



LEGAL REVIEW OF THE SOCIAL SIGNIFICANCE OF INDONESIAN FOUNDATIONS IN THE FIELD OF HEALTH

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ABSTRACT

Based on the legal dynamics in Indonesia, this review examines the social significance of foundations operating in the health sector, with a focus on hospital foundations. The objective is to analyze the alignment between their legal framework, particularly Law Number 16 of 2001 on Foundations and Law Number 28 of 2004 on Health, and their intended non-profit, philanthropic missions. Employing a normative legal research method, the study analyzes primary legal materials, including legislation, and secondary sources such as scholarly opinions. The findings reveal a tension between the social mandates of foundations and their practical operations, where some entities engage in commercial activities or provide high-cost services, contradicting their stated social functions. Regarding taxation, hospital foundations without profit-seeking objectives and using all income for social activities can be exempt from income tax. The conclusion underscores that hospital foundations play a crucial social role in providing equitable health services, community development, and charitable activities, but require clearer regulations and consistent enforcement to prevent mission drift and ensure their contributions to public health welfare are fully realized.

A. INTRODUCTION

A foundation is fundamentally a social institution rooted in ideas of philanthropy and public service, functioning as a medium of social communication aimed at achieving collective welfare. Legally, a foundation operates as a non-profit entity governed by specific statutory regulations, particularly Law Number 16 of 2001 as amended by Law Number 28 of 2004, which emphasize its social objectives and generally prohibit the distribution of salaries or regular honoraria to its management, subject to limited exceptions

for professional or contractual services.¹ The existence of foundations plays a significant role in supporting various social functions, including health services, community development, and charitable activities, as reflected in hospital foundations that contribute to equitable access to healthcare and public health protection.² In this context, foundations that genuinely pursue non-profit objectives and allocate all income toward their statutory purposes may also receive certain tax exemptions, underscoring their social value and public benefit.

For more than 2 (two) and a half century the Foundation has been present in the construction of the legal system in Indonesia, however new Now This There is desire Which truly Serious in frame repositioning the Foundation on place as it should be through explanation Law Number 16 of 2001 in conjunction with Law Number 28 of 2004 about the Foundation.³ So far, Foundations have been used by various groups of people to meet their general economic needs, even though everyone understands that the principle of a Foundation is a non-profit body, but in practice, even this kind of Institution is used to run a business whose wealth often exceeds that of a business entity such as a Limited Liability Company.⁴ As a concrete example, the Foundation established by former President Soeharto, the Foundation owned by the Indonesian Armed Forces (*Angkatan Bersenjata Republik Indonesia*/ABRI, *Tentara Nasional Indonesia*/TNI) and the Indonesian National Police

¹ Eldo Fransixco Dumanauw, "Kewajiban dan Tanggung Jawab Organ Yayasan Menurut Undang-Undang Nomor 28 Tahun 2004 Tentang Yayasan," *Lex Et Societatis* 7, no. 9 (2019): 439. See too, Erlan Muliadi, and Ulyan Nasri, "UU No. 16 Tahun 2001 tentang Yayasan; Telaah kebijakan pendidikan dasar dan menengah terkait eksistensi madrasah swasta dan yayasan," *Fikroh* 7, no. 2 (2023): 158; Mustofa, "Kedudukan Aset Dari Yayasan Yang Belum Disesuaikan Pasca Terbitnya Undang-Undang Nomor 28 Tahun 2004 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2001 Tetang Yayasan," *Jurnal USM Law Review* 2, no. 1 (2019): 140.

² Joke Punuhsingon, Jocefina Adelleida Tendean, Nopesius Bawembang, and Rinny Ante, "Kajian Hukum Keberadaan Organ Pengawas dalam Mencegah Penyalahgunaan Fungsi dan Tujuan Yayasan," *Paulus Law Journal* 5, no. 1 (2023): 45.

³ Taufik H. Simatupang, "Legalitas Subjek Hukum Yayasan Sebagai Badan Hukum (Kedudukan Yayasan Yang Terbentuk Sebelum Lahirnya UU 28 Tahun 2004 Tentang Perubahan UU Nomor 16 Tahun 2001 Tentang Yayasan) The Legality of The Institution Legal Subject as Corporation (The Standing of Foundation Established before the inception of the Act Number 28 of 2004 on Amendment of the Act Number 16 of 2001 on Foundation)," *Jurnal Ilmiah Kebijakan Hukum* 7, no. 1 (2017): 5. See too, Christian Lund, *Nine-Tenths of the Law: Enduring Dispossession in Indonesia*, (New Haven: Yale University Press, 2021), 52; Mustofa, "Kedudukan Aset Dari Yayasan Yang Belum Disesuaikan Pasca Terbitnya Undang-Undang Nomor 28 Tahun 2004 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2001 Tetang Yayasan," *Jurnal USM Law Review* 2, no. 1 (2019): 140; Delia Azizah Rachmapurnami, "Tinjauan Yuridis Penyesuaian Yayasan Yang Didirikan Sebelum Undang-Undang Nomor 16 Tahun 2001," *Officium Notarium* 1, no. 2 (2021): 364.

⁴ Michael J. Worth, *Nonprofit Management: Principles and Practice*, (Washington: CQ Press, 2020)

(*Kepolisian Negara Republik Indonesia/Polri*) and Foundations Which established by for conglomerate.⁵

In the elucidation of Law Number 16 of 2001 in conjunction with Law Number 28 of 2004 concerning Foundations, the legislators reaffirm that factual conditions demonstrate a tendency among certain individuals to establish foundations by taking shelter behind their legal status.⁶ Such foundations are not solely used as vehicles for the development of social, religious, and humanitarian activities, but in some cases are intended to enrich the founders, administrators, and supervisors.⁷ Moreover, there is a suspicion that foundations have been utilized to accommodate assets originating from founders or other parties that were obtained through unlawful means.⁸ Therefore, according to the legislators, the enactment of this law is intended to provide a proper and accurate understanding to the public regarding the nature of foundations, to ensure legal certainty, and to restore the function of foundations as legal institutions aimed at achieving specific objectives in the social, religious, and humanitarian fields.

Reformation about the concept foundation basis among others, it is stated with clear in the article- relevant articles with definition foundation (chapter 1 paragraph 1) And prohibitions Foundation (between other articles 3 paragraph 2 jo.pasal 5). In articles the There is two matter Which very essential that is, first, existence treasure/ riches separated which is solely only intended for to achieve the Foundation's objectives.⁹ Second, these assets may not be used, shared.¹⁰ Conception next Foundation is Institution Which in operate his activities aims for social, religious and humanitarian purposes, this is reflected in Article 1 paragraph 1. This means conception Foundation

⁵ Muhammad Habibi Siregar, "Law and Social Order: TNI's Role in Indonesia (Islam and Democracy), Post Suharto's Until Jokowi's Administration," *Law and Humanities Quarterly Reviews* (n.d.): 97.

⁶ Henry Aspan, "Legal study on the establishment of a foundation as a legal entity legal analysis number 28 of 2004 concerning foundations," In *International Conference on Health Science, Green Economics, Educational Review and Technology*, vol. 5, no. 1 (2023): 602. See too, Eldo Fransixco Dumanauw, "Kewajiban dan Tanggung Jawab Organ Yayasan Menurut Undang-Undang Nomor 28 Tahun 2004 Tentang Yayasan," *Lex Et Societatis* 7, no. 9 (2019): 440; Nimrot Siahhaan, Toni Toni, Agus Anjar, and 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 (2020): 7.

⁷ Gerard Clarke, "Agents of Transformation? Donors, Faith-Based Organisations and International Development," *Third World Quarterly* 28, no. 1 (2007): 83.

⁸ Henry Hansmann, Reinier Kraakman, and Richard Squire, "Law and the Rise of the Firm," *Harv. L. Rev.* 119 (2005): 1336.

⁹ Rosida Diani, and Siti Rochayati, "Yayasan Sebagai Pemegang Saham Perseroan Terbatas dan Akibat Hukumnya Terhadap Harta Kekayaan Yayasan," *Jurnal Hukum Tri Pantang* 10, no. 1 (2024): 15.

¹⁰ Aris Munandar, "Rekonstruksi regulasi sanksi pidana terhadap pengalihan objek jaminan fidusia yang berbasis nilai keadilan," (PhD Dissertation, Universitas Islam Sultan Agung Semarang, 2024), 53.

something body law deep frame social and his activities which aim look for profit. Matter This naturally very opposite with fact most of the foundations in Indonesia.

Even though according to Rohmat Soemitro¹¹ Initially and basically the foundation is an organization non-profit but in general foundations in Indonesia utilized as institution business which according to morality public not yet worthy called business, for example institutions education formal and non-formal, clinic or hospital. Even though there are provisions in the law The Foundation may carry out or establish a business entity or participate in participation in the form of a prospective business (article 3 and article 7).¹² However, the following provisions state that the activities of establishing a business entity and participating in participation in the form of a prospective business (article 3 and article 7). Business activities that are prospective in nature may only constitute up to 25% of the total value of the Foundation's assets and activities. Such business efforts must be carried out in accordance with the aims and objectives of the Foundation and must not conflict with public order, decency, or the applicable laws and regulations.¹³

Then Foundation No may share results activity business to Supervisor, Administrator and supervisors and only provide costs or expenses incurred by the Foundation's organs in carrying out their duties (article 3 paragraph 2, article 6 and article 8). These articles are a reflection of this effort must be in accordance with the aims and objectives of the Foundation and not conflict with public order, morality and applicable laws and regulation.¹⁴

Then the Foundation may not share the results of its business activities with the Trustees, Management and Supervisors and only provide costs or expenses incurred by the Foundation's organs in in order to carry out its duties (article 3 paragraph 2, article 6 and article 8). These articles reflect the existence of social objectives in the Foundation Law, meaning although Foundation establish body business or follow as well as in something body business or follow as well as in in something body business However the goal still in framework social not commercial.¹⁵

¹¹ Rochmat Soemitro, *Penuntun perseroan terbatas dengan undang2 pajak perseroan*, (No Title, 1964).

¹² Haris Mustofa Muhammad, Nur Widhiyanti Hanif, and Reka Dewantara, "Juridic Analysis of the Principles of Non-Profit in the Establishment of Business Entity by the Foundation," *Eurasia: Economics and Business* 4, no. 8.5 (2003): 2017.

¹³ Ayih Sutarih, Mochammad Bakri, Muhammad Fauzan, and Iwan Permadi, "Business Activity of Foundation," *JL Pol'y & Globalization* 46 (2016): 20. See too, Rosida Diani, and Siti Rochayati, "Yayasan Sebagai Pemegang Saham Perseroan Terbatas dan Akibat Hukumnya Terhadap Harta Kekayaan Yayasan," *Jurnal Hukum Tri Pantang* 10, no. 1 (2024): 16.

¹⁴ Joseph Raz, *Ethics in the Public Domain: Essays in the Morality of Law and Politics*, (Oxford: Oxford University Press, 1994), 32.

¹⁵ Ofer Eldar, "Designing Business Forms to Pursue Social Goals," *Virginia Law Review* 106, no. 4 (2020): 939.

The above matter is in line with the objectives set out in Law Number 17 of 2023 concerning Health, which emphasizes that the purpose of the Health Law in relation to its social function is to improve the quality of life of the community through the provision of safe, high-quality, and affordable health services for everyone. Therefore, it is inappropriate if a hospital or clinic established under the name of a foundation prioritizes profit in carrying out its activities rather than focusing on services that are social in nature.¹⁶ In practice, the service fees charged by private hospitals many of which are established and managed by foundations are often higher than those imposed by state hospitals, which are established and operated by the government. This condition raises concerns regarding the consistency between the social objectives mandated by the Health Law and the actual implementation of health services by foundation-based hospitals.¹⁷

From the foregoing explanations, it is evident that under the Foundation Law and the Health Law, a foundation operating in the hospital sector is required to conduct its activities with a social orientation rather than for profit. Social activities are understood as activities carried out for the benefit of the public at large and not for the personal or group interests of the founders, administrators, trustees, or supervisors of the foundation. A foundation is a legal entity with a social nature, which distinguishes it from other legal entities. Although the method of establishment is almost the same as that of a legal entity other such as Limited Liability Companies.¹⁸ The procedures for establishing a foundation are similar to the procedures for establishing a limited liability company.¹⁹ according to Invite -Law Number 1 Year 1995 about Company Limited but what differentiates them is the purpose of the activity its business. Limited Liability Company for profit or nature commercial whereas objective Foundation is in frame social activities or public interest.

Based on the social objectives inherent in the foundation's existence, hospital management as part of the foundation's social activities is an important and urgent matter to study. Therefore, this issue requires a more in-depth discussion to gain a comprehensive understanding of the role and function of foundations in the health sector. The questions formulated in this study are as follows:

¹⁶ Jill R. Horwitz, "Why We Need the Independent Sector: The Behavior, Law, and Ethics of Not-for-Profit Hospitals," *Ucla L. Rev.* 50 (2002): 1345.

¹⁷ Rosemary Stevens, *In Sickness and in Wealth: American Hospitals in the Twentieth Century*, (Lexington: Plunkett Lake Press, 2025), 67.

¹⁸ Eric W. Orts, *Business Persons: A Legal Theory of the Firm*, (Oxford: OUP Oxford, 2013), 23.

¹⁹ J. William Callison, and Allan W. Vestal, "The L3C illusion: why low-profit limited liability companies will not stimulate socially optimal private foundation investment in entrepreneurial ventures," *Vt. L. Rev.* 35 (2010): 278.

1. What is the social function of a foundation according to the Law on Foundations?
2. How is the social function of a foundation implemented in the health sector?

B. RESEARCH METHODS

The materials examined in this study focus on the social function of foundations, particularly in the health sector, as regulated by statutory provisions ranging from higher-level legislation to more specific and organic legal instruments, as well as other relevant materials related to foundations operating in the health field. In this context, a foundation is legally recognized as a non-profit legal entity governed primarily by Law Number 16 of 2001 concerning foundations, as amended by Law Number 28 of 2004, which emphasizes the social objectives of foundations and generally prohibits the provision of salaries or regular honoraria to their management, subject to limited exceptions for professional or contractual services.²⁰ This research use is normative legal research approach. Normative legal research is conducted by examining legal norms through the study of library materials or secondary data. Such secondary data consist of primary legal materials, including legislation and official legal documents; secondary legal materials, such as legal doctrines, scholarly writings, and expert opinions; and tertiary legal materials that support and clarify the primary and secondary sources. This method allows for a systematic analysis of the legal regulation of the social function of foundations in the health sector.²¹

Primary legal materials for legislation are processed and analyzed with normative steps, and explanation carried out in a way explanatory.²² First analyze meaning social materials law Foundation Indonesia. Then done identification and systematics regarding legal regulations relating to this issue. It's the same thing also carried out on library materials, namely carrying out

²⁰ Eldo Fransixco Dumanauw, "Kewajiban dan Tanggung Jawab Organ Yayasan Menurut Undang-Undang Nomor 28 Tahun 2004 Tentang Yayasan," *Lex Et Societatis* 7, no. 9 (2019): 439. See too, Mirza Nasution, "Shifting of Social Functions on Management of Foundation in Medan City," *Jurnal Ilmiah Penegakan Hukum* 10, no. 1 (2023): 82; Mustofa, "Kedudukan Aset Dari Yayasan Yang Belum Disesuaikan Pasca Terbitnya Undang-Undang Nomor 28 Tahun 2004 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2001 Tetang Yayasan," *Jurnal USM Law Review* 2, no. 1 (2019): 144.

²¹ Scott L. Greer, Tamara K Hervey, Johan P Mackenbach, and Martin McKee, "Health Law and Policy in the European Union," *The Lancet* 381, no. 9872 (2013): 1136.

²² Valeriya K. Antoshkina, Oleksandr Loshchykhin, Oksana Topchii, Dmytro Shevchenko, and Myroslav V Hryhorchuk, "Legislative Basics of Legal Interpretation," *International Journal for the Semiotics of Law-Revue internationale de Sémiotique juridique* 35, no. 5 (2022): 1658.

classification or classification and systematics of theories or opinion- opinion, which relate with meaning social body Indonesian Foundation Law.²³

After processing, the next step is legal material analysis, analysis This is done by examining the Foundation as a legal material with social aims, then looking for the social meaning of the Foundation in the Foundation Law. and laws Health with interpretation, so that we find social meaning in the social meaning that exists within legal entity Indonesian Foundation.

C. DISCUSSION

1. Social Function in the Law Foundation

Foundation is something Institution Which nature ideal or philanthropic that is for realizing the social desires of the community. Philanthropic in Indonesia is termed social generosity.²⁴ The activity of giving charity is basically a habit Public Indonesia Which based on by teachings religion. But term philanthropic is term new for Public Indonesia Because new known and widely discussed in five last year.²⁵ The concept of philanthropic has never been given an academic definition, it was only in 2001 that workshop National in Jakarta tries to provide a limit to the concept of generosity as displacement resource in a way voluntary for objective alms, social and community, consisting of two main forms, namely the utilization of social grants and grant Development. Grant social is help to something organization non-profit for activities social, Education, alms or activity other Which serve community welfare with management rights The grant is given entirely to the recipient. Meanwhile, the Development Grant refers to selective assistance to non-profit organizations that promote activities or agendas that align with the organization's objectives. aid provider.²⁶

The development of modern philanthropy in Indonesia is an interesting challenge.²⁷ In one side tradition charity Public very strong, Because Spirit worship Which owned. On the other hand, the rules of the game the regulatory framework is inadequate. The community's role in developing non-profit organizations in Indonesia, both in terms of fundraising and implementing

²³ Irhamni Ali, and Sarah E. Ryan, "The law and policy of library development: A legal text analysis of Indonesian library bills," *Alexandria* 33, no. 1-3 (2023): 52.

²⁴ Caroline Hartnell, "Philanthropy in Indonesia," *Association with Alliance, Filantropi Indonesia, Indonesia for Humanity and WINGS*, February (2020): 23.

²⁵ Amelia Fauzia, *Faith and the State: A History of Islamic Philanthropy in Indonesia*, Leiden: Brill, 2013.

²⁶ David Lewis, Nazneen Kanji, and Nuno S Themudo, *Non-Governmental Organizations and Development*, (New York: Routledge, 2020), 43.

²⁷ Anton Abdul Fatah, Novie Andriani, and Guntur Nur Hidayat, "Unleashing the Philanthropy Fund's Potential for a Sustainable Tomorrow: A Comprehensive Overview," *Journal of Infrastructure Policy and Management (JIPM)* 6, no. 2 (2023): 92.

social activities, has grown steadily over time. What is now needed is the government's role to further support this development.

In handling non-profit/social organizations, government Have two formats or point of view Which different.²⁸ Aspect organization Which related with ideology and order general matters handled by the department domestically.²⁹ While the social aspect concerns fundraising and utilization social funds Public As well as efforts to improve social welfare Public handled by the social department. While the development aspect technical handed over to department or non-department Which related with the organization's work field non-profit/social. Each mentor has their own rules of play which is generally very bureaucratic which must be obeyed which must be obeyed by organization The. In the National Development Program (Propenas) 2000-2004 (law number 25-year 2000) special about Development social and culture in between Development program in this field, namely the sub-field of Health and social welfare at point 1.7. regarding the social welfare potential development program covering individuals, families and group Public and Institution/organization service social Which have and take advantage of his abilities in develop level welfare social for their families and their environment, as well as for those who are still having problems in maintaining, improving and increasing social welfare.

On National Development Program (*Program Pembangunan Nasional/Propenas*) this there is something clarity that in do generosity social that an institution can be formed. This is reinforced again with the passing of the law about the Foundation.³⁰ This law expressly states that a Foundation is a legal entity consisting of separated assets that are designated to achieve certain objectives in the social, religious, and humanitarian fields, and that it does not have members, as stipulated in Article 1 point 1. From these various regulations there is the desire of the Indonesian people towards an institution philanthropic modern. However, this law does not receive much support. public because it is considered to open up opportunities for government intervention and interference to Foundation. The government requires that a foundation obtain official ratification from the government, in this case the Minister of Law and Human Rights, in order to acquire legal entity status, as stipulated in Article 11 paragraphs (1) and (2). This requirement represents a departure from the previous regulation, under which foundations were only

²⁸ Seymour Lipset, *Social Organization of Medical Work*, (New York: Routledge, 2017), 32.

²⁹ Albert Kuruwila, "Management of Non-Profit Social Service Organisations in Aotearoa New Zealand," (PhD, Disseertation University of Canterbury, 2017), 131.

³⁰ Seumas Miller, *The Moral Foundations of Social Institutions: A Philosophical Study*, (Cambridge: Cambridge University Press, 2010), 89. See too, Rosida Diani, and Siti Rochayati, "Yayasan Sebagai Pemegang Saham Perseroan Terbatas dan Akibat Hukumnya Terhadap Harta Kekayaan Yayasan," *Jurnal Hukum Tri Pantang* 10, no. 1 (2024): 18.

obliged to report and register with the District Court.³¹ Indonesia's national health development program has several key focuses outlined in the 2025-2029 National Medium-Term Development Plan (*Rencana Pembangunan Jangka Menengah Nasional*/RPJMN).³²

Here are some regulations and programs related to foundations in the health sector. The Government of Indonesia has established National Health Priority Programs, which consist of five main programs in the health sector, namely the Maternal and Child Health (MCH) Program, which aims to reduce maternal and infant mortality rates and increase access to reproductive health services; the Prevention and Control of Infectious Diseases Program, which focuses on the prevention and control of infectious diseases through immunization, early detection, and treatment; the Public Nutrition Improvement Program, which aims to improve the nutritional status of the community, especially toddlers and pregnant women; the National Health Insurance Program (*Jaminan Kesehatan Nasional*/JKN), which provides fair and affordable access to health services for all Indonesian people; and the Environmental Health Program, which aims to create a healthy and safe environment for the community.

In addition to these programs, there are also several Minister of Health Regulations related to national development programs in the health sector, including Minister of Health Regulation Number 39 of 2016 concerning Guidelines for the Implementation of the Healthy Indonesia Program with a Family Approach and Minister of Health Regulation Number 82 of 2014 concerning the Prevention and Control of Infectious Diseases.³³ Furthermore, the legal foundation for national development programs in the health sector is strengthened by Law Number 17 of 2023 concerning Health, which serves as the constitutional basis for health development in Indonesia. In operate programs the, foundation in field health can plays a role in supporting the government in achieving national development goals in the health sector. The foundation can help improve access to health services, prevent disease, and improve community nutrition.

³¹ Mark Evans, and Stan Grant, "Human Rights and Civil Liberties," *AUSTRALIA'S EVOLVING* 4, no. 2 (2024): 53. See too, Zaimudin Al-Mahdi Moka, "Strategy of Islamic Philanthropy Management for Economic Empowerment at BMH Gerai Ponorogo Using SWOT Approach," *International Journal of Islamic Business* 6, no. 1 (2021): 62.

³² Lilis Heri Mis Cich, Takuma Kato, Asuka Nagatani, and Nanda Sucitra Putri, *Strengthening the Health System for Older Persons*, (Books, 2024).

³³ Desi Handayani, "Analisis Yuridis Tentang Pendirian Yayasan Pendidikan Setelah Berlakunya Undang-Undang Nomor 28 Tahun 2004 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2001 Tentang Yayasan," *Al-Idarah: Jurnal Kependidikan Islam* 8, no. 1 (2018): 172. See too, Dita Bidri Riyandani, and Pujiyono Pujiyono, "Kedudukan Yayasan Pasca Berlakunya Undang-undang Nomor 28 Tahun 2004 Tentang Perubahan Atas Undang-undang Nomor 16 Tahun 2001 Tentang Yayasan," *Privat Law* 4, no. 2 (2016): 16469.

The Board of Directors is the Foundation's organ that carries out the Foundation's management. Regarding the Board of Directors, the Foundation Law regulates this in Articles 31 to 39, which state: administrator No may concurrent as Supervisor or supervisor.³⁴ Prohibition This dual position is intended to avoid the possibility of overlapping authority, duties and responsibilities of the Trustees, administrators and supervisors which could be detrimental to the interests of the Foundation. or other parties.³⁵

In carrying out their duties, administrators must be guided by fiduciary duty, the duty of skill and care, and statutory duty. Under the fiduciary duty doctrine, administrators are prohibited from acting for personal interests or the interests of third parties without the knowledge and/or consent of the foundation, as reflected in the conflict rule. They are also not permitted to take advantage of their position to obtain personal benefits or benefits for third parties, except with the approval of the foundation, in accordance with the profit rule. Furthermore, administrators are prohibited from using or misusing the foundation's assets for their own benefit or for the benefit of third parties, as stipulated in the misappropriation rule.

The doctrine of *duty of skill and care* is adopted in Law Number 16 of 2001, including: in chapter 39. Task Which must done with care and diligence arise from fairness or equity, namely the duty of *care and diligence* arising from the trustee's relationship with the beneficiary. The duties of the administrators are of course regulated by applicable laws and regulations, as well as the articles of association of the Foundation, which serve as the law for the Foundation. The provisions in Law Number 16 of 2001 concerning Foundations regulate the powers, authorities, and responsibilities of foundation administrators.³⁶ One issue that is often raised concerns whether an administrator may receive a salary, wages, or a fixed fee from the Foundation. The Foundation Law expressly stipulates that administrators are not permitted to receive a salary, wages, or a fixed honorarium.

Article 3 paragraph (2) of Law Number 16 of 2001 stipulates that foundations are prohibited from distributing the proceeds of their business

³⁴ Antarin Prasanthi Sigit, "Changes in the Composition of Foundation's Organs Without Supervisory Board Meetings and the Foundation's Articles of Association," *Pena Justisia: Media Komunikasi dan Kajian Hukum* 24, no. 1 (2025): 1369.

³⁵ Tymen J. Van der Ploeg, "Supervisory Powers Relating to Foundations: A Comparative Analysis of Foundation Law," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 6, no. 3 (1995): 263.

³⁶ Taufik H. Simatupang, "Legalitas Subjek Hukum Yayasan Sebagai Badan Hukum (Kedudukan Yayasan Yang Terbentuk Sebelum Lahirnya UU 28 Tahun 2004 Tentang Perubahan UU Nomor 16 Tahun 2001 Tentang Yayasan) The Legality of The Institution Legal Subject as Corporation (The Standing of Foundation Established before the inception of the Act Number 28 of 2004 on Amendment of the Act Number 16 of 2001 on Foundation)," *Jurnal Ilmiah Kebijakan Hukum* 7, no. 1 (2017): 6.

activities to their trustees, management, and supervisors.³⁷ The explanation of Article 3 paragraph (2) clarifies that this provision is in line with the aims and objectives of a foundation. Since a foundation is social, religious, and humanitarian in nature, individuals who serve as members of the Board of Trustees, Management, and Supervisors must perform their duties voluntarily and are not allowed to receive any form of compensation, including salaries, wages, or fixed honoraria.

Based on a study of 150 (one hundred fifty) foundations, it was found that only 5 foundations, or approximately 3.3%, explicitly include provisions in their articles of association stating that founders and administrators do not receive compensation or material benefits from the foundation. Only a small number of foundations clearly state that founders and management are not entitled to any material rewards or benefits, which creates the impression that, in practice, there may be founders or administrators who receive indirect or disguised compensation from the foundation concerned.³⁸

The problem is that the current law prohibits the granting of counter-performance to Foundation organs. The solution indicated by the law is to lift activity implementer or daily administrator as arranged in the article 35 paragraph 3 along with the explanation. This daily management is not prohibited by law to receive rewards or counter-performance. Explanation Article 35 paragraph 3 states that the activity implementer is the daily administrator of the Foundation who carries out daily activities. Chapter 6 Constitution number 16-year 2001 mention that Foundation must pay all costs or costs issued by the Foundation's organs in order to carry out the Foundation's duties.³⁹ Thus the provisions of the law above must be interpreted If the administrator is the activity implementer or daily administrator, then he has the right to receive compensation. or counter-performance in this case in accordance with Article 6.

Administrators serve as the main driving force in managing a foundation, and their performance largely determines whether the foundation is able to advance or, conversely, fail in carrying out the duties entrusted to it. Therefore, their responsibilities must be carried out with careful, professional,

³⁷ Erlan Muliadi, and Ulyan Nasri, "UU No. 16 Tahun 2001 tentang Yayasan; Telaah kebijakan pendidikan dasar dan menengah terkait eksistensi madrasah swasta dan yayasan," *Fikroh* 7, no. 2 (2023): 155.

³⁸ Joke Punuhsingon, Jocefina Adelleida Tendean, Nopesius Bawembang, and Rinny Ante, "Kajian Hukum Keberadaan Organ Pengawas dalam Mencegah Penyalahgunaan Fungsi dan Tujuan Yayasan," *Paulus Law Journal* 5, no. 1 (2023): 47.

³⁹ Mo Jihong, "Legislation on Foundations in China: Historical Development, Present State and Main Characteristics," In *Freedom of Association in China and Europe*, (Leiden: Brill Nijhoff, 2005), 223.

and accountable standards.⁴⁰ However, the expectation that administrators work fully and devote their time to the foundation without receiving wages or other forms of remuneration raises practical concerns regarding their livelihood. In this context, administrators, as one of the organs of the foundation, must be clearly distinguished from other organs, while still upholding the social function and non-profit character that form the fundamental nature of the foundation. It is hoped that the Foundation's organs will live a decent life considering that they carry out their work and noble duties at the Foundation. The point is not to The Foundation's organs are people who have absolutely no resources income or source income Which No worthy sufficient need their daily life. So, they are expected can really carry out the tasks glorious in Foundation with calm and can avoid self For No do things which is not commendable related with riches Foundation who are fostered or supervised or taken care of.

Differences of opinion among legal scholars have emerged regarding whether a foundation is permitted to engage in business activities. This debate centers on the question of whether a foundation, as regulated under Law Number 16 of 2001 concerning Foundations, may conduct commercial activities similar to those carried out by business entities.⁴¹ The law expressly stipulates that a foundation must have specific purposes in the social, religious, and humanitarian fields, which raises further questions about the extent to which business activities may be undertaken without undermining its non-profit character. Even if a foundation is allowed to engage in certain business activities, such activities are not intended to pursue profit as an end in itself. This situation gives rise to a fundamental issue concerning the distinction between a foundation and other legal entities or business entities in conducting business activities, particularly in relation to their objectives, use of profits, and underlying legal nature.

Law Number 16 of 2001 does not prohibit foundations from engaging in business activities, however, such activities must be conducted indirectly.⁴²

⁴⁰ Nani Mulyati, and Yuli Heriyanti, "Tanggung Jawab Perdata Organ Yayasan Berdasarkan Undang-Undang Yayasan," *UNES Law Review* 6, no. 4 (2024): 12509.

⁴¹ Desi Handayani, "Analisis Yuridis Tentang Pendirian Yayasan Pendidikan Setelah Berlakunya Undang-Undang Nomor 28 Tahun 2004 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2001 Tentang Yayasan," *Al-Idarah: Jurnal Kependidikan Islam* 8, no. 1 (2018): 174. See too, Nur Hidayah, Ramli Siregar, and Windha Windha, "Pertanggungjawaban Organ Yayasan Atas Pailitnya Yayasan Menurut Undang-Undang Nomor 16 Tahun 2001 Jo Undang-Undang Nomor 28 Tahun 2004 Tentang Yayasan," *Transparency Journal of Economic Law* 2, no. 2 (2013): 14669.

⁴² Erlan Muliadi, and Ulyan Nasri, "UU No. 16 Tahun 2001 tentang Yayasan; Telaah kebijakan pendidikan dasar dan menengah terkait eksistensi madrasah swasta dan yayasan," *Fikroh* 7, no. 2 (2023): 159. See too, Nur Hidayah, Ramli Siregar, and Windha Windha, "Pertanggungjawaban Organ Yayasan Atas Pailitnya Yayasan Menurut Undang-Undang Nomor

Specifically, business activities may only be carried out through the establishment of a separate business entity or by participation in an existing business entity, as stipulated in Article 3 paragraph (1). This provision implies that a foundation is not permitted to directly conduct business activities in its own name, except through the formation of or participation in a business entity. Furthermore, pursuant to Article 3 paragraph (2) of Law Number 16 of 2001, any profits generated from such business activities may not be distributed to the trustees, administrators, or supervisors of the foundation, thereby reaffirming the non-profit nature and social orientation of foundations.⁴³

According to Chatamarrasyid⁴⁴ a foundation may generate profit; however, profit-making cannot be its primary objective. Any surplus obtained must be used to support the foundation's idealistic goals, which are social, religious, or humanitarian in nature. Activities aimed solely at generating profit are not permitted within a foundation. If the objective is to pursue financial gain, another legal entity, such as a limited liability company, is more appropriate. This reflects the general principle that each type of legal entity is established for a specific purpose, and no single form fits all situations. Legal entities differ in objectives, organizational structure, and governing laws, ensuring that foundations, unlike profit-driven businesses, are structured to maintain independence from ongoing donations or external aid.

Arie Kusumastuti and Maria Suhardiadi⁴⁵ does not use the term "profit," because its use would inevitably evoke the notion of distribution, as in the case of typical commercial business operations. By using the term "excess income," no party can expect a share of the foundation's earnings. This terminology aligns the matter with the nature and objectives of a foundation's business activities, ensuring that the foundation's operations remain consistent with its non-profit, social, or humanitarian purpose.

Based on the opinion above, a foundation may generate profits from its business activities or participate in ventures; however, these profits cannot be used to enrich the foundation's organs, employees, or any other parties with an interest in the foundation, either directly or indirectly. This prohibition

16 Tahun 2001 Jo Undang-Undang Nomor 28 Tahun 2004 Tentang Yayasan," *Transparency Journal of Economic Law* 2, no. 2 (2013): 14669.

⁴³ Desi Handayani, "Analisis Yuridis Tentang Pendirian Yayasan Pendidikan Setelah Berlakunya Undang-Undang Nomor 28 Tahun 2004 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2001 Tentang Yayasan," *Al-Idarah: Jurnal Kependidikan Islam* 8, no. 1 (2018): 176. See too, Delia Azizah Rachmapurnami, "Tinjauan Yuridis Penyesuaian Yayasan Yang Didirikan Sebelum Undang-Undang Nomor 16 Tahun 2001," *Officium Notarium* 1, no. 2 (2021): 363.

⁴⁴ Chatamarrasjid Ais, *Masalah pertanggungjawaban Badan Hukum Yayasan Dalam Hal melakukan Perbuatan melawan Hukum/Perbuatan Curang" dalam kapita Selekta Hukum Perusahaan*, (Bandung: Citra Aditya Bakti, 2000).

⁴⁵ Arie Kusumastuti, and Maria Suhardiadi, *Hukum Yayasan di Indonesia*, (Jakarta: Abadi, 2001), 34.

ensures that all income is directed toward the foundation's objectives, such as advancing education for the public (for foundations operating in the education sector) or improving public health (for foundations in the health sector), and serves the broader interests of society rather than individual gain. Matter this is the goal ideal and social in a way overall and covers objective foundation which nature social, religious and humanity. Description under this can give description that the foundation's objectives are related to advancing the world of education, to advance health and for the public interest.

In case *Commissioners for special purposes of income tax v. Pemsel* (1819) air conditioning 531 Lord Judge Macnaghten put forward There is 4 (four) classification from charity namely overcome poverty, advancing education, advancing religion, and other goals for the public interest.⁴⁶

It should be emphasized that each of the above classifications must also include aspects of public interest or general usefulness for the public (i.e., public benefit). So, something donations or activities that are beneficial to society in general. This view starting from the angle the Foundation's view that it is entitled to tax relief. According to Chatamarrasyid⁴⁷ the goal of advancing education must include social and humanitarian goals. It doesn't matter where an education receives donations from or with say other source the producer but Which important is the goal.

In case *Butterworth v. Keeler*, questioned whether something help for establishment A special school for teenage girls in North Salem, Westchester County, New York, is social/charitable or not. There is no difference of opinion that an activity that promotes a deed with social and humanitarian goals.

2. Social Function of a Foundation in Health Law

The social function of the Health Law in Indonesia is reflected in several important aspects. The Health Law aims to provide fair and equitable health services for all Indonesian people without distinction based on social, economic, or geographical status, ensuring equal access to health care throughout the country. In addition, the Health Law functions to protect public health from various threats, including infectious diseases, unhealthy environments, and accidents, as part of the state's responsibility to safeguard the well-being of its citizens.⁴⁸ The Health Law also aims to improve the quality of life of the Indonesian people through the provision of quality and affordable health services, while simultaneously supporting the development of health

⁴⁶ Chatamarrasjid Ais, *Badan Hukum Yayasan (Suatu Analisis Mengenai Yayasan Sebagai Suatu Badan Hukum Sosial)*, (Bandung: Citra Aditya Bakti, 2002), 43.

⁴⁷ Chatamarrasjid Ais, *Tujuan sosial yayasan dan kegiatan usaha bertujuan laba*, (Bandung: Citra Aditya Bakti, 2000), 53.

⁴⁸ Nani Mulyati, and Yuli Heriyanti, "Tanggung Jawab Perdata Organ Yayasan Berdasarkan Undang-Undang Yayasan," *UNES Law Review* 6, no. 4 (2024): 12511.

resources, including health workers, health facilities, and health technology, to ensure the sustainability of the health system.

In the latest Health Law, namely Law Number 17 of 2023 concerning Health, several social functions are explicitly emphasized, including the recognition of the right to health for everyone, which encompasses the right to obtain quality and affordable health services. This law also affirms the obligation of the government to provide such services for all Indonesian people and highlights the important role of public participation in improving health and quality of life through active involvement in health-related activities. Thus, the Health Law in Indonesia carries an essential social function in enhancing the quality of life of the community and protecting public health. This social function is further supported by various related regulations, including Law Number 36 of 2009 concerning Health, Government Regulation Number 47 of 2016 concerning Health Facilities, and the Regulation of the Minister of Health Number 71 of 2013 concerning Health Services in the National Health Insurance, all of which regulate rights, obligations, standards, and access to quality and affordable health services.

Hospital foundations can be subject to income tax if they meet the criteria stipulated in Indonesian tax regulations. Hospital foundations that earn income from operational activities, such as patient care services and other hospital service fees, may become objects of income tax. In addition, hospital foundations that have been registered as legal entities and possess a Taxpayer Identification Number (*Nomor Pokok Wajib Pajak/NPWP*) can also be subject to income tax obligations. The legal basis for income tax in Indonesia is Law Number 36 of 2008 concerning Income Tax (*Pajak Penghasilan/PPH*), which stipulates that foundations that receive income from operational or business activities can be categorized as income tax subjects and objects. Therefore, in determining whether a hospital foundation is subject to income tax, it is necessary to conduct a thorough analysis of the foundation's operational activities and sources of income.

However, hospital foundations that do not have the objective of seeking profit and that use all of their income solely to support activities in accordance with the foundation's social, humanitarian, or health-related objectives may be exempt from income tax. This exemption is regulated under Article 4 paragraph (3) of Law Number 36 of 2008 concerning Income Tax, which states that certain types of income received by foundations or organizations that do not aim to seek profit can be excluded from income tax. This provision reflects the state's recognition of the social function carried out by hospital foundations in providing health services to the community.

Furthermore, hospital foundations may also receive income tax relief if they meet certain conditions.⁴⁹ Income tax exemptions may apply to income derived from donations, charitable contributions, or other social and humanitarian activities. Foundations that obtain income from operational activities may still receive income tax relief if they fulfill specific criteria regulated by law. These provisions are further governed by the Regulation of the Minister of Finance Number 128/PMK.03/2016 concerning the Imposition of Income Tax on Business Income Received or Obtained by Foundations or Organizations That Do Not Have the Objective of Seeking Profit, which regulates the taxation mechanism and relief applicable to such foundations.⁵⁰

In determining whether a hospital foundation is eligible to receive income tax relief, further analysis is required regarding the foundation's operational activities, sources of income, and compliance with the applicable laws and regulations. Several regulations govern taxable income for foundations operating in the health sector in Indonesia, including Law Number 36 of 2008 concerning Income Tax, which regulates income tax obligations, including income received by foundations operating in the health sector. In addition, Article 4 paragraph (3) of Law Number 36 of 2008 concerning Income Tax regulates income that is not subject to income tax, including income received by foundations operating in the health sector that do not have the objective of seeking profit. This legal framework is further supported by the Regulation of the Minister of Finance Number 128/PMK.03/2016 concerning the Imposition of Income Tax on Income from Businesses Received or Obtained by Foundations or Organizations That Do Not Have the Objective of Seeking Profit, which specifically regulates the taxation of business income received or obtained by non-profit foundations and organizations, including those operating in the health sector. Moreover, Regulation of the Director General of Taxes Number PER-44/PJ/2015 regulates the procedures for imposing income tax on business income received or obtained by foundations or organizations that do not aim to seek profit, including foundations engaged in health services.

Several important aspects must be considered in determining taxable income for foundations operating in the health sector. Income received by a foundation that operates with the objective of seeking profit will be subject to income tax, while income received by foundations that do not have a profit-oriented objective and that is fully used for activities in accordance with the foundation's purpose will not be subject to income tax. Foundations operating

⁴⁹ Kasiani, "Hukum Badan Usaha yang Dapat Didirikan oleh Yayasan untuk Mewujudkan Kemudahan Iklim Berusaha di Indonesia," *Jurnal Supremasi* (2021): 59.

⁵⁰ Dewi Sukma Kristianti, "Menelisik yayasan di indonesia: sebagai lembaga yang memiliki fungsi dan tujuan sosial semata?" *Jurnal Paradigma Hukum Pembangunan* 6, no. 1 (2021): 16.

in the health sector that receive income categorized as taxable income also have tax obligations, including reporting and paying income tax in accordance with prevailing regulations.⁵¹

Income that may constitute a taxable object for foundations in the health services sector includes income from health service activities, such as patient care fees, treatment costs, surgical costs, and other charges related to health services. In addition, taxable income may also originate from the sale of goods, including medicines, medical devices, and other items related to health services; income from investments such as deposit interest and stock dividends; income from donations related to business activities, such as donations intended to support health service operations; and income from other activities, including rental income, royalties, and similar sources.

However, it should be remembered that income received by a foundation in the field of health services that does not have the objective of seeking profit and is used for activities in accordance with the objectives of the foundation will not be subject to income tax.⁵² Examples of income that is not subject to income tax for foundations in the health services sector include donations that are not related to the foundation's business activities, such as donations intended to support social activities or charitable programs, as well as income used for social purposes. Income used for social activities includes funds allocated to provide assistance to patients who are unable to afford health care costs, in line with the social and humanitarian mission of the foundation.

In determining whether income received by a foundation in the health services sector constitutes a taxable object, it is necessary to conduct further analysis of the foundation's operational activities and the nature of the income received. This analysis is important to distinguish between income derived from business-oriented activities and income that is purely social or charitable in nature, so that the correct tax treatment can be applied in accordance with applicable laws and regulations.

In general, the provision of subsidies or assistance to less fortunate patients can be grouped into two categories. The first is subsidies or treatment assistance provided or fully covered by the foundation operating in the health services sector, such as medical assistance given to underprivileged patients. The second is assistance in the form of partial or full exemption from health service fees for patients who are not financially capable, where the foundation

⁵¹ Kasiani, "Hukum Badan Usaha yang Dapat Didirikan oleh Yayasan untuk Mewujudkan Kemudahan Iklim Berusaha di Indonesia," *Jurnal Supremasi* (2021): 58.

⁵² Dewi Sukma Kristianti, "Menelisik yayasan di Indonesia: sebagai lembaga yang memiliki fungsi dan tujuan sosial semata?" *Jurnal Paradigma Hukum Pembangunan* 6, no. 1 (2021): 13.

operating in health services grants relief or waives part or all of the medical service charges as part of its social responsibility.

With existence imposition provision taxation to foundation which move in bi in terms of health services in the form of hospitals, foundations can be separated into 2 groups. First, foundation Hospital which pure aim for interest general or social. Here foundation the give enough lots subsidy with charge cost low to public or with increase service better which means the foundation's expenses are greater, even in deficit. Second, the foundation a hospital with a business purpose (profit oriented). Here the foundation runs its business by charging the community quite high fees so that there is a large difference between the income and expenses of the foundation's business or activities. These tax provisions are expected can truly separate the foundations Hospitals which of course for public/social interest with foundation hospitals that carry out commercial activities.⁵³

The social significance of hospital foundations can be observed from several aspects. First, in terms of health services, hospital foundations play an important role in providing quality and affordable healthcare, particularly for those who cannot afford medical costs. Second, regarding community service, hospital foundations are committed to serving the public and improving their quality of life through high-quality healthcare services. Third, in terms of charitable activities, hospital foundations often provide assistance to patients who cannot afford healthcare or carry out other social activities that benefit the community. Fourth, in community development, hospital foundations contribute through health education, training of healthcare personnel, and other activities that enhance the overall quality of life. Fifth, hospital foundations establish partnerships with the community, government, and other organizations to improve health service quality and raise public awareness about the importance of health.

The social meaning of hospital foundations is also reflected in the values embedded in their activities. These include empathy, as they care for patients and communities in need of healthcare; concern, demonstrated through attention to the health and welfare of the public; commitment, shown in efforts to improve healthcare services and public awareness about health; and community involvement, by engaging the public in foundation activities and promoting health education. Thus, hospital foundations hold a crucial role in

⁵³ M. Ramadhan, Suarga Nabil Akbar, Shanty Shanty, Indah Anggun Rahma, and Dwi Bintang Alitsaputro, "Studi Komparasi antara Rumah Sakit Berbadan Hukum Yayasan dengan Rumah Sakit Berbadan Hukum Perseroan Terbatas," *Indonesian Journal of Law and Justice* 1, no. 4 (2024): 8.

improving community well-being and providing quality, affordable healthcare.⁵⁴

Several regulations in Indonesia underline the social significance of hospital foundations. These include Law Number 44 of 2009 concerning Hospitals, which governs hospital administration and the role of foundations in providing quality services; Government Regulation Number 93 of 2015 concerning Hospitals, which regulates hospital service standards; Minister of Health Regulation Number 82 of 2014 on the Control of Infectious Diseases, which emphasizes disease prevention and public health awareness; Minister of Health Regulation Number 71 of 2013 concerning Health Services under the National Health Insurance, which governs affordable healthcare provision; Law Number 36 of 2009 concerning Health, which establishes health as a basic human right and a government obligation; Government Regulation Number 47 of 2016 concerning Health Facilities, which sets standards for healthcare infrastructure; and Minister of Health Regulation Number 43 of 2016 concerning Health Services for the Poor and Vulnerable, which ensures access to quality healthcare for disadvantaged populations.

With this understanding, regulations have an important role in improving the quality of health services and increasing public awareness of the importance of health. The social significance of hospital foundations is therefore very important in helping the government improve public welfare, especially in the health sector. Hospital foundations function as partners of the government in realizing health development goals by ensuring that health services are accessible, equitable, and sustainable for the wider community. Through their activities, hospital foundations contribute not only to curative services but also to preventive and promotive efforts that strengthen the overall health system.⁵⁵

The objectives of hospital foundations reflect their strong social role, particularly in assisting the government in supporting public welfare in the health sector. Hospital foundations aim to provide quality and affordable health services for the public, increase public awareness about the importance of health, and strengthen the role of the hospital foundation as a social institution. In addition, hospital foundations provide assistance to people in need, especially in the health sector, by offering subsidies or free services for underprivileged patients, providing adequate health facilities and infrastructure, and developing health programs that are beneficial for society.

⁵⁴ Dewi Sukma Kristianti, "Menelisik yayasan di Indonesia: sebagai lembaga yang memiliki fungsi dan tujuan sosial semata?" *Jurnal Paradigma Hukum Pembangunan* 6, no. 1 (2021): 17.

⁵⁵ M. Ramadhan, Suarga Nabil Akbar, Shanty Shanty, Indah Anggun Rahma, and Dwi Bintang Alitsaputro, "Studi Komparasi antara Rumah Sakit Berbadan Hukum Yayasan dengan Rumah Sakit Berbadan Hukum Perseroan Terbatas," *Indonesian Journal of Law and Justice* 1, no. 4 (2024): 6.

Foundation Hospitals own role important in increase welfare society, especially in field health. As institution non-profit, foundation Hospitals focuses on providing quality and affordable health services to the community, without distinguishing between social, economic, or religious backgrounds.⁵⁶

The Hospitals foundation functions as a social institution with several key objectives. It plays a significant role in improving the quality of life of the community by providing high-quality healthcare services, enabling people to live healthier and more productive lives. In addition, the foundation contributes to reducing morbidity and mortality by offering timely and appropriate medical care, thereby minimizing health risks within the community. The foundation also seeks to raise public awareness about the importance of health, encouraging individuals to take better care of themselves and engage in preventive measures to avoid disease. Through these activities, the Hospitals foundation fulfills its social mission of promoting the well-being and health of the broader community.

In carrying out its role, hospital foundations possess several key advantages. They have the flexibility to implement healthcare programs that are tailored to the specific needs of the community. Additionally, hospital foundations demonstrate a strong commitment to providing quality and affordable healthcare services to the public. They also have the ability to establish partnerships with other organizations, which helps enhance the quality and reach of health services. These advantages enable hospital foundations to effectively fulfill their social mission and respond to the evolving healthcare needs of the community.

In conclusion, the social significance of hospital foundations is crucial in improving community welfare. By providing quality and affordable healthcare services, house foundation pain can help increase quality of life society, reducing number pain and death, and increase awareness public about the importance of health. Therefore, hospital foundations need to be supported and developed to improve community welfare.⁵⁷

The benefits of hospital foundations are reflected in their contributions to public health and well-being. They help improve the quality of life of the community by providing high-quality healthcare services, assist in reducing morbidity and mortality, and raise public awareness about the importance of health and disease prevention. An example of such an institution is the Baptism Indonesia Hospital Foundation (YRSBI), which operates in the healthcare sector with a strong commitment to delivering professional, accountable, and

⁵⁶ Annabel Grieve, and Jill Olivier, "Towards Universal Health Coverage: A Mixed-Method Study Mapping the Development of the Faith-Based Non-Profit Sector in the Ghanaian Health System," *International journal for equity in health* 17, no. 1 (2018): 97.

⁵⁷ Kasiani, "Hukum Badan Usaha yang Dapat Didirikan oleh Yayasan untuk Mewujudkan Kemudahan Iklim Berusaha di Indonesia," *Jurnal Supremasi* (2021): 58.

compassionate services to the community. Through these efforts, hospital foundations play a crucial role in promoting public health and supporting the overall welfare of society.

Hospital foundations have a broad social significance and can create a positive impact on the community in multiple ways. They provide affordable healthcare services, particularly for individuals who cannot bear the costs of medical treatment, and assist people in need, including disaster victims, patients with chronic illnesses, or those lacking access to healthcare. Hospital foundations also conduct health campaigns and outreach programs to raise public awareness about the importance of health and disease prevention. In addition, they contribute to improving the overall quality of life by delivering high-quality and accessible healthcare services. By collaborating with other organizations, such as government agencies, NGOs, and community groups, hospital foundations enhance the quality of healthcare and support community welfare. They also implement beneficial health programs, including disease prevention initiatives, maternal and child health programs, and public health campaigns, while improving access to healthcare for all members of the community.

By applying their social function, hospitals can help increase community welfare and improve the quality of life of the population they serve. Furthermore, hospitals can also enhance their reputation and build greater public trust in healthcare institutions through consistent social engagement and responsibility.⁵⁸ Examples of hospitals that apply a strong social function include hospitals that provide free or subsidized health services for the poor and underprivileged, hospitals that actively conduct health campaigns and community outreach programs to increase public awareness about the importance of health, and hospitals that collaborate with other organizations, both governmental and non-governmental, to improve the quality of health services and to enhance overall community welfare.

Thus, hospitals play a vital role in improving public welfare and enhancing the overall quality of life. According to the Minister of Health Regulation of the Republic of Indonesia Number 920/MENKES/PER/XII/1986, the social function of hospitals includes providing healthcare facilities for patients with limited financial capacity. Specifically, government hospitals are required to allocate at least 75% of available beds for such patients, while private hospitals must provide at least 25% of their beds for those in need. Additionally, private hospitals are obligated to offer emergency care without requiring advance payment, ensuring that urgent medical services are accessible to all members of the community.

⁵⁸ Nani Mulyati, and Yuli Heriyanti, "Tanggung Jawab Perdata Organ Yayasan Berdasarkan Undang-Undang Yayasan," *UNES Law Review* 6, no. 4 (2024): 12512.

In the guidelines for implementing the Indonesian hospital code of ethics (KODERSI) it is also stated that hospitals as Socio-economic Unit, namely stating that hospitals as health service facilities are "socio-economic units", which must prioritize humanitarian tasks and prioritize their social functions, not seek profit. solely. As "unit socio-economic", Hospitals must own values hospital base as stated in the preamble to KODERSI and in carrying out their duties must always be guided by and adhere to the CODE.

Implementation of social functions private hospitals are regulated in Regulation of the Minister of Health of the Republic of Indonesia number 378/MENKES/V/1993 concerning the implementation of the social function of private hospitals. What is meant by the social function of private hospitals is the part and responsibility inherent in each hospital, which is the moral and ethical bond of the hospital in helping patients. especially those who are less able/unable to meet their health needs and services.⁵⁹ Meanwhile, what is meant by the less fortunate social group is a society whose income is only sufficient to meet basic needs. The minimum and underprivileged groups are people who do not have a fixed income to support themselves. basic needs.

The implementation of the social function of private hospitals encompasses several key aspects. Private hospitals are required to provide and utilize a certain number of beds for class III or the lowest class of care, ensuring access for patients with limited financial means. They must also offer healthcare services free of charge to members of the public who are unable to pay. Emergency services are provided 24 hours a day without requiring an advance payment, while prioritizing urgent care. Additionally, private hospitals are expected to participate in government health programs and contribute to national or local disaster response efforts. These activities, including other forms of social services, align with the hospital's humanitarian mission and commitment to public welfare.

The allocation and availability of class III or lowest-class beds for underprivileged or financially unable members of the community are determined based on the type of private hospital. Private hospitals owned by foundations, associations, social organizations, or state-owned hospitals that serve the public are required to allocate a minimum of 25% of their beds for these patients. Meanwhile, privately owned hospitals operated by individual or corporate capital must allocate at least 10% of their beds for the same purpose. This provision ensures that healthcare services remain accessible to all segments of society, particularly those who are less fortunate.

⁵⁹ Tiago Correia, "Doctors' Reflexivity in Hospital Organisations: The Nexus between Institutional and Behavioural Dynamics in the Sociology of Professions," *Current Sociology* 65, no. 7 (2017): 1056.

In its development, private hospitals have begun to put aside their social function and even abandon it as a result of the increasing development of private hospitals. new in frame profit/benefit. The most recent phenomenon is an investment by big businessmen. These business investors are building luxury hospitals. Objective mainly is profit, they is owner share in business health services.

With the development of private hospitals founded by foundations, there are instances where their operations may not fully align with the social function of hospitals as institutions serving the community. This is regulated by various laws and regulations, including the Regulation of the Minister of Health of the Republic of Indonesia Number 378/MENKES/PER/V/1993 concerning the implementation of the social function of private hospitals, which stipulates the allocation and availability of class III or lowest-class beds for underprivileged patients, specifically requiring a minimum of 10% for private hospitals owned by capital investors. This situation creates opportunities for hospitals to be established with profit-oriented objectives rather than a purely social mission. Furthermore, Law Number 12 of 1994 concerning Land and Building Tax, along with the Minister of Finance Decree Number 796/KMK.04/1995, differentiates taxation between private hospitals that serve social functions and those established by investors as commercial entities, typically in the form of limited liability companies (PT). such establishments are permissible as long as their broader objective is to advance public health, which remains a social goal. This can include establishing hospitals, rest houses, and care facilities that are not profit-oriented, providing necessary amenities for patients, advancing specific medical treatments and research, and assisting individuals suffering from particular illnesses, including those with special medical or rehabilitation needs. Then results profit No intended for the benefit of private but intended to advance the care of the patient concerned and there are facilities for those who are unable to do so in accordance with the laws and regulations above.

Another issue arises when a private hospital is established by a limited liability company (PT), even though, according to the Minister of Health's regulations, a private hospital should be legally organized as a foundation. This requirement is in line with Law Number 23 of 1992 concerning Health, Article 7, and the Regulation of the Minister of Health of the Republic of Indonesia Number 920/MENKES/XII/86, Article 1, which states that private health services in the medical field are an integral part of the healthcare network. Such services can be provided by individuals, groups, or foundations, and they primarily include curative and rehabilitative efforts. Establishing a private hospital as a PT therefore diverges from the intended legal framework, which

emphasizes the social and public service function of hospitals rather than purely commercial objectives.

This situation can be seen in the process Indonesian hospital autonomy financial problems have reduced the central government's ability to finance development. In practice, the government has distanced itself from welfare state, which should be country finance all over service the public and results tax and business state. Hospitals are increasingly moving towards a service system based on the principle of private goods. As a result, in addition to referring to factual social and humanitarian services, services Hospitals has develop become something industry which based on principles economy with Wrong one characteristic stands out, namely characteristic competitive.⁶⁰

This tradition results in the hospital becoming an existing institution economic character as well as having a social character. In this case, it is feared that if the impact is not managed properly, it will occur confusion and inaccuracy of management patterns Which used. Transition This No must from One extreme to extreme other. In this requires a combination the right balance between public health orientation and health orientation business. With use spectrum Which arranged by Dees⁶¹ states that hospitals can be distinguished from business institutions that have mixed motivations (hospitals). Sick shaped Institution business non-profit until on form Institution business profit).

Wrong One principal business Which can used in Hospitals is draft Balanced Scorecard on the end of the 1990s, industry circles get input about *Balanced Scorecard* concept proposed by Kaplan and Norton.⁶² This concept emphasizes that successful companies do not only pursue for profit just, but also try for chase satisfaction users, development HR, And quality process. Development the Balanced Scorecard concept relevant for applied in Hospitals. With based on principle excellent service and the *Balanced Scorecard concept*, indicators used to assess success Hospitals as Institution business Which have function social. Trisnantoro⁶³ proposed the existence of 4 (four) perspectives, namely: Human resources, activity implementation processes, user or donor satisfaction indicators are adapted from the Balanced Scorecard draft developed by Kaplan and Norton, and financial indicators.

⁶⁰ Tymen J. Van der Ploeg, "Supervisory Powers Relating to Foundations: A Comparative Analysis of Foundation Law," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 6, no. 3 (1995): 265.

⁶¹ J. Carlsson, H. Haase, S. Miketic, S. Haun, E. Sorges, G. Dees, and U. Tebbe, "Pneumothorax als Ursache für eine ineffektive Schocktherapie durch einen implantierbaren „active can“-Kardioverter-Defibrillator," *Herzschrittmachertherapie und Elektrophysiologie* 10, no. 1 (1999): 46.

⁶² Robert S. Kaplan, and David P. Norton, "Balanced scorecard," In *Das Summa Summarum des Management: Die 25 wichtigsten Werke für Strategie, Führung und Veränderung*, (Wiesbaden: Gabler, 1996), 139.

⁶³ Laksono Trisnantoro, *Aspek strategi manajemen rumah sakit antara misi sosial dan tekanan pasar*, (Yogyakarta: Penerbit Andi, 2005), 23.

D. CONCLUSION

Foundation is something Institution Which nature ideal or philanthropic that is for realizing social desires. This is in line with the definition of a legal entity as a Foundation according to Law Number 2001 concerning Foundations, its activities are aimed at social, religious and humanitarian purposes. The existence of the Foundation's organs is linked to the management organs. organ There is a possibility that administrators will be given counter-performance bonuses in the form of salaries and wages. or something similar because the duties carried out by the administrator according to the law are carried out with standards of care and expertise (duty of skill and care) so they must be carried out seriously and must work fully (full time).

Existence foundation business entity connected with profits. According to the provisions of the Foundation Law, it is stated that the Foundation can carry out business activities and other activities. inclusion on business, with total inclusion as much as 25% from treasure wealth of the Foundation. Profit Which obtained by the Foundation in carry out this business activity intended for the benefit of Foundations or society in general. The social function of the Health Law in Indonesia is reflected in several aspects, such as: Fair and Equitable Health Services, Protection of Public Health, Improving the Quality of Life and Development of Health Resources.

Foundation Hospitals can become object tax income If they fulfil criteria as a subject of income tax. However, hospital foundations that do not have the aim of seeking profit and all his income used for activity Which in accordance with the intention of foundation, can excluded from taxes income. This matter in accordance with the Chapter 4 paragraph Law Number 36 of 2008 concerning Income Tax, which states that certain income received by foundations or organizations that do not have the objective of seeking profit can be exempt from income tax. The social meaning of the hospital foundation can be seen from several aspects, such as: Health Services, Community Service, Charity Activities, Community Development and Partnership with the community.

There is a need for regulatory reform regarding government intervention in the internal affairs of hospital foundations, particularly concerning the determination and organization of their structures. Current regulations do not adequately accommodate the diversity of foundations, each with distinct organizational structures and governing bodies, which are already sufficiently outlined in the foundation's Articles of Association (AD/ART), allowing them autonomy in managing internal matters. It is also expected that joint regulations between the Ministry of Health and the Ministry of Finance be established to support tax relief for private hospitals that provide fee

reductions or exemptions for low-income patients, potentially through a joint ministerial decree. Furthermore, hospital foundations should maintain their social function while simultaneously developing business-oriented operations to enhance the effectiveness and quality of healthcare services, ensuring they remain competitive in the face of free-market pressures within the health sector.

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