



## Criminal Liability in the Misuse of Donations by the Aksi Cepat Tanggap Foundation: A Juridical Analysis of Justifying and Excusing Grounds

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**Abstract:** The case of misuse of donations by the Aksi Cepat Tanggap Foundation (ACT) in the management of funds from Boeing for the heirs of the victims of the Lion Air JT-610 accident has become an important issue in criminal law enforcement in Indonesia. This study aims to analyze the application of criminal sanctions against the misuse of social funds by foundation administrators who are charged with embezzlement in office as stipulated in Article 374 of the Criminal Code jo Article 55 of the Criminal Code. This research uses a normative juridical approach and an empirical juridical approach with a case study of the South Jakarta District Court's decision Number 865/Pid.B/2022. The results of the study show that the elements of embezzlement are legally and convincingly proven. The defendant was sentenced to 3 years in prison for being proven to have misused social funds for purposes that were not in accordance with the designation. The study also highlights the absence of a pardon or justification that can absolve the defendant from criminal liability. This decision is an important reflection for strengthening regulations, transparency of philanthropic institutions, and fair law enforcement in the management of social funds.

**Keywords:** Misuse of Donations, Embezzlement in Position, Quick Response Action.

### INTRODUCTION

Indonesia, which is located in a disaster-prone region, frequently faces various events that threaten the lives of its people. These disasters may occur due to natural factors such as earthquakes, tsunamis, or non-natural factors<sup>1</sup>. Examples of non-natural disasters include technological failure, modernization failure, epidemics, disease outbreaks, and transportation accidents<sup>2</sup>. In this context, transportation accidents have several causes: 1) weather factors, 2)

<sup>1</sup> Raditya Nugi, Eny Supartini, Novi Kumalasari, Dian Andry, Susilastuti, Indah Fitrianasari, Jimmy Taringan, Anton Agus Haryanto, "Membangun Kesadaran Kewaspadaan Dan Kesiapsiagaan Dalam Menghadapi Bencana." (Jakarta: Universitas Merdeka Surabaya pers, 2017) hlm 4

<sup>2</sup> *Ibid* hlm 1

mechanical failure of transportation equipment such as aircraft accidents, which are also considered disasters. These disasters are caused by bad weather or mechanical failure in the aircraft, which can have serious impacts such as loss of life and significant material loss<sup>3</sup>.

In such aircraft accidents, not only do airlines suffer heavy losses, but the families of the victims also feel a profound sense of loss. Even though airplanes are considered one of the safest modes of transportation, the risk of accidents still exists.

In such situations, the Indonesian people, known for their spirit of mutual cooperation and high social concern, usually come together to raise assistance to ease the burden of the victims. One major incident that shocked the public was the crash of Lion Air JT-610 in 2018.

"The chronology of the crash of Lion Air JT-610, which was on the Jakarta–Pangkal Pinang route, fell into the Java Sea on October 29, 2018, just a few minutes after takeoff from Soekarno-Hatta Airport. The Boeing 737 MAX 8 departed at 06:20 WIB carrying 181 passengers, 2 pilots, and 6 cabin crew, all of whom were declared dead. Before the crash, during a Denpasar–Jakarta flight, the plane had already experienced problems with speed and altitude indicators. At the time of the accident, the pilot struggled with the automatic system that kept pushing the plane's nose downward. Although the pilot attempted to return to Jakarta, the aircraft lost contact and crashed".<sup>4</sup>

After Lion Air JT-610 crashed in October 2018, a joint search team immediately mobilized and successfully found aircraft debris and several victims within days. Investigation results showed that the accident was caused by a malfunctioning Angle of Attack (AoA) sensor, which caused the MCAS system to continuously push the plane's nose downward, even though the pilot tried to control the aircraft. A similar tragedy occurred with Ethiopian Airlines in March 2019, which eventually led to the temporary grounding of all Boeing 737 MAX aircraft worldwide. Subsequently, Boeing made software updates and conducted pilot training before the aircraft was allowed to fly again.<sup>5</sup>

The Lion Air JT-610 tragedy not only brought grief to the families of the victims but also raised doubts about aviation safety standards in Indonesia. Considering that commercial aviation is a very vital mode of transportation, public trust in its safety is extremely important. This case also triggered broader discussions about airline regulation and responsibility, both technically, operationally, and legally.

In this incident, Lion Air provided aid or compensation to the victims' families; however, the families were dissatisfied with the compensation offered by Lion Air because it was deemed unfair and required a waiver of the right to sue the airline or Boeing. As a result, some families chose to sue Boeing in the United States.<sup>6</sup>

This tragedy had a major impact on Lion Air's reputation, marked by a decline in public trust and passenger interest. The public became more skeptical of aviation safety in Indonesia, especially considering Lion Air's prior history of technical incidents. Criticism of the airline's operational management also intensified.

Although this incident received global attention and sympathy, and Lion Air had made various improvements such as internal evaluations and crew training, the airline's negative

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<sup>3</sup> Nurisa Fajri Wijaya Agung Harijiko, Diana Puspitasari, Irfani Pabaningrum Kirana Putri Pratistika, "Manajemen Penanggulangan Bencana Dan Pengurangan Risiko Bencana Di Indonesia." (D.I Yogyakarta: Gadjah Mada University Pers IKAPI dan APPTI, 2021) hlm 21

<sup>4</sup> Media Tempo, "Hakim AS: Penumpang Lion Air JT610 Yang Jatuh Pada Tahun 2018 Sebagai Korban Kejahatan," [https://www.tempo.co/internasional/hakim-as-penumpang-lion-air-jt-610-yang-jatuh-2018-sebagai-korban-kejahatan--269582#google\\_vignette](https://www.tempo.co/internasional/hakim-as-penumpang-lion-air-jt-610-yang-jatuh-2018-sebagai-korban-kejahatan--269582#google_vignette), diakses pada 11 Februari 2025

<sup>5</sup> Wa Ode Yufilda, Septiyani Putri Astutik, "Pengaruh Berita Kecelakaan Pesawat Terhadap Loyalitas Penumpang Lion Air Di Bandar Udara Huoleo Kendari." *Jurnal Kewarganegaran* 6, no. 1 (2022) hlm 71

<sup>6</sup> Media Tempo, "Langkah Lion Air Pulihkan Kepercayaan Pasca Insiden JT610," diakses pada 11 Februari 2025

image remained difficult to recover. Overall, the accident left a deep impact not only on the victims' families but also on public trust in Indonesia's aviation industry.

However, the airline could not remain idle. Air transportation companies, in particular, must consider insurance coverage for the families of the deceased, referring to the Minister of Transportation Regulation Number 77 of 2011 concerning the Liability of Air Carriers. This regulation details the amount of compensation that must be given to passengers by the carrier. The insurance coverage referred to in this regulation only includes material losses suffered by passengers, shippers, and third parties, namely:

1. Passengers who die onboard will receive insurance of Rp. 1,250,000,000.00 (one billion two hundred fifty million rupiah).
2. The families of passengers who died due to incidents related to air transportation when leaving the waiting room or disembarking the aircraft, including at a transit airport, will receive Rp. 500,000,000.00 (five hundred million rupiah).
3. Passengers who suffer permanent total disability will receive Rp. 1,250,000,000.00 (one billion two hundred fifty million rupiah). If the passenger experiences partial permanent disability, the amount of compensation will be determined based on the attachment to the Minister of Transportation Regulation Number 77 of 2011.
4. Passengers who are injured and require medical treatment in hospitals or clinics will receive reimbursement up to Rp. 200,000,000.00 (two hundred million rupiah), based on the actual medical expenses incurred.
5. If a passenger's checked baggage is damaged, compensation will be given according to the type, shape, size, and brand of the baggage. For lost checked baggage, passengers will be compensated Rp. 200,000.00 (two hundred thousand rupiah) per kilogram with a maximum limit of Rp. 4,000,000.00 (four million rupiah) per passenger.
6. Passengers who experience a flight delay of more than 4 hours will receive compensation of Rp. 300,000, with other alternative compensations as listed in Government Regulation Number 77 of 2011.

When a plane crash occurs, two possibilities may befall the passengers. Passengers may survive but suffer injuries or disabilities, or they may die. Based on these conditions, the right to claim compensation from the airline will differ. If the passenger survives but is injured or disabled, they are entitled to claim compensation directly. However, if the passenger dies, the right to compensation goes to the heirs, including the spouse, children, or parents who are dependent on the victim.

According to the regulation, if a plane crash victim has no family or heirs, the government will take over their insurance funds. However, the government will reimburse funeral expenses of Rp. 2,000,000.00 (two million rupiah) to the party organizing the victim's burial. This is regulated in Article 4 of the Minister of Finance Regulation Number 37/PMK.010/2008, which regulates compensation for passengers who die in plane crashes and have no heirs.<sup>7</sup>

According to Soekidjo Notoatmojo, "Legal responsibility is a consequence of a person's freedom regarding their actions related to ethics or morals in committing an act".<sup>8</sup> Meanwhile, Titik Triwulan states, "Accountability must have a basis, namely something that gives rise to a legal right for someone to sue another party, and at the same time obliges the other party to provide legal responsibility".<sup>9</sup>

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<sup>7</sup> Pramuditya Syaiful Maarif, "Implementasi Penerapan Pemberian Ganti Kerugian Korban Kecelakaan Pesawat: Studi Kasus Lion Air JT-610 PK-LPQ 3," (Skripsi Universitas Islam Negeri Jakarta 2021) hlm 52

<sup>8</sup> Reni Agustina Harahap, "Etika Dan Hukum Kesehatan", (Medan: Merdeka Kreasi Group, 2022) hlm 150

<sup>9</sup> Shita Febriana Titik Triwulan, "Perlindungan Hukum Bagi Pasien", (Jakarta: Prestasi Pustaka 2010) hlm 20

Based on the above statements, Lion Air has a responsibility to provide compensation to the families of passengers who died in the accident, especially if the incident occurred onboard or during boarding/disembarking. The payment of this compensation is Lion Air's obligation as the carrier according to law, with the risk shared with the insurance party.

In the case of Lion Air JT-610, the minimum compensation according to the Minister of Transportation Regulation Number 77 of 2011 is Rp. 1,250,000,000.00 (one billion two hundred fifty million rupiah) for fatalities and Rp. 4,000,000.00 (four million rupiah) for baggage. Lion Air provided Rp. 1,300,000,000.00 (one billion three hundred million rupiah) in compensation, exceeding the minimum requirement by Rp. 47,000,000.00 (forty-seven million rupiah), so in terms of nominal value, it has met the legal requirements.<sup>10</sup>

The provision of this insurance money can also be referred to as a donation to be given to the victims' families through a foundation. A foundation is a legal entity focused on social, religious, and humanitarian goals, not commercial ones. Unlike companies, foundations have no owners, with their assets separated from the founders. They are managed by trustees, administrators, and supervisors, and all foundation assets are used for public interest, not for distribution to founders. Legality is obtained through the Ministry of Law and Human Rights, with regulations ensuring transparency and accountability in accordance with its social purposes.<sup>11</sup>

Foundations are born from the social concern of communities willing to set aside their wealth to help others in need. Unlike other legal entities that are generally profit-oriented, foundations are more appropriate as a vehicle for social activities because they have greater flexibility in areas such as education, health, and religion.

Meanwhile, in Indonesia's legal system, the role of law enforcement is crucial. Especially in the realm of criminal law, law enforcement aims to turn ideals of justice into reality, providing legal certainty and benefits for society in every legal relationship that occurs.<sup>12</sup>

Compared to other legal entities focused on economic and business activities, foundations are more suitable as a platform for social engagement because they have a broader scope in the fields of education, health, and religion—areas that are generally not yet addressed by other legal entities.

In the application of law in Indonesia, according to Law No. 16 of 2001 in conjunction with Law No. 28 of 2004 on foundations, funding sources may include non-binding donations, waqf (endowments), grants, wills, and other sources in accordance with regulations. Foundation funds may also be obtained through donations, whether directly via partnerships or online through crowdfunding.

The Indonesian government regulates fundraising activities through Law No. 9/1961 on the Collection of Money or Goods and Government Regulation No. 29/1980 on the Implementation of Donation Collection. Foundations themselves are governed by Law No. 16/2001, which was later revised by Law No. 28/2004. These laws serve as the legal foundation for how foundations operate and protect all involved parties, from founders, trustees, and supervisors to the general public.

Although social fundraising requires clear transparency about who is organizing it, how much is collected, and how the funds are used, this ease of fundraising is sometimes abused. Some foundation leaders take advantage of this opportunity for personal gain, business purposes, money laundering, or using operational funds beyond limits set by the government.

An example of such abuse occurred in the misuse of donations or misappropriation of funds involving the foundation or organization Aksi Cepat Tanggap (ACT), where Rp.

<sup>10</sup> Pramuditya Syaiful Maarif, *Op. Cit* hlm 5

<sup>11</sup> Ditjen AHU Online, "Yayasan", <https://yayasan.ahu.go.id/>, diakses 28 Februari 2025

<sup>12</sup> Sahat Maruli Tua Situmeang, "Sistem Hukum Indonesia", (Bandung; Logos publishing, 2020) hlm 15

138,000,000,000.00 (one hundred thirty-eight billion rupiah) in aid from Boeing intended for the families of the victims of the Lion Air 610 crash was misused by ACT. This case, revealed on July 2, 2022, exposed acts of embezzlement and misappropriation, where the funds were instead used to pay the high salaries of ACT executives, rather than being distributed to the victims' heirs as intended.

This case gained national attention due to the large-scale misuse of donations and public trust in philanthropic institutions. When *Tempo* media uncovered allegations that ACT's president had misappropriated Rp. 138 billion in CSR funds from Boeing that were meant for the families of the Lion Air JT-610 crash victims, the act was legally classified as embezzlement, as stipulated in Article 372 of the Indonesian Criminal Code (KUHP), which defines embezzlement as:

"Anyone who intentionally and unlawfully possesses goods, entirely or partially, belonging to someone else and those goods are in their possession not due to a crime, shall be punished for embezzlement."

In the context of a foundation, the actions of ACT administrators who used the funds for personal gain clearly violated Article 5 and Article 37 of Law No. 16 of 2001 on Foundations, which prohibit the use of foundation assets for the personal interests of administrators and stipulate that foundation assets must be entirely used for social purposes according to the foundation's statutes.

Once law enforcement became aware of or received reports of the case, the police immediately conducted an investigation into the suspected misappropriation of humanitarian funds managed by ACT. The investigation resulted in four ACT officials being named suspects, including the chairman of the foundation and members of its board. This case sparked various public responses concerning the management of humanitarian funds.

After the case was exposed, the Ministry of Social Affairs took firm action by revoking ACT's operational license on July 5, 2022. This incident served as a vital lesson: trust from stakeholders such as the public, government, and donors is a crucial asset for the continuity of philanthropic institutions. Given its importance, an in-depth study is needed to understand how the ACT scandal has affected public trust in other philanthropic organizations.

The misappropriation of humanitarian funds has serious and widespread consequences. It not only reduces the effectiveness of philanthropic institutions but also harms the communities that were supposed to receive aid. Those in need ultimately do not receive their rightful support because the funds were misused.

In this case, ACT's fundraising should have complied with Law No. 9 of 1961 on the Collection of Money or Goods, as well as Government Regulation No. 29 of 1980 as the implementing regulation. Ignoring these provisions—such as failing to provide transparent and accountable reports on fund usage—constitutes an administrative violation and may trigger additional criminal charges. If fraud or fund misuse is committed jointly or involves many people, then all parties involved can be prosecuted under Articles 55 and 56 of the Criminal Code.

To recover from this situation, Indonesian philanthropic institutions must implement a more transparent system for reporting how funds are used to the public. This step is essential to demonstrate their accountability in managing humanitarian funds. Strengthening both internal and external oversight is also key to preventing the recurrence of similar cases in the future.<sup>13</sup>

Therefore, reforming the governance of humanitarian funds is a vital step for philanthropic institutions to restore trust from various stakeholders. Based on the author's

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<sup>13</sup> Nurul Alfiatus Sholikhah, "Peran Lembaga Filantropi Untuk Kesejahteraan Masyarakat Global (Studi Kasus Pada Aksi Cepat Tanggap Madiun)." *Journal Of Islamic Philanthropy and Disaster (JOIPAD)* 1, No. 1 (2021) hlm 27



observations of previous studies, several pieces of research have discussed the application of criminal sanctions in the misuse of donations by Aksi Cepat Tanggap, including:

**Table 1.** Previous Research.

No	Research	Similarities	Differences
1	Larasati, Nikita Desinta (Satya Wacana Christian University Institutional Repository, 2024), titled <i>"Misuse of Donation Funds by Aksi Cepat Tanggap (ACT) Foundation"</i>	Analyzes legal implications arising from tragic events (Lion Air JT-610 crash and misuse of ACT funds)	This thesis examines the application of law and criminal sanctions related to compensation for the families of Lion Air JT-610 victims, focusing on the legal obligations of the airline and the compensation process to ensure the fulfillment of victims' families' rights.
2	Mukhtarom (State Islamic University K.H. Abdurrahman Wahid Pekalongan), titled <i>"The Impact of Misappropriation of Humanitarian Funds by Aksi Cepat Tanggap (ACT) on Islamic Philanthropic Institutions in Pekalongan in Maintaining Stakeholder Trust"</i>	Analyzes the misuse of donation funds by Aksi Cepat Tanggap	This thesis explores the case from a socio-economic perspective by examining its impact on Islamic philanthropic institutions in Pekalongan and their efforts to maintain stakeholder trust after the ACT scandal was revealed.
3	Davina Riranty (Lambung Mangkurat University), titled <i>"Liability of the Humanitarian Organization Aksi Cepat Tanggap in the Misuse of Funds"</i>	Analyzes the misuse of donation funds by Aksi Cepat Tanggap	This thesis examines ACT's legal liability from a civil law perspective, discussing how the misappropriation of funds can be classified as an unlawful act and the responsibility that must be borne by the party that caused harm.

Based on the previously explained background, the researcher feels the need to further examine the misuse of donations. Therefore, the writer is interested in raising this topic in the thesis entitled: **"An Analysis of the Application of Criminal Sanctions in the Misuse of Donations by Aksi Cepat Tanggap (a Study of Verdict Number 865/Pid.B/2022/PN Jkt.Sel)"**.

## METHODS

### Location

The researcher conducted the study at the South Jakarta District Court, located at Jl. Ampera No. 133, RT 05/RW 10, Ragunan, Pasar Minggu, South Jakarta City, Special Capital Region of Jakarta 12550.

### Data and Legal Sources

#### a. Data

Data refers to a collection of facts gathered by the researcher with the aim of answering and resolving the problems formulated in the research. The existence of data plays a crucial role as it serves as the main foundation for drawing accurate and accountable conclusions.

#### b. Legal Sources

##### 1. Primary Legal Sources

Primary legal materials are binding sources consisting of legislation related to the research object, including:

- Law No. 9 of 1961 concerning the Collection of Money or Goods
- Law No. 16 of 2001 concerning Foundations
- Law No. 28 of 2004 on the Amendment to Law No. 16 of 2001 concerning Foundations

- d) The Indonesian Penal Code (KUHP), specifically Article 372 on embezzlement and Articles 55 and 56 on participation in criminal acts
- e) Government Regulation No. 29 of 1980 concerning the Implementation of Fundraising
- f) Minister of Finance Regulation No. 37/PMK.010/2008 concerning the Placement and Use of Insurance Funds for Airplane Accident Victims
- g) Minister of Transportation Regulation No. 77 of 2011 concerning the Liability of Air Carriers

## **2. Secondary Legal Sources**

Secondary legal materials include writings by legal experts, legal journals, scholarly opinions, legal cases, jurisprudence, and the outcomes of scientific discussions relevant to the research. In this study, secondary legal sources consist of reference books, scientific works, and papers relevant to the topic discussed.

## **3. Data Collection Techniques**

The techniques used by the researcher to collect data include:

- a) Observation
- b) Interviews
- c) Documentation
- d) Literature Study

## **4. Methods and Data Analysis Techniques**

The method and data analysis techniques in this research are carried out using a normative juridical approach that examines the legal norms and rules related to donations as reflected in legislation, legal doctrines, and relevant jurisprudence, particularly concerning Decision No. 865/Pid.B/2022/PN JKT.SEL.

This approach is enriched with an empirical juridical method that investigates the implementation of these legal provisions in judicial practice and society, including how law enforcement officials apply criminal sanctions in cases involving the protection of donations by Aksi Cepat Tanggap. The collected data is then analyzed qualitatively by integrating theoretical perspectives from criminal law enforcement theory, sentencing theory, and criminal liability theory to uncover the correlation between the applicable legal norms and the reality of their implementation, thus providing a comprehensive understanding of the effectiveness of criminal sanctions in preventing and addressing the misuse of social funds in Indonesia.

## **RESULT AND DISCUSSION**

The police received a report regarding fraud in the management of aid funds from Boeing entrusted to the ACT Foundation. Ibnu Khajar, who was then serving as a board member of the foundation, was suspected of being involved in the misuse of those funds. In fact, the money was supposed to be used to help the community through education programs, food distribution, and other humanitarian activities.

Upon receiving the initial information, the police immediately stepped in to investigate the case. They found strong indications of criminal acts, prompting the case to be escalated into a formal investigation. The investigation team worked diligently to collect all the necessary evidence to prove the allegations.

During the investigation process, the police secured various important documents as evidence. They found records of money transfers, WhatsApp conversations among foundation members, financial reports, and budget plans for Boeing-funded projects. All these documents were key to uncovering the modus operandi of the fund misuse.

On July 29, 2022, Ibnu Khajar was officially detained by investigators after the collected evidence was deemed sufficiently strong. His detention was extended several times

by the police, the prosecutor's office, and the court to allow adequate time for further examination. This detention demonstrated the seriousness of the authorities in handling the case.

Once all the evidence had been collected and the examination was considered complete, the police handed over the full case file to the prosecution on October 26, 2022, marking the end of the police's investigative phase. Along with the file, the suspect and all evidence were also handed over to the prosecutor.

With the case file submitted to the prosecution, the case officially entered a new phase in the legal process. The public prosecutor then took over the case handling and began preparing the indictment to bring it before the court. This stage marked the start of the trial preparations.

## **Prosecution**

### **a. Application of Article 374 of the Criminal Code in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code**

In the case involving Ibnu Khajar, Article 374 of the Indonesian Criminal Code (KUHP) in conjunction with Article 55 paragraph (1) point 1 was applied because the defendant was suspected of embezzlement in office together with others. Article 374 regulates embezzlement committed by someone who controls assets due to their position or entrusted authority. As the chairman of the ACT Foundation, Ibnu Khajar had authority over Boeing's social funds, which were meant to be distributed to the families of the plane crash victims, but these funds were used for other purposes without the knowledge of Boeing or the victims' families. This unilateral use of funds was considered embezzlement in office because the money he controlled was not his own but entrusted to the foundation for responsible distribution.

Meanwhile, Article 55 paragraph (1) point 1 of the Criminal Code was used to prosecute others involved. The indictment stated that Ibnu Khajar did not act alone but collaborated with Ahyudin and Hariayana. The three of them worked together in approving and using the funds beyond their original purpose, and their actions were therefore considered a joint criminal act. This article allows the prosecutor to charge not only those who directly committed the crime but also those who ordered or participated in it.

The panel of judges accepted the arguments in the indictment because the elements of both articles were proven during the trial. Ibnu Khajar was considered to have abused his power as a foundation official to divert humanitarian aid funds for unauthorized purposes, and he did so together with other individuals who also had responsibilities within the foundation. Therefore, the combination of these articles was deemed appropriate by the judges and served as the main basis for imposing a sentence of 3 (three) years in prison.

### **b. Description of the Sentence: Length of Imprisonment**

After going through all stages of the trial and considering the evidence presented, the panel of judges declared that Ibnu Khajar was legally and convincingly proven guilty of committing the crime of embezzlement in office as regulated in Article 374 in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code.

The judges' conviction was based on the testimonies of dozens of witnesses, budget plan documents (RAB), proof of social fund transfers from Boeing, and digital conversations between the defendant and others that indicated the use of funds for purposes outside the agreed conditions. The funds, which were supposed to be used for humanitarian programs for the heirs of the Lion Air JT-610 crash victims, were proven to have been diverted to unauthorized uses.



In his defense plea (pledoi), the defendant requested acquittal or at least a reduced sentence. However, based on all legal facts and the judges' considerations, this request was not fully granted.

In the final verdict, the panel of judges sentenced Ibnu Khajar to 3 (three) years in prison. This sentence was lighter than the 4 (four) years sought by the public prosecutor.

### **Application of Criminal Charges**

The criminal charges against Ibnu Khajar were based on an analysis of the criminal elements contained in Article 374 in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code, namely the crime of embezzlement in office committed jointly. The public prosecutor structured the charges by noting that the defendant, as Chairman of the ACT Foundation, had authority and responsibility over the management of funds from Boeing.

According to the indictment, the prosecutor revealed that funds amounting to IDR 117,982,530,997 (one hundred seventeen billion nine hundred eighty-two million five hundred thirty thousand nine hundred ninety-seven rupiah), which were supposed to be used for humanitarian assistance programs for the families of crash victims, were instead used for purposes not aligned with the donation's intent. This included paying office mortgage installments, financing affiliated company projects, and covering foundation expenses never approved by Boeing or the beneficiaries.

The prosecutor concluded that the defendant's actions met the elements of embezzlement, as he lawfully controlled the funds due to his position but used them as if they were his personal or the foundation's assets without legal approval. Therefore, the prosecutor demanded that the defendant be sentenced to 4 (four) years in prison.

However, the panel of judges decided on a lighter sentence of 3 (three) years in prison. The decision not to follow the prosecutor's full demand was due to several mitigating considerations, including:

- a. The defendant had no prior criminal record.
- b. The defendant was cooperative during the trial.
- c. Humanitarian considerations and a plea for leniency were presented.

Although the defendant was found guilty, the judges deemed that a 3-year prison sentence was sufficient to reflect justice, provide a deterrent effect, and uphold the rule of law without neglecting personal and social factors. The verdict represented a compromise between the seriousness of the crime and the mitigating circumstances.

### **Criminal Liability in the ACT Donation Misuse Case**

#### **Legal Subject**

In this case, the person held accountable for the misuse of the aid funds was Ibnu Khajar, who served as Chairman of the ACT Foundation. Even though the acts were committed under the name of the organization, the law holds individuals personally accountable.

This is because Ibnu Khajar was proven to have participated in decision-making regarding the use of Boeing's donation funds, which were supposed to be used for social activities. In reality, the funds were used for other purposes, such as the foundation's internal operational expenses, including office payments and asset purchases, which did not align with the original purpose of the donation.

In Indonesian criminal law, individuals not organizations are held criminally liable. Thus, even though the violations occurred within the foundation, the executive who played a significant role in decision-making Ibnu Khajar was held accountable in court.

In other words, because he knew, approved, and directly participated in the misuse of funds, he had to bear legal responsibility for his actions.

## The Act

Ibnu Khajar served as an executive at the ACT Foundation and bore significant responsibility for managing donation funds, including a substantial contribution from Boeing. These funds were supposed to be used to assist the community, such as building schools and providing humanitarian aid.

However, part of the donations was used for purposes not aligned with the donor's intentions. For instance, the funds were used to pay office loan installments and were funneled into affiliated companies, which was clearly contrary to the original purpose of the donation.

Due to his important position and involvement in decision-making, Ibnu Khajar was held responsible for the misappropriation of donation funds. The court regarded this act as a betrayal of the trust placed in him.

Ultimately, the court found Ibnu Khajar guilty and sentenced him to 4 years in prison. He was to remain in custody to serve the sentence in accordance with the court's decision.

## Analysis of Justification and Excuse

In Indonesian criminal law, two important concepts can remove criminal liability: *justification* and *excuse* grounds. Justification renders an otherwise criminal act lawful, while an excuse removes liability from the perpetrator even though the act remains unlawful.

Here's how these defenses apply in the context of the Ibnu Khajar case:

### 1. Justification Grounds

Found in Articles 48–50 of the Criminal Code, the most relevant include:

- a. Article 48: Compulsion (*overmacht*)
- b. Article 49(1): Self-defense (*noodweer*)
- c. Article 50: Acting under a lawful official order

In Ibnu Khajar's case, none of these grounds applied because:

- a. The act was not committed under compulsion or emergency.
- b. He was not defending himself from unlawful attack.
- c. He did not act under an official government order, but in his capacity as a foundation chairman.

Therefore, none of Articles 48–50 could justify his misuse of Boeing's social donation funds.

### 2. Excuse Grounds

Found in Article 44 and Article 49(2) of the Criminal Code:

- a. Article 44: Mental illness preventing legal responsibility
- b. Article 49(2): Excessive self-defense due to intense fear or confusion (*noodweer excess*)
- c. Doctrinally recognized excuses also include: acting under an unlawful but believed-to-be-lawful order (though not explicitly stated in the Code)

In this case, there was no evidence that the defendant suffered from mental illness or extreme psychological conditions. On the contrary, the defendant was actively involved in fund management decisions and benefited from the proceeds. His actions were deliberate, structured, and repeated.

Thus, in Ibnu Khajar's case, neither justification nor excuse could be applied. His act remained criminal, and he was fully accountable under the law. This conclusion was consistent with the court's assessment that the elements of embezzlement in office had been legally and convincingly proven, without any exceptions applicable under statutory law.

## CONCLUSION

Based on the results of the research and analysis of the donation misuse case involving the Aksi Cepat Tanggap (ACT) Foundation, it can be concluded that:

1. The application of criminal sanctions in case No. 865/Pid.B/2022/PN.JKT.SEL, in which the defendant, Ibnu Khajar, was proven legally and convincingly guilty of committing the criminal act of embezzlement in office as regulated in Article 374 of the Indonesian Criminal Code (KUHP) in conjunction with Article 55 paragraph (1) point 1 of the KUHP. The offense was committed by misusing social funds from Boeing, which were intended to assist the families of victims of the Lion Air JT-610 plane crash but were instead used for other purposes that were inconsistent with the objectives of the donation.
2. Criminal liability in the donation misuse case, as ruled in Decision No. 865/Pid.B/2022/PN.JKT.SEL, stated that Ibnu Khajar was held criminally responsible based on assessments throughout the stages of investigation, inquiry, prosecution, and trial. The court determined that Ibnu Khajar, by virtue of his formal position as an executive of the foundation and his proven use of the donation funds for purposes beyond their intended use, fulfilled the elements of embezzlement. His actions were carried out knowingly and without the presence of any legal justification or excuse.

## REFERENCES

- (KBBI), K. B. (2016). Jakarta: Balai Pustaka.
- (KBBI), K. B. (2016). Jakarta: Balai Pustaka.
- Abdussamad, Z. (2021). *Metode Penelitian Kualitatif*. Makasar: CV Syakir Media Press.
- Aditya, U. R. (2015). *Asas dan Tujuan pembedaan dalam Perkembangan Teori Pembedaan*. Semarang: Pustaka Magister.
- Arianto, B. (2024). *Teknik Wawancara Dalam Metode Penelitian Kualitatif*. serang: Borneo Novelty.
- Arief, B. N. (2007). *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*. Jakarta: Kencana.
- Arief, B. N. (2018). *Bunga Rampai kebijakan Hukum Pidana*. Jakarta: Prenadamedia Group.
- Atmasasmita, R. (2013). *Sitem Peradilan Pidana Kontemporer*. Jakarta: Kencana.
- Faisal, N. S. (2017). *Kriminologi*. Medan: Pustaka Prima.
- Fardha, K. V. (2023). Perkembangan Teori-Teori Hukum Pidana. *Journal Of Social Science Research* , 4.
- Hakim AS: *Penumpang Lion Air JT610 Yang Jatuh Pada Tahun 2018 Sebagai Korban Kejahatan*. (t.thn.). Diambil kembali dari Media Tempo: [https://www.tempo.co/internasional/hakim-as-penumpang-lion-air-jt-610-yang-jatuh-2018-sebagai-korban-kejahatan--269582#google\\_vignette](https://www.tempo.co/internasional/hakim-as-penumpang-lion-air-jt-610-yang-jatuh-2018-sebagai-korban-kejahatan--269582#google_vignette),
- Hamzah, A. (2008). *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta.
- Hamzah, A. (2008). *Hukum Acara Pidana Indonesia*. Jakarta: Sinar Grafika .
- Harahap, R. A. (2022). *Etika Dan Hukum Kesehatan*. medan: Merdeka Kreasi Group.
- Kitab Undang-Undang Hukum Pidana
- Langkah Lion Air Pulihkan Kepercayaan Pasca Insiden JT^!)*. (t.thn.). Diambil kembali dari Media Tempo: <https://www.tempo.co/ekonomi/langkah-lion-air-pulihkan-kepercayaan-pasca-insiden-jt-610-800858>,
- Larasati, N. D. (2024). Penyalahgunaan Dana Donasi Oleh Yayasan Aksi Cepat Tanggap. *Skripsi Universitas Kristen Satya wacan* , 12.
- Maarif, P. S. (2021). Implementasi Penerapan Pemberian Ganti Kerugian Korban Kecelakaan Pesawat: Studi Kasus Lion JT-610 PK-LPQ 3. *Skripsi Universitas Islam Negeri Jakarta*, 52.
- Masriani, Y. T. (2004). *Pengantar Hukum Indonesia*. jakarta: Sinar Grafika.

- Moeljatno. (2008). *Asasa-asas Hukum Pidana* . Jakarta: Rineka Cipta.
- Muladi, B. N. (2010). *Teori-teori dan Kebijakan Pdana*. Bandung: Alumni.
- Muladi. (2002). *Kapita Selekta Sistem Peradilan pidana*. Semarang : Badan Penerbit Universitas Diponegoro.
- Muladi. (2004). *Lembaga Pidana Bersyarat*. Bandung : Alumni.
- Nurisa Fajri Wijaya Agung Harijiko, D. P. (2021). *Manajemen Penanggulangan Bencana Dan Pengurangan Risiko Bencana Di Indonesia*. Yogyakarta: Gadjah Mada University Pers IKAPI dan APPTI.
- Pasal 372 KUHP: Tentang tindak pidana penggelapan
- Pasal 374 KUHP Jo Pasal 55 ayat (1) ke-1 KUHP: Tentang turut serta melakukan penggelapan dalam jabatan
- Pasal 44 KUHP: Alasan pemaaf karena gangguan jiwa
- Pasal 48-50 KUHP: Alasan pembeda, seperti pembelaan terpaksa dan perintah jabatan
- Pasal 56 KUHP: Membantu melakukan tindak pidana
- Peraturan Menteri Keuangan No. 37/PMK.010/ 2008 tentang Penempatan dan Penggunaan Dana Asuransi Korban Kecelakaan Pesawat
- Peraturan Menteri Perhubungan No. 77 Tahun 2011 tentang Tanggung Jawab Pengangkut Angkutan Udara
- PP No. 29 Tahun 1980 tentang Pelaksanaan Pengumpulan Sumbangan
- Prabowo, K. (2007). Faktor-Faktor Yang Mempengaruhi Penegakan Hykum: Studi Tentang Penegakan Hukum Terhadap Kejahatan Di Wilayah Hukum Polres Sleman. *Skripsi Universitas Islam Yogyakarta*, 25.
- Raditya Nugi, E. S. (2017). *Membangun Kesadaran Kewaspadaan Dan Kesiapan Dalam Menghadapi Bencana*. Jakarta: Universitas Merdeka Surabaya Pers.
- Rahardjo, S. (2009). *Penegakan Hukum: Suatu Tinjauan Sosiologis*. Yogyakarta: Genta Publishing.
- Raharjo, S. (2021). *Penegakan Hukum Progresif*. Jakarta: Kompas Media Nusantara.
- Rustianto, A. (2018). *Tindak Pidana dan Pertanggungjawaban Pidana*. Jakarta: Prenada Media Group.
- Sahetapy, J. (1995). *Bunga Rampai Victimisasi*. Bandung: Eresco.
- Saleh, R. (1982). *Pikiran-pikiran Tentang Pertanggungjawaban Pidana*. Jakarta: Ghalia Indonesia.
- Saleh, R. (1983). *Perbuatan Pidana dan Pertanggungjawaban Pidana: Dua Pengertian Dasar Dalam Hukum Pidana*. Jakarta: Aksara Baru.
- Saleh, R. (1983). *Stelsel Pidana indonesia*. Jakarta: Aksara Baru.
- Sekanto, S. (2010). *Hukum Normatif*. Jakarta: Raja Grafindo Persada.
- Sholikhak, N. A. (2021). Peran Lembaga Filantropi Untuk Kesejahteraan Masyarakat Global (Studi Kasus Pada Aksi Cepat Tanggap Madiun). *Journal Of Islamic Philantropy and Disaster (JOIPAD)* , 27.
- SIPP PN Jakarta Selatan: <https://sipp.pn-jakartaselatan.go.id>
- SIPP PN Jakarta Selatan: <https://sipp.pn-jakartaselatan.go.id>
- Situmeang, S. M. (2020). *Sistem Hukum Indonesia*. Bandung: Logos publising.
- Soekanto, S. (2011). *Faktor-Faktor yang Mempengaruhi Penegak Hukum*. Jakarta: Raja Grafindo Persada.
- Soerjono Soekanto, P. P. (1993). *Perihal Hukum Acara*. Bandung: Tata Nusa.
- Sudarto. (2007). *Hukum dan Hukum Pidana*. Bandung: PT. Alumni.
- Suyanto. (2020). *Pengantar Hukum Pidana*. Yogyakarta: Deepublish CV Budi Utama.
- Syarifuddin, A. (2009). *Potrer Penegakan Hukum di Indonesia*. Jakarta Pusat: Komisi Yudisial RI.
- Triwulan, S. F. (2010). *Perlindungan Hukum Bagi Pasien*. Jakarta: Prestasi Pustaka.

UU No. 16 Tahun 2001 tentang Yayasan

UU No. 28 Tahun 2004 tentang Perubahan atas UU No. 16 Tahun 2001 tentang yayasan

UU No. 9 Tahun 1961 tentang Pengumpulan Uangatau Barang

Wa Ode Yufilda, S. P. (2022). Pengaruh Berita Kecelakaan Pesawat Terhadap Loyalitas penumpang Lion Air Di Bandar Udara Huoleo Kendari. *Jurnal Kewarganegaraan* , 71.

Yayasan. (t.thn.). Diambil kembali dari Ditjen AHU Online: <https://yayasan.ahu.go.id/>.