foundation's assets for personal gain. Even though there is a new law, foundation owners have not been limited in their powers, so there is often an abuse of authority.

Related to criminal liability, criminal law regulates only individuals or natural persons who can be subject to criminal sanctions, as adopted based on the principle of "societas delinquere non potest," meaning that legal entities cannot commit criminal acts, contained in Article 59 of the Criminal Code. Similarly, with the explanation of the fictional theory of the existing theory of legal entities, the individual organs of the foundation involved in the action must also be personally liable for violations and unlawful acts committed.

4. CLOSING

Capital participation by foundations is regulated in Article 7 paragraph (2) of Law Number 28 Year 2004 on Foundations, which states that foundations can make investments in various forms of prospective businesses, provided that the amount of participation does not exceed 25% (twenty-five percent) of the total value of the

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foundation's assets. Although the mechanism of capital participation is not specifically regulated, this provision provides room for foundations to participate in business activities, as long as they comply with the established limits. In the context of Law Number 40 Year 2007 on Limited Liability Companies, there is no specific regulation regarding the involvement of foundations, but it is legally permissible because limited liability companies can be owned by legal entities, including foundations. In this case, the foundation can act as a shareholder, entitled to attend the General Meeting of Shareholders (GMS), exercise voting rights, and receive dividends. However, all profits earned from such participation must be fully utilized to support the foundation's social objectives. The foundation's participation in the GMS also serves as a form of supervision over the use and management of the capital that has been included.

The foundation management is fully responsible for the act of equity participation in a limited liability company (PT), both administratively, civilly, and criminally. Administratively, the board is obliged to carry out capital participation by the articles of association, the approval of the trustees, and laws and regulations. In the civil aspect, the board can be held personally liable if there is a loss due to actions that exceed the authority, negligence, or contrary to the interests of the foundation, based on the principle of ultra vires. Based on the theory of legal entity, especially organ theory, the board's actions are considered as the foundation's actions. However, if it violates the law or deviates from the purpose of the foundation, then the liability can be imposed directly on the management personally.

4. REFERENCES

- Aribawa, M. Y. (2021). *Aspek Hukum Penyatuan Perguruan Tinggi Swasta dalam Naungan Yayasan yang Berbeda (Studi Kasus Penyatuan Akademi Kebidanan Surya Sehat Surabaya dengan Universitas Dr. Soetomo Surabaya)* [UPN "VETERAN" Jawa Timur]. <https://repository.upnjatim.ac.id/3630/>
- Borahima, A. (2010). *Kedudukan Yayasan di Indonesia*. Kencana Prenada Media Group.
- Desmiyati. (2024). Tanggungjawab perdata Organ Yayasan berdasarkan Undang-Undang

Available online: <http://ejournal.unitomo.ac.id/index.php/hukum>

E-ISSN: 2580-9113

P-ISSN: 2581-2033

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no 16 tahun 2001 tentang Yayasan. *UNES Law Review*, 6(4), 62.

Diani, R., & Rochayati, S. (2024). Yayasan sebagai Pemegang Saham Perseroan Terbatas dan Akibat Hukumnya terhadap Harta Kekayaan Yayasan. *Jurnal Hukum Tri Pantang*, 10(1).

Fauzia, A., Octavia, D. G. R., & Hamdani, F. (2022). The Conflict of the Norms in the Execution of Secured Objects Which are Enforced by Liability Rights When the Debtor is Bankrupt. *Progressive Law Review*, 4(1), 1–9.

Imaliya, R. (2018). Organisasi Non-profit (yayasan) sebagai media Tindak Pidana pencucian Uang. *Jurnal Hukum Universitas Brawijaya*, 3, 20.

Kasiani. (2021). Hukum Badan Usaha yang Dapat Didirikan oleh Yayasan untuk Mewujudkan Kemudahan Iklim Berusaha di Indonesia. *Jurnal Sepremasi*, 11(1).

Kristianti, D. S. (2021a). Menelisik Yayasan di Indonesia: Sebagai Lembaga yang Memiliki Fungsi dan Tujuan Sosial Semata? *Jurnal Paradigma Hukum Pembangunan*, 6(1), 1–32.

Kristianti, D. S. (2021b). *Menelisik Yayasan Di Indonesia: Sebagai Lembaga Yang Memiliki Fungsi Dan Tujuan Sosial Semata?* Universitas Katolik Parahyangan.

Kurniawan, A., & Rahayu, E. (2024). Penyertaan Modal Perseroan Terbatas sebagai Alternatif Strategi Penggalangan Dana Organisasi Kemanusiaan dengan Legalitas Yayasan. *UNES Law Review*, 6(4).

Marzuki, P. M. (2011). *Penelitian Hukum*. Kencana Prenada Media Group.

Muhaimin. (2020). *Metode Penelitian Hukum*. Mataram University Press.

Nora, I., Yamin, M., & A T. K. D. (2024). Analisis Yuridis Bentuk Tanggung Jawab Sosial Perusahaan melalui Penyertaan Modal oleh Yayasan. *Iuris: Jurnal Ilmu Hukum*, 3(2).

Pratiwi, A. U. (2018). *Kepastian Hukum Penyelenggaraan Yayasan Perguruan Tinggi Akibat Dualisme Kepengurusan*. Universitas Hasannuddin Makassar.

Rinaldi. (2023). Analisis Yuridid Terhadap Pertanggungjawaban Organ Yayasan Untuk Mewujudkan Kepastian Hukum (Studi Penelitian Di Yayasan Hati Senang Abadi Berkedudukan Di Kota Tanjungpinang). *UNES Law Review*, 6, 23.

Widjaja, G. (2008). *Hak Individu & Kolektif Para Pemegang Saham*. Praninta Offset.