Crowdfunding Misuse as Cybercrime: A Criminal Law Perspective in Indonesia

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ARTICLE INFO	ABSTRACT
	The rapid development of information technology has led to various innovations in the digital financial sector, one of which is crowdfunding. In principle, crowdfunding is a legitimate fundraising mechanism that provides social and economic benefits. However, in practice, crowdfunding is often misused as a means to commit cybercrime. Such misuse includes fictitious fundraising, misleading information, and the misappropriation of funds collected from the public. This study aims to analyze crowdfunding as a form of cybercrime from the perspective of Indonesian criminal law. The research employs a normative legal method using statutory and conceptual approaches. The findings indicate that unlawful crowdfunding practices may fulfill the elements of criminal offenses, both as conventional fraud and as electronic-based crimes, thereby giving rise to criminal liability for perpetrators, including corporate entities. Therefore, stronger supervision, effective law enforcement, and enhanced digital legal literacy are essential to ensure legal protection for the public.

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1. INTRODUCTION

Technological developments have become increasingly advanced and developed over time, transforming many aspects of life, including business. In today's modern era, humans live in a world where all activities are inextricably linked to technological advancements and developments. The development of technology, information, and communication has brought about rapid social, economic, and cultural changes. The growth and increasing quality of technology, particularly in electronics, has made it easier for people to store and process data for all kinds of needs, including financial ones. This has naturally improved services to the public, such as consumption monitoring, telemedicine, and so on. Western experts believe that future scientific advances will enhance the characteristics of industrial capitalism, and society will become "highly social."

With today's rapidly advancing technology, the financial sector is also evolving toward greater efficiency and modernity. In today's global economy, technological innovation is crucial.

Cybercrime is a form of cybercrime that involves exploiting computers connected to the internet and other computers connected to the internet. Security vulnerabilities in operating systems create weaknesses and open loopholes that hackers, crackers, and script kids can exploit to infiltrate the computer (Arifah, 2011, p. 186). Cyber crime has two meanings, firstly, Cyber crime in the broad sense is also called computer related crime, where the perpetrator illegally uses computer systems and networks, and secondly, Cyber crime in the narrow sense is computer crime, namely the perpetrator illegally violates or attacks computer security systems and data processed by other computers (Babys, 2021, p. 430).

Linguistically, crowd is defined as a crowd or group of individuals that is irregular and occurs instantly. Crowdsourcing means taking steps to attract contributions from many people, especially through online media, using individual intellectual capacity which can be in the form of services, ideas, and the like (Adhikary et al., 2018). Usually, crowdsourcing involves outsourcing to anyone through an open call. Crowdfunding is a form of crowdsourcing that aims to raise capital for businesses from the public through the internet. The difference between the two is that crowdsourcing provides workers, while crowdfunding provides funds (Pekmezovic & Walker, 2016). Crowdfunding is considered a new phenomenon in startup funding, emerging with the development of information and communication technology, particularly social media.

Dennis Brüntje (2016) defines crowdfunding applied in Europe as an idea to bring together many individuals in realizing the same goal, sharing the same tasks and responsibilities for the advancement of society in terms of education, cultural promotion, and economy so as to be able to solve existing problems. Meanwhile, the practice of crowdfunding in America is defined as cooperation, interest, and collective trust by people who collect funds and other resources through the internet to support what is being initiated by certain individuals or organizations (Lawton & Marom, 2010). In addition, in Japan, crowdfunding is also defined as financing startups or small businesses or projects by collecting small amounts of money from a group of people and using online means such as Facebook, Twitter, LinkedIn and other trusted websites (Adhikary et al., 2018). In Indonesia, the practice of crowdfunding is regulated by the Indonesian Financial Services Authority Regulation No. 37/POJK.04/2018 which explains that information technology has been used to develop the financial industry that can encourage the growth of alternative funding for the business world and investment media for the community.

From several descriptions of crowdfunding practices in several countries, it can be concluded that crowdfunding is a platform that is followed by a group of individuals who have funds through online media collectively to achieve common goals. Crowdfunding leverages easy accessibility to reach large audiences through social media and websites to bring together investors and entrepreneurs. The goal is to boost entrepreneurship by expanding the pool of investors beyond traditional circles such as owners, relatives, and venture capitalists (Smith, 2019). With crowdfunding, geographic boundaries are no longer a barrier to investment. Furthermore, crowdfunding can be used as a promotional tool for a company's products and to showcase its achievements over a specific period of time. This ultimately leads to crowdfunding becoming a method of cybercrime.

Based on the background above, the problem is:
1. Why does crowdfunding fall into the realm of crime in this case?
2. What are the criminal aspects of crowdfunding regulations?
3. What needs to be considered in crowdfunding?

2. METHODS

This research employs a normative juridical approach, a legal research method conducted by reviewing library materials or secondary data as the primary source. This approach was chosen because the research focuses on the legal study of crowdfunding practices, which have the potential to constitute cybercrime from a criminal law perspective. The research specification is descriptive-analytical, aiming to systematically and factually describe the phenomenon of crowdfunding in the digital space and analyze it based on applicable criminal law provisions in Indonesia. Therefore, this research not only presents facts but also provides an analysis of the legal issues that arise. The approaches used in this

research encompass several approaches, namely a statutory approach and a conceptual approach. The statutory approach is carried out by examining various regulations related to cybercrime and crowdfunding activities, such as the Criminal Code (KUHP), the Electronic Information and Transactions Law (UU ITE), and other relevant regulations. Meanwhile, the conceptual approach is used to understand legal concepts related to cybercrime and criminal liability.

The types and sources of legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations. Secondary legal materials consist of legal literature such as books, scientific journals, and previous research results related to cybercrime and crowdfunding. Tertiary legal materials include legal dictionaries and encyclopedias to support understanding of the terms. The legal materials were collected through library research, which involved collecting, reading, and reviewing various legal sources relevant to the research topic. Furthermore, the legal materials were analyzed qualitatively, processing and interpreting the collected legal materials to address the research questions. The results of the analysis are then presented in a systematic manner to provide a comprehensive understanding of crowdfunding as a form of cybercrime from a criminal law perspective.

3.   FINDINGS AND DISCUSSION

Cyber Crime

Discussing cybercrime is inextricably linked to the issue of computer network security or internet-based information security in this global era. When linked to the issue of information as a commodity, it requires reliable service to ensure that what is provided does not disappoint customers. To achieve this level of reliability, information must be continually updated to ensure it remains current. Cybercrime has emerged frequently with the rapid development of information technology. According to Indra Safitri, cybercrime is a type of crime related to the unlimited use of information technology and is characterized by strong technological engineering that relies on a high level of security and the credibility of the information conveyed and accessed by internet users (Safri, 2009, p.47).

According to the British police, Cyber crime is any kind of use of computer networks for criminal purposes and/or high-tech crimes by abusing the power of digital technology (Wahid & Labib, 2015). The development of information technology has shifted the paradigm of legal experts in defining computer crime, initially experts only focused on tools and hardware, namely computers. However, the development of technology such as the internet, the focus on Cybercrime is an activity that can be carried out in the cyber world through the information system used, as stated by Barda Nawawi on the negative side, by opening up opportunities for the emergence of anti-social actions that were previously considered impossible or unthinkable to occur. A theory states, crime is a product of society is self, which can simply be interpreted as meaning that society itself produces crime.

Cybercrime is essentially an activity that utilizes computers as a means or medium supported by a telecommunications system, whether using a telephone or a wireless system that utilizes a special wireless antenna. This is what is called "telematics," namely the convergence of telecommunications, media, and informatics technologies, which previously developed separately. Crimes arising from the negative impact of the development of internet applications are often referred to as cybercrime. From this definition, it appears that cybercrime encompasses all types of crimes and their modus operandi, committed as a result of the negative impact of internet applications.

Cyber crime can be divided into two categories, namely, Cyber crime in the narrow sense is a crime against computer systems, while in the broad sense it includes crimes against computer systems or networks and crimes that use computers (Widodo, 2009, p. 24). In general, we can conclude that cyber crime is all forms of crime directed against computers, computer networks and their users, as well as traditional forms of crime in the form of computer-assisted criminal acts.

Characteristics and Forms of Cyber Crime

According to Abdul Wahid and M Labib (2015, p. 40), cyber crime has several characteristics, namely:

1. Illegal acts, rights or ethical actions occur in cyberspace/area, so it cannot be ascertained which country's jurisdiction applies to them.
2. The act is carried out using any equipment connected to the internet.
3. These acts result in material and immaterial losses which tend to be greater than conventional crimes.
4. The perpetrator is a person who masters the use of the internet and its applications.
5. This act is often used traditionally.

Cybercrime has emerged as a result of advances in information and digital technology, which have made it easier for people to communicate, obtain information, and facilitate business. On the other hand, this ease of use makes technology a target for acquiring and spreading harassment. Thus, the characteristic of cybercrime is the use of computer-based information technology to commit crimes supported by information and digital technology. According to Maskun (2013, p. 51), Crimes closely related to the use of computer-based technology and telecommunications networks are grouped into several forms, according to several literatures and practices, including:

1. Unauthorized access to computers and services, a crime committed within a computer network system illegally, without permission, or without the knowledge of the owner of the computer network system being infiltrated. Typically, hackers do this with the intention of sabotaging or stealing important and confidential information. However, some do it simply because they feel challenged to test their skills in penetrating a system with a high level of protection. This crime has become increasingly prevalent with the development of internet technology.
2. Illegal contest, namely a crime involving entering data or information on the internet about something that is incorrect, unethical, and is considered to be breaking the law or disturbing the law.
3. Data forgery, a crime involving falsifying data in important documents stored as unscrambled documents online. This crime usually targets e-commerce documents by making it appear as if there was a typo, ultimately benefiting the perpetrator.
4. Cyber espionage, a crime that utilizes the internet to spy on another party by infiltrating the target party's computer network. This crime is usually directed against business rivals whose important documents or data are stored in a computerized system.
5. Cyber sabotage and extortion, namely crimes committed by causing disruption, damage or destruction of data, computer programs or computer network systems connected to the internet.
6. Offenses against intellectual property, which are violations of someone's intellectual property rights on the internet. For example, illegally copying the appearance of another person's website.
7. Infringements of privacy, namely crimes directed against a person's information which is very personal and confidential.

The types of cyber crime based on motive are:

a. Cyber crime as a pure crime

Where a person commits a crime intentionally, for example, theft or anarchic acts against a computer system.

b. Cyber crime is a gray crime act

Where this incident is not clear whether it is a criminal offence or not, because the perpetrator broke in but did not damage, steal or commit anarchic acts against the information system or computer system.

c. Cyber crime that attacks individuals

Crimes committed against other people with the motive of revenge or mischief with the aim of damaging a good name, for example pornography, cyber stalking, etc.

d. Cyber crime that is copyright (proprietary rights)

Crimes committed against someone's work with the motive of duplicating, marketing, changing it for personal/public interests or for material/non-material purposes.

e. Cyber crime that attacks the government

Crimes committed with the government as the object with the motive of carrying out terror, hijacking or destroying security.

Crownfunding

Criminal law provisions regarding the arrest of Ananda Badudu as a crowdfunding-based fundraiser and reviewing the criminal law protection for Ananda Badudu as a crowdfunding-based fundraiser. The arrest carried out by the police against Ananda Badudu was not in accordance with the procedures stipulated in the law both in the Criminal Procedure Code and the Police Chief Regulation, thus causing a violation of human rights and is an arbitrary act and Ananda Badudu must receive legal protection in accordance with statutory regulations. One of the reasons why legal protection must be provided is to create legal certainty. Crowdfunding allows for fundraising with a broad group of investors and offers more flexible fundraising options. Here are some of the benefits of crowdfunding (Adhikary et al., 2018):

1. Crowdfunding platforms help expand the reach of qualified fundraisers by providing access to investors so that investors are able to see and interact with fundraisers so they can campaign for specific fundraisers;

2. By creating a fundraising campaign, fundraisers will go through a valuable process of examining their business from all angles. This includes its history, appeal, incentives, target market, and company policy values, all while making their business proposition more compelling and understandable.

3. From launch to close, fundraisers can share and promote their fundraising campaigns through social media, email, and other online marketing channels. Fundraisers on crowdfunding platforms publicize the progress of their fundraising efforts. They can also promote their business by turning to their company website to attract other investors.

4. Business developments over time provide opportunities for fundraisers to validate and refine their business policies. Questions and interest from potential investors allow fundraisers to revise their business policies to attract investors to fund their projects.

5. Crowdfunding is an efficient way to organize a business.

With crowdfunding, a business owner can centralize and streamline fundraising efforts by creating a single project profile that can attract multiple potential investors. So, instead of manually printing, binding, and submitting project progress documents, businesses can now report all project progress online in a variety of formats. This means they have more time to focus on their business, rather than dealing with complicated funding procedures

The World Bank (2013) revealed that crowdfunding utilizes technology to expand the base of potential investors, increasing access to finance which can serve as an enabling mechanism for the formation of new businesses, job creation, and inclusive economic growth.

Benefits include:

1. Combining social networking with corporate finance

Crowdfunding is largely a replacement for existing institutions, not a complement to them. Traditional financing models require companies to hold numerous meetings to raise capital, which is highly inefficient. By centralizing access to data on investment opportunities, crowdfunding investment portals can facilitate the flow of information from early-stage companies to potential investors more quickly than ever before.

2. Crowdfunding can also be efficient for investors

This allows them to explore multiple potential investments online at once and quickly determine whether a company fits their portfolio strategy, risk appetite, or other criteria. In developing

countries, there is an emerging trend of investors monitoring donation-based crowdfunding platforms for innovative companies and products.

3. Crowdfunding is a new thing in the funding cycle

Macro lenders and venture capitalists have traditionally been the primary funding providers for start-ups in developed countries. In developing countries, start-up capital typically comes from friends and family. Advances in social media and ICT have now enabled these new companies to promote their businesses.

4. Crowdfunding can expand the geographic reach of investments

In traditional microcredit, participants are geographically constrained in terms of monitoring, governance, and social sanctions. Crowdfunding changes this traditional approach in several ways. First, networks are no longer tied to geography. Geography plays a less significant role in funding promising projects.

It's unknown whether these differences are due to cultural differences in trust, verification, transaction accuracy methods, smaller capital requirements for individual contributors, other factors, or a combination. However, the trend toward unrestricted investment is clearly evident in crowdfunding practices.

5. Product validation, support network, and partnerships

New companies can use crowdfunding to explore product feasibility at a low cost and with low barriers to entry. Crowdfunding also offers marketing benefits: one of the main advantages of an online crowdfunding campaign is the promotion of the business it creates.

6. Market testing and demand measurement

The current crowdfunding model gives companies the opportunity to explore demand for their products or services. If companies meet their funding goals, they have access to the capital needed for their initial product launch. From an investor's perspective, the validation of other investors reduces investment risk by demonstrating demand for the product. In fact, several large business groups in the United States, such as Chicago-based Heartland Angels, have created their own crowdfunding portals in the hope that companies seeking capital will demonstrate market interest through successful crowdfunding campaigns.

7. Access to support networks

Companies offering crowdfunding campaigns can engage with groups of customers who act as both product marketing agents and sources of rich, detailed feedback. These investors can act in various ways as advisors and marketing agents, and can also help companies establish relationships with other influential investors, helping them navigate the challenges faced as a startup grows.

8. Markets and partnerships

Entrepreneurs also receive feedback on market viability and targeted marketing. Extensive feedback from customers and investors can be used to refine existing business models. Crowdfunding can provide companies with the information they need to shift their focus to new target markets or to seek strategic partnerships with new suppliers or other vendors. The open exchange of information about product ideas, business concepts, and target markets significantly improves market efficiency. The end result of a successful crowdfunding campaign is increased visibility and credibility among investors. Meanwhile, companies that receive funding gain support from an investor base that may also become their future customers and marketing agents.

Criminal aspects related to crowdfunding are regulated in Article 8 paragraph (2) of Law Number 9 of 1961 concerning the Collection of Money and Goods. This article states that criminal acts committed under this article are considered violations. Money or goods obtained from these crimes will be confiscated and used to finance welfare efforts. Crowdfunding is a method of raising funds from a large number of people through an online platform to finance a project or business. Crowdfunding is often used by startups or growing businesses.

Some things to pay attention to in crowdfunding, namely:

1. Fraud is one of the biggest problems in crowdfunding.
2. Projects that successfully raise funds, but are unsuccessful in project implementation can make people bored.
3. The reputation of a company or individual can be damaged due to the use of crowdfunding.
4. If the funding target is not reached, the promised funds will be returned to investors.
5. In reward-based crowdfunding, competitors can see and steal ideas.

4. CONCLUSION

Criminal law provisions regarding the arrest of Ananda Badudu as a crowdfunding-based donation raiser and reviewing the criminal law protection for Ananda Badudu as a crowdfunding-based donation raiser. The arrest carried out by the police against Ananda Badudu was not in accordance with the procedures stipulated in the law both in the Criminal Procedure Code and the Police Chief Regulation, thus causing a violation of human rights and is an arbitrary act and Ananda Badudu must receive legal protection in accordance with statutory regulations. One of the reasons why legal protection must be provided is to create legal certainty.

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