

Legal Classification of Non-Donation CSR Funds in Village Financial Governance

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Abstract

*This study examines the legal ambiguity surrounding the integration of non-donation Corporate Social Responsibility (CSR) funds into village financial governance in Indonesia, particularly regarding the uncertain boundary between private corporate assets and public finance. The research addresses whether CSR funds transferred into village accounts automatically acquire the status of state finance, thereby exposing village officials to administrative and criminal liability risks. Using a normative legal research method with statutory, doctrinal, and conceptual approaches, this study analyses regulations concerning CSR, village finance, state finance, and anti-corruption law, supported by doctrinal legal reasoning and expert consultations involving administrative law scholars, auditors, and corporate law practitioners. The findings demonstrate that non-donation CSR funds possess a hybrid legal character because they simultaneously embody private contractual ownership and public administrative oversight. Substantively, such funds remain corporate assets governed by the principle of *pacta sunt servanda* until contractual obligations are fulfilled and therefore cannot automatically be classified as state finance merely because they are deposited into village accounts. The study further reveals that the absence of specific regulatory differentiation has created legal uncertainty that conflates maladministration, breach of contract, and corruption offenses within village financial governance. Accordingly, this research proposes a regulatory reconstruction through adaptive mechanisms, including off-budget accounting, escrow arrangements, and designated forwarding accounts accompanied by explicit normative distinctions between administrative, civil, and criminal liability. The novelty of this study lies in conceptualising non-donation CSR funds as a hybrid cross-regime legal category, while its contribution resides in developing a doctrinal and regulatory framework that reconciles corporate contractual rights with public accountability principles in village financial governance.*

Keywords: Legal Classification; Non-Donation CSR; Regulatory Governance; Village Finance

1. INTRODUCTION

Corporate Social Responsibility (CSR) has developed into an increasingly important framework for corporate accountability. Bowen formulated CSR as a business responsibility to consider the social consequences of corporate decisions.¹ Davis later argued that businesses that fail to exercise their power responsibly will, in the long run, lose legitimacy.² In that sense, social responsibility is not merely an ethical demand but also a condition for the sustainable position of business in society.

In Indonesia, CSR has been regulated as a legal obligation, especially for companies in natural resource sectors, beginning with Law Number 40 of 2007 on Limited Liability Companies, and further reinforced by Government Regulation Number 47 of 2012 on

¹ Howard R. Bowen, *Social Responsibilities of the Businessman* (Motilal Banarsidass, 1953).

² Keith Davis, "The Case for and Against Business Assumption of Social Responsibilities," *Academy of Management Journal* 16, no. 2 (1973): 312–22, <https://doi.org/10.5465/255331>.

Corporate Social and Environmental Responsibility.³ This development reflects a growing awareness of the private sector's role in supporting community development, which also enhances corporate reputation.⁴ Furthermore, CSR initiatives not only strengthen corporate image and performance but also enhance internal outcomes such as employee satisfaction and loyalty.⁵

Although the effectiveness of CSR in promoting social and economic development is still contested, especially in the extractive industry, CSR programs remain widely implemented and tailored to local contexts, including in Indonesia.⁶ For example, CSR in Indonesia frequently supports infrastructure development in regions facing budget constraints, especially rural areas.⁷ Nevertheless, implementation at the village level often encounters legal and administrative challenges. A key problem emerges when CSR funds are transferred into village accounts and thus become subject to state finance regulations, even though, contractually, these funds are not donations. In this study, such funds are referred to as non-donation CSR, designed as a collaborative partnership between the private sector (the company) and the public sector (village government) for infrastructure development.

Village financial regulations do not yet provide a specific framework for managing non-donation CSR funds disbursed through contractual schemes that resemble public-private partnerships (PPPs), which are typically structured around profitability, risk mitigation, and supportive policy arrangements.⁸ Such models are widely used in developed countries.⁹ At a conceptual level, this regulatory gap may be situated within the broader scholarly discussion on hybrid organizations and hybrid funds, in which a single legal object sits at the intersection of competing institutional logics, particularly between private

³ Soonpeel Edgar Chang, "Has Indonesia's Unique Progressivism in Mandating Corporate Social Responsibility Achieved Its Ends?," *Sriwijaya Law Review* 2, no. 2 (2018): 131–51, <https://doi.org/10.28946/slrev.Vol2.Iss2.131.pp131-151>.

⁴ Adhianty Nurjanah and Frizki Yulianti Nurnisya, "Pelaksanaan Program Corporate Social Responsibility (CSR) Dan Komunikasi CSR," *Profetik: Jurnal Komunikasi* 12, no. 1 (2019): 93–107, <https://doi.org/10.14421/pjk.v12i1.1542>; See Art. 74 Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas, Lembaran Negara Republik Indonesia Tahun 2007 Nomor 106, Tambahan Lembaran Negara Nomor 4756 (2007), <https://peraturan.bpk.go.id/Details/39965>.

⁵ Akhmad Shofuwani Nuvail and Masiyah Kholmi, "Pengaruh CSR Terhadap Kebahagiaan Karyawan Dan Kinerja Perusahaan Di PT. Indofood," *Bulletin of Community Engagement* 4, no. 3 (2024): 773–84, <https://doi.org/10.51278/bce.v4i3.1634>.

⁶ Yudo Anggoro et al., "Practice of Corporate Social Responsibility (CSR) in Extractives Sector in Indonesia," in *Sovereign Wealth Funds, Local Content Policies and CSR: Developments in the Extractives Sector*, ed. Eduardo G. Pereira et al. (Springer International Publishing, 2021), https://doi.org/10.1007/978-3-030-56092-8_27.

⁷ Yore Isti Tosan Aji and Riatu Mariatul Qibthiyyah, "Dana Desa dan Perkembangan Status Desa: Studi Kasus Kabupaten/Kota di Indonesia," *Jurnal Ekonomi dan Pembangunan Indonesia* 23, no. 1 (2023): 30–54, <https://doi.org/10.21002/jepi.2023.03>.

⁸ Carter B. Casady et al., "Public-Private Partnerships for Low-Carbon, Climate-Resilient Infrastructure: Insights from the Literature," *Journal of Cleaner Production* 470 (September 2024): 143338, <https://doi.org/10.1016/j.jclepro.2024.143338>; See also Andrew Ebekozi et al., "Infrastructure Development in Higher Institutions: The Role of Private Organisations via Unexplored Expanded Corporate Social Responsibility (ECSR)," *Property Management* 41, no. 1 (2022): 149–68, <https://doi.org/10.1108/PM-03-2022-0015>.

⁹ Muhammad Ilham Arisaputra et al., "The Public-Private Partnership as Legal Instrument in the State and Regional Property Management: Challenges and Development," *Jurnal Akta* 9, no. 3 (2022): 364–77, <https://doi.org/10.30659/akta.v9i3.25174>.

ownership and public funding.¹⁰ This hybrid configuration has long been a concern in international debates on governance and accountability, with scholars concluding that tensions between private and public logics cannot be resolved through conventional administrative approaches alone.¹¹ In the Indonesian village context, the absence of a dedicated regulatory framework gives rise to ambiguity: are these funds to be treated as state finance, or do they retain their status as corporate assets? Such legal uncertainty creates risks of mismanagement and disputes in the administration of CSR at the village level.

An illustrative case is the drainage construction project in Bakan Village, North Sulawesi. The infrastructure project was funded through the CSR program of PT J Resources Bolaang Mongondow (PT JRBM), a mining company that played a key role in various local development sectors.¹² According to the contract, approximately IDR 9.09 billion in CSR funds were allocated and disbursed in stages into the official account of Bakan Village. Legal issues arose when these CSR funds were classified as village income, and thus as state finance. As a consequence, the funds had to be managed under the public finance regime, including being planned and allocated through the Village Revenue and Expenditure Budget (*APB Desa*), in accordance with village financial management principles, despite the project being governed by contract-based mechanisms.¹³ Noncompliance with village financial regulations was not only considered maladministration but, based on audit findings, the CSR funds disbursed through the village account were classified as state financial losses. The consequences were severe: the village head was named a corruption suspect, and later detained along with the project contractor.¹⁴ This situation raises a critical legal question: Does the transfer of CSR funds from a private company into a village account automatically convert them into state finance?

This question forms the core of this research, and the urgency of this study lies in the need to address the implications of that legal ambiguity from multiple legal perspectives. From an administrative standpoint, the obligation to record all incoming funds in the *APB Desa* conflicts with the flexibility of contractual mechanisms. That is, all village account entries must be budgeted and reported under village finance procedures, yet this becomes

¹⁰ Marc Pilon and Alisher Mansurov, "Hybrid Organizations: A Classification within Economic Sectors," *Humanities and Social Sciences Communications* 11, no. 1 (2024): 269, <https://doi.org/10.1057/s41599-024-02762-7>.

¹¹ Jarmo Vakkuri et al., "Governance and Accountability in Hybrid Organizations – Past, Present and Future," *Journal of Public Budgeting, Accounting & Financial Management* 33, no. 3 (2021): 245–60, <https://doi.org/10.1108/JPBAFM-02-2021-0033>.

¹² Hamdi Gugule and Romi Mesra, "Studi Pemetaan Sosial Terhadap Pengembangan Masyarakat Sektor Pendidikan di Desa Lingkar Tambang Kabupaten Bolaang Mongondow," *Jurnal Paradigma: Journal of Sociology Research and Education* 3, no. 1 (2022): 225–32, <https://doi.org/10.53682/jppsre.v3i1.3882>.

¹³ Peraturan Menteri Dalam Negeri Nomor 20 Tahun 2018 Tentang Pengelolaan Keuangan Desa, Pub. L. No. Lembaran Negara Republik Indonesia Tahun 2018 Nomor 611 (2018), Act. 29.

¹⁴ See Alif Ilham Fajriadi, "Polisi Tangkap Kepala Desa di Sulawesi Utara, Diduga Korupsi Proyek Drainase," *Tempo.co*, January 7, 2025, <https://www.tempo.co/hukum/polisi-tangkap-kepala-desa-di-sulawesi-utara-diduga-korupsi-proyek-drainase-1190971>; See also Meicky Kodoati, "Tipikor Polres Kotamobagu Ungkap Korupsi Miliran Rupiah," *rri.co.id*, January 7, 2025, <https://www.rri.co.id/kriminalitas/1240548/tipikor-polres-kotamobagu-ungkap-korupsi-miliran-rupiah>; Sajidin Kandoli, "Dua tersangka korupsi dana CSR JRBM resmi ditahan Kejari Kotamobagu," *zonautara.com*, May 7, 2025, <https://zonautara.com/2025/05/07/dua-tersangka-korupsi-dana-csr-jrbm-resmi-ditahan-kejari-kotamobagu/>.

problematic when the funds are non-donation CSR governed by contracts outside of the APB Desa. From a civil law perspective, the principle of *pacta sunt servanda* applies, which means the company retains ownership rights over the funds until the contractual obligations are fulfilled.¹⁵ Additionally, from a criminal law viewpoint, regulatory gaps allow for the risk that administrative violations involving such funds, when they are deemed state losses, may lead to corruption charges, even though the funds legally remain corporate property, merely passing through village accounts. This complexity resonates with broader concerns in the international literature on the legal boundaries between public and private finance, where conventional legal categories often fail to capture the true character of funds flowing across sectors.¹⁶ The problem is not unique to Indonesia: questions of who is entitled to the funds, who must administer them, and who can be held accountable when they are mismanaged constitute recurrent structural challenges in the governance of hybrid organizations.¹⁷ This legal ambiguity threatens to undermine private sector participation in village development and hinder infrastructure progress.

In response to that legal uncertainty, this study goes beyond identifying the problem. It seeks to formulate a regulatory model for integrating non-donation CSR funds into the village financial system while preserving corporate civil rights, maintaining public accountability, and preventing the conversion of administrative irregularities into criminal proceedings. Several previous studies on CSR and village development are relevant to situating this study's contribution.

Several previous studies have discussed CSR and village development from different angles. Purnamawati et al. examined the role of CSR in strengthening sustainable village economic development through a quantitative approach in Bali, treating CSR as a moderating variable in the relationship between green economy, digitalisation, and village economic outcomes. Although valuable in mapping the developmental contribution of CSR, the study operationalises CSR as a measurable construct rather than as a legal category, and consequently leaves untouched the normative question of how CSR funds should be classified once they are transferred into village accounts and integrated into the village financial system.¹⁸

Ilhammullah examined CSR in rural Indonesia through a political economy lens rooted in agrarian Marxism, arguing that CSR programmes such as land redistribution and infrastructure development have been hijacked by the village ruling class to consolidate dominance. While the study provides a sharp critical reading of CSR as a mechanism of

¹⁵ *Pacta sunt servanda* means that a valid agreement is legally binding upon the parties. In Indonesian civil law, this principle is reflected in Article 1338 of the Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek), Staatsblad 1847 No 23; See Zainal Arifin Mochtar and Eddy O. S. Hiariej, *Dasar-Dasar Ilmu Hukum: Memahami Kaidah, Teori, Asas Dan Filsafat Hukum*, 1st ed. (Red & White Publishing, 2021), 159.

¹⁶ Marc Pilon and Alisher Mansurov, "Hybrid Organizations."

¹⁷ Jarmo Vakkuri et al., "Governance and Accountability in Hybrid Organizations – Past, Present and Future."

¹⁸ I Gusti Ayu Purnamawati et al., "Strengthening the Role of Corporate Social Responsibility in the Dimensions of Sustainable Village Economic Development," *Heliyon* 9, no. 4 (2023): e15115, <https://doi.org/10.1016/j.heliyon.2023.e15115>.

social reproduction, its analytical frame is sociological rather than legal-doctrinal. It does not engage with the regulatory architecture governing the transfer of CSR funds into village accounts, nor with the legal classification of such funds within the village financial system.¹⁹

From a different angle, Suparnyo et al. conducted a bibliometric analysis of CSR research in the Indonesian tobacco industry from a business law perspective, mapping research trends in CSR scholarship and noting the limited attention given to its legal dimensions. While useful in revealing the broader landscape of CSR literature, the study confines itself to bibliometric mapping in a specific industry and does not undertake doctrinal analysis of how CSR funds, particularly those transferred into the accounts of public entities such as village governments, should be legally classified or integrated into public financial governance.²⁰

Taken together, these studies illustrate that CSR, village development, and village finance have been examined within separate analytical strands. The developmental, sociological, and bibliometric approaches have not yet been brought together in a focused doctrinal analysis of the legal status of non-donation CSR funds once they enter village accounts. The same gap is reflected in international scholarship. Hybrid organisations and hybrid funds have been theorised in terms of competing institutional logics between private ownership and public funding.²¹ Governance and accountability of hybrid arrangements have also been increasingly debated in the public financial management literature.²²

However, the specific case of contractually disbursed CSR funds flowing into local government accounts has not yet been systematically theorised as a cross-regime legal category. This study addresses that gap by asking a focused research question: What is the legal status of non-donation CSR funds once they are integrated into village accounts, and how should such funds be regulated to preserve corporate civil rights, public accountability, and the integrity of village financial governance? Accordingly, this research aims to formulate a legal classification and an operational regulatory model for non-donation CSR funds, in order to ensure legal certainty, support public accountability, and mitigate the risk of unwarranted criminal exposure for village officials.

2. METHOD

This research employs a normative legal method using statutory, doctrinal, and conceptual approaches. The statutory approach is used to examine regulations relevant to the legal issues addressed in this study, particularly those concerning CSR and village

¹⁹ Rizvi Nahar Ilhammullah, "The Dark Side Of Corporate Social Responsibility: Class Dynamics In Rural Indonesia," *Journal of Contemporary Asia*, January 8, 2026, 1–29, <https://doi.org/10.1080/00472336.2025.2605311>.

²⁰ Suparnyo et al., "The Evolution and Implications of CSR in Indonesian Tobacco Companies: A Bibliometric Analysis Based on Business Law Theory," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, November 23, 2024, 293–319, <https://doi.org/10.24090/volkgeist.v7i2.12029>.

²¹ Marc Pilon and Alisher Mansurov, "Hybrid Organizations."

²² Jarmo Vakkuri et al., "Governance and Accountability in Hybrid Organizations – Past, Present and Future."

financial management within the framework of state financial law.²³ The doctrinal approach analyzes the structure of legal incentives, including complexities, loopholes, and methods for exploiting loopholes.²⁴ The conceptual approach is employed to develop legal frameworks and identify key legal principles.²⁵ In this study, those principles are drawn mainly from administrative, civil, and criminal law.

Data were obtained through doctrinal library research using primary legal materials, including statutes and implementing regulations on CSR and village finance, supplemented by a CSR contract used illustratively. The contractual provisions are not reproduced in this article, as the analysis is confined to legal issues that can be examined without disclosing non-public contractual material. Secondary materials comprised legal scholarship, journal articles, online news reports, and prior research. For local online news, verification was conducted by comparing the reported information with official documents or other reliable sources. All materials were analysed through normative legal reasoning to identify regulatory gaps and develop an operational regulatory framework for the administration of non-donation CSR funds in village accounts.

Validity was reinforced through source triangulation involving structured expert discussions with three external resource persons, namely a public administration law scholar, a regional government auditor, and a corporate law practitioner.²⁶ This process was complemented by a separate expert consultation with the Head of the Legislation and Legal Development Division at the North Sulawesi Regional Office of the Ministry of Law to validate the proposed regulatory model and strengthen the legal analysis.

3. RESULTS AND DISCUSSION

3.1 Deconstructing the Legal Status of Non-Donation CSR Funds Integrated into Village Accounts

The following discussion examines, both conceptually and normatively, the legal problems arising from the integration of non-donation CSR funds into village accounts. It begins by establishing the conceptual boundaries necessary before proceeding to the cross-regime legal analysis conducted in the subsequent sub-sections. The analysis begins with a necessary conceptual distinction: before the legal tensions can be properly examined, it is important to establish what separates donation CSR funds from non-donation CSR funds, since the two categories produce different legal consequences and cannot be treated as equivalent within the village financial system. This distinction matters because the two

²³ Fatma Ayu Jati Putri and Jasurbek Rustamovich Ehsonov, "The Impact of Land Reform Policies on the Sustainable Management of Natural Resources in Local Communities," *Journal of Human Rights, Culture and Legal System* 4, no. 2 (2024): 510–37, <https://doi.org/10.53955/jhcls.v4i2.197>.

²⁴ Gareth Davies, "The Relationship between Empirical Legal Studies and Doctrinal Legal Research," *Erasmus Law Review* 13, no. 2 (2020): 2–12, <https://doi.org/https://www.doi.org/10.5553/elr.000141>.

²⁵ Jundiani Jundiani et al., "Urban Green Space Regulation: Challenges to Water Resources Conservation in Indonesia and Australia," *Journal of Human Rights, Culture and Legal System* 4, no. 1 (2024): 169–93, <https://doi.org/10.53955/jhcls.v4i1.128>.

²⁶ Jessi Hanson-DeFusco, "What Data Counts in Policymaking and Programming Evaluation – Relevant Data Sources for Triangulation According to Main Epistemologies and Philosophies within Social Science," *Evaluation and Program Planning* 97 (2023): 102238, <https://doi.org/10.1016/j.evalprogplan.2023.102238>.

categories produce different legal consequences and cannot be treated as equivalent within the village financial system. In the literature on hybrid governance, funds flowing from the private sector to public entities must be identified based on their logics of ownership and funding, rather than on the basis of the location of the account where they are held.²⁷ On this basis, donation CSR and non-donation CSR can be distinguished through four conceptual criteria, as presented in Table 1.

Table 1. Conceptual Distinction between Donation and Non-Donation CSR Funds

Criteria	Donation CSR	Non-Donation CSR
Legal basis of disbursement	Gift or unilateral grant	Contract (<i>pacta sunt servanda</i>)
Ownership status after disbursement	Transferred to the recipient	Remains with the corporation until contractual obligations are fulfilled
Allocation of funds	General, not tied to a specific purpose	Earmarked for a specific contractual project
Corporate rights over the funds	No monitoring or restitution rights	Monitoring rights attached; restitution rights arise in the event of non-performance

Source: Compiled by the author based on normative analysis, 2025.

Table 1 shows that non-donation CSR funds cannot be equated with donation CSR funds, since the four criteria above apply cumulatively. Ownership that remains with the corporation, allocation tied to a specific contractual purpose, and the existence of monitoring and restitution rights together place non-donation CSR funds in a legal domain that differs from a gift. On the basis of this distinction, the following discussion examines the legal tensions that arise when non-donation CSR funds, which are private and contractual in character, must pass through village accounts that are subject to the public financial regime. These tensions involve three legal regimes at once, namely civil law, administrative law, and criminal law, with a single legal object, namely non-donation CSR funds, that is interpreted differently by each regime.

From a civil law perspective, non-donation CSR funds disbursed through contracts are corporate assets governed by the principle of *pacta sunt servanda*.²⁸ Companies have the legal right to ensure these funds are used in accordance with the contract. By contrast, under administrative logic, any funds entering a village account are treated as village income and must be managed within the Village Revenue and Expenditure Budget (*APB Desa*) cycle of planning, budgeting, and spending, in line with transparency and accountability principles.²⁹ This tension becomes sharper when administrative errors are construed as state financial losses, which may trigger criminal consequences for village officials.

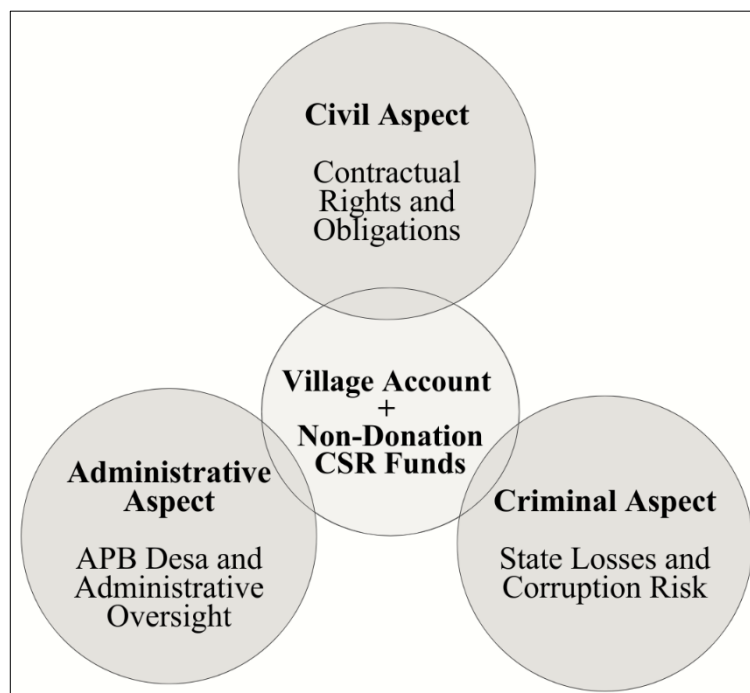
²⁷ Marc Pilon and Alisher Mansurov, "Hybrid Organizations."

²⁸ Mochtar and Hiariej, *Dasar-Dasar Ilmu Hukum*, 160.

²⁹ Permendagri 20/2018, 2018, Art 2(2); Art 14 in conjunction with Art 11.

These three legal regimes do not operate in isolation. They converge at a single concrete point, namely the village account that holds the non-donation CSR funds. Figure 1 schematically presents the structure of this convergence.

Figure 1. Administrative, Civil, and Criminal Dimensions of CSR Fund Integration



Source: Author's visualization based on normative analysis, 2025

Figure 1 places the village account containing non-donation CSR funds at a central point surrounded by three intersecting circles, each representing a legal dimension. The civil dimension carries the logic of contractual rights and obligations between the corporation and the village government. The administrative dimension carries the logic of the APB Desa and the administrative oversight that applies to all funds flowing into the village account. The criminal dimension carries the logic of potential state financial losses and corruption risk that becomes active when funds under administrative oversight are treated as state finance. The convergence of these three dimensions on a single object is the source of the legal ambiguity: each regime draws the same funds into its own framework, without normative guidance that bridges the divergent interpretations among them.

To dissect the convergence of these three legal regimes at a conceptual level, Lawrence M. Friedman's Legal System Theory provides a relevant analytical lens. Friedman locates the legal system in three components, namely legal structure, legal substance, and legal culture.³⁰ In the case of non-donation CSR fund integration, these three components interact without adequate coherence: village administrative institutions and law enforcement

³⁰ Ridwan Arifin et al., "A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2023, 159–81, <https://doi.org/10.24090/volksgeist.v6i2.9596>.

bodies operate at the level of structure, while the substance of law they must interpret is divided between CSR contracts and village finance regulations, and a bureaucratic legal culture tends to equate any inflow of funds into a village account with public finance. This Friedmanian framework will be operationalised more analytically in the following sub-sections, when the tensions of structure, substance, and culture are dissected within the civil, administrative, and criminal dimensions, respectively.

As a complement, Musgrave's public finance theory provides a conceptual basis for testing the status of non-donation CSR funds as public finance. Musgrave identifies three fiscal functions that serve as the markers of public funds, namely allocation, distribution, and stabilisation.³¹ Non-donation CSR funds arise from private contractual arrangements and are tied to a specific contractual purpose, and therefore do not satisfy the character of these three functions. The presence of such funds in a village account consequently does not by itself activate the logic of public finance. The operationalisation of the Musgravian framework against the administrative practice of non-donation CSR funds will be elaborated further in the discussion of the administrative dimension in the following sub-section.

A reading of the two theoretical frameworks above leads to one conceptual conclusion. Non-donation CSR funds cannot be categorised absolutely as private funds because they flow into public entities and are subject to certain administrative oversight. At the same time, they cannot be categorised absolutely as public funds because their ownership status remains attached to the corporation, and their allocation is tied to a contract. Non-donation CSR funds therefore possess a hybrid legal character: as a single legal object, they carry both the logic of private ownership and the logic of public funding at once. This hybrid character is consistent with the typology developed in the international literature, which locates hybrid organisations and hybrid funds at the intersection of competing institutional logics, particularly at the meeting point of private ownership and public funding.³² The difficulty of disentangling the public from the private domain in addressing policy problems has also been a focal concern in the hybrid governance literature, which underlines that both domains hold distinct roles that cannot be reduced to one another.³³ Recognition of this hybrid character is a conceptual prerequisite before examining the civil, administrative, and criminal dimensions in the following sub-sections, because without such recognition, each regime will tend to absolutise its own logic over an object that is in fact hybrid in character.

The discussion therefore proceeds by examining these legal dimensions separately, beginning with the civil aspect, followed by the administrative aspect, and then the criminal implications. Keeping these dimensions analytically distinct helps clarify the ambiguity at the core of the problem and provides a more coherent basis for the regulatory reconstruction discussed later in this article.

³¹ Matthew Weinzierl, "Richard A. Musgrave (1910–2007)," in *The Palgrave Companion to Harvard Economics*, ed. Robert A. Cord (Springer International Publishing, 2024), https://doi.org/10.1007/978-3-031-52053-2_17.

³² Marc Pilon and Alisher Mansurov, "Hybrid Organizations."

³³ Jarmo Vakkuri et al., "Governance and Accountability in Hybrid Organizations – Past, Present and Future."

3.2 Civil Aspect: Contractual Relationship and Corporate Rights

Non-donation CSR funds disbursed by companies to village governments under contractual schemes give rise to a civil-law relationship. This relationship is based on a valid agreement as required by Article 1320 of the Indonesian Civil Code (KUHPerdata), while its binding force is grounded in Article 1338 of the Civil Code, which embodies the principle of *pacta sunt servanda* that lawfully concluded agreements are legally binding upon the parties.³⁴

Under Article 1320 of the Civil Code, the validity of this civil-law relationship turns on four requirements: consent, capacity, a certain subject matter, and a lawful cause.³⁵ First, consent requires a genuine concurrence of wills between the parties. Because consent is a subjective requirement, an agreement affected by fraud is not void *ipso jure*, but voidable; in this sense, the maxim *dolo malo pactum se non servaturum* reflects the idea that an agreement tainted by fraud will not be upheld.³⁶ Second, capacity requires that the parties be legally competent to undertake binding obligations. In this context, the company acts through its authorized representative, while the village government acts through the village head within the scope of legally attributed authority. Third, a certain subject matter requires that the object of the agreement be sufficiently definite. Here, the subject matter is not an unrestricted transfer of money to the village, but the implementation of a specifically agreed project financed through CSR funds, which is consistent with the maxim *charta de non ente non valet*.³⁷ Fourth, a lawful cause requires that the purpose of the agreement not conflict with law, public order, or morality. In this respect, a non-donation CSR agreement directed to a defined infrastructure project is, in principle, capable of satisfying that requirement; conversely, a contract founded on an unlawful or immoral cause is void, as reflected in the maxim *contractus ex turpi causa vel contra bonos mores nullus est*.³⁸ These requirements, taken as a whole, confirm that the transfer of non-donation CSR funds must be understood within the structure of a valid contractual relationship, not as an unconditional transfer of funds detached from the obligations agreed by the parties.

In other words, within this framework, non-donation CSR funds are the property of the company and are designated for specific purposes outlined in the contract. These funds are not charitable donations, gifts (*hibah*), or general assistance without defined objectives. Instead, they are directed toward clearly agreed purposes, such as specific village

³⁴ In Indonesian contract law, Article 1338 of the Civil Code provides that all lawfully concluded agreements bind the parties as law. This article embodies the principle of *pacta sunt servanda*, literally meaning that an agreement is legally binding. As stated in the doctrine, *pacta conventa quae neque contra leges neque dolo malo inita sunt omnimodo observanda sunt*, which means that a contract that is neither unlawful nor tainted by fraud must be fully observed. See Mochtar and Hiariej, *Dasar-Dasar Ilmu Hukum*, 160.

³⁵ Zaenal Arifin et al., “Keabsahan Dan Perlindungan Hukum Perjanjian Kemitraan Jasa Konstruksi,” *Jurnal USM Law Review* 6, no. 1 (2023): 65–78, <https://doi.org/10.26623/julr.v6i1.6095>.

³⁶ Bryan A. Garner, *Black’s Law Dictionary*, Eighth Edition (Thomson West, 2004), 5285; See also Dedy Prasetyo Winarno, “Konsekuensi Yuridis Salinan Akta Notaris Yang Tidak Sama Bunyinya Dengan Minuta Akta Terhadap Keabsahan Perjanjian,” *Arena Hukum* 8, no. 3 (2015): 411–27, <https://doi.org/10.21776/ub.arenahukum.2015.00803.6>.

³⁷ Bryan A. Garner, *Black’s Law Dictionary*, 5268.

³⁸ John Bouvier, *A Law Dictionary* (J.B. Lippincott and Company, 1883), 2:175.

infrastructure projects. The funds remain within civil law, and the company retains the right to monitor their use in accordance with the agreement.

For the same reason, non-donation CSR funds cannot simply be equated with gifts or unrestricted village revenue. Funds that remain tied to a specific contractual purpose and may still be subject to return or further performance cannot be treated in the same way as ordinary village revenue that becomes the village's right and does not need to be repaid.³⁹ In that sense, the legal status of the funds should not be collapsed into the legal status of the eventual project output.

Even so, the civil status of these CSR funds becomes legally ambiguous once transferred into village accounts. Administratively, any funds entering such accounts are treated as state finances and therefore subject to public finance regulations. This creates a core legal issue: if CSR funds, which legally still belong to the company, are treated as public funds, the company's civil rights may be compromised. For example, if the village fails to fulfill contractual obligations, the company should be able to seek restitution.⁴⁰ But if the funds are classified as state assets, such claims may no longer be possible. In civil-law terms, failure to use the funds in accordance with the agreed purpose may constitute non-performance of a contractual obligation, rather than merely an administrative irregularity.⁴¹ The problem becomes more complicated when a breach of contractual purpose is absorbed into public-finance administration and no longer assessed first through the logic of contractual responsibility.

This legal complexity is further illustrated by common contractual practices in CSR agreements between companies and village governments, which often include provisions for legal consequences in the event of non-performance. In the case of Bakan Village, North Sulawesi, public information about the infrastructure project indicates that the company reserved the right to request the return of CSR funds if the village government failed to fulfill the agreed terms. On the other hand, the Ministry of Home Affairs Regulation No. 20 of 2018 stipulates that any inflow or outflow of funds through the village account must be managed using a *cash basis*, meaning that all transactions must be recorded within the planning and budgeting structure of the Village Revenue and Expenditure Budget (APB Desa).⁴² As a result, a contradiction emerges between private contractual agreements and the public regulations governing village finance.

This ambiguity generates legal risks for both parties. On the company's side, there is the potential loss of legal protection over its contractual rights. For the village government,

³⁹ Permendagri 20/2018, 2018, Art 11(1).

⁴⁰ Rayhan Fahriza Yose and Gunawan Djajaputra, "Analysis of Default in Cooperation Agreements: A Perspective on Rights and Obligations of The Parties In Dispute Resolution," *Jurnal USM Law Review* 8, no. 2 (2025): 777–86, <https://doi.org/10.26623/julr.v8i2.12071>.

⁴¹ R. A. Rizky Purwaningtyas and Hariyo Sulistiyantoro, "Analisis Yuridis Wanprestasi Dalam Kontrak Public and Private Partnership," *Kabillah* 9, no. 2 (2024): 578–84, <https://doi.org/10.35127/kabillah.v9i2.484>.

⁴² Permendagri 20/2018, 2018, Arts. 29–31.

administrative mismanagement of CSR funds may lead to criminal liability, especially when such funds are not recorded in the APB Desa.

Normative clarification is therefore required to allow civil corporate rights and village financial management principles to coexist. Contractually, this protection should be embedded through clear risk mitigation clauses. At the same time, administrative regulations must explicitly differentiate non-donation CSR from other public funds, ensuring that village governments have clear guidelines for recording and managing these funds without infringing upon corporate property rights.

Through this normative approach, the civil status of CSR funds within village accounts can be clarified to prevent legal conflict, strengthen legal certainty, and maintain a harmonious relationship between the company and the village government. Such clarity also supports non-litigation approaches to resolving construction disputes, consistent with principles of prudence, fairness, and procedural efficiency.⁴³

3.3 Administrative Aspect: Ambiguity in the Village Financial System

The integration of non-donation CSR funds into village accounts gives rise to a set of administrative challenges that the current village financial management framework is not equipped to resolve. The core issue lies in the ambiguity over their legal status: whether CSR funds automatically become public finances upon entering village accounts or remain private funds passing through the administrative system.

Normatively, Article 1, number 1 of Law No. 17 of 2003 defines state finance as all rights and obligations of the state that can be valued in money, including anything that may be owned by the state.⁴⁴ The term “government” includes both central and local levels, meaning villages, as subsystems of government, are part of the national financial system.⁴⁵ Likewise, Article 1, point 10, and Article 71(2) of the Village Law define village finance broadly and affirm that village rights and obligations give rise to village revenue, expenditure, financing, and the management of village finance.⁴⁶

The administrative framework for village finances is further defined by the Ministry of Home Affairs Regulation No. 20 of 2018, which outlines the principles, procedures, and mechanisms of village financial management. Article 11(1) states that village revenue includes all receipts within one fiscal year that constitute village rights and are not subject to repayment. Therefore, any funds deposited into the village account and considered revenue must be recorded in the APB Desa and managed according to principles of transparency, accountability, participation, order, and budgetary discipline.

⁴³ Supriyadi et al., “Juridical Review of Construction Work Contract Disputes in Indonesia,” *Jurnal Cakrawala Hukum* 13, no. 3 (2022): 325–36, <https://doi.org/10.26905/idjch.v13i3.8916>.

⁴⁴ Undang-Undang Nomor 17 Tahun 2003 Tentang Keuangan Negara, Pub. L. No. Lembaran Negara Republik Indonesia Tahun 2003 Nomor 47, Tambahan Lembaran Negara Nomor 4286 (2003).

⁴⁵ Suriana A. R. Mahdi et al., “Transparency of Village Financial Management in Pulau Morotai Regency,” *Society* 9, no. 1 (2021): 331–55, <https://doi.org/10.33019/society.v9i1.289>.

⁴⁶ Undang-Undang Nomor 6 Tahun 2014 Tentang Desa, Pub. L. No. Lembaran Negara Republik Indonesia Tahun 2014 Nomor 7, Tambahan Lembaran Negara Nomor 5495 (2014).

A careful reading of Article 11, paragraph (1) confirms that Minister of Home Affairs Regulation No. 20 of 2018 normatively limits village revenue to receipts that satisfy two cumulative requirements, namely (a) constituting a right of the village, and (b) not being subject to repayment by the village. Although Article 14 letter b lists "receipts from corporate assistance from companies located in the village" as a category of other revenue, this provision does not override the general requirements set out in Article 11 paragraph (1). Non-donation CSR funds, which remain bound by corporate contractual obligations and may still be subject to claims for restitution, do not substantively satisfy these two requirements and therefore fall outside the intended definition of village revenue. The problem thus lies not in the substance of the regulation, but in the absence of technical guidance that operationalises this distinction at the implementation level, so that administrative practice tends to treat all inflows into village accounts uniformly as revenue.

The issue arises when CSR funds, legally private corporate assets, are treated as public revenue simply because they enter village accounts. As a result, village governments must record and manage them as public funds. This creates confusion since CSR funds are often allocated for specific purposes, such as infrastructure projects, which may not align with the generalized village budgeting system.

From an administrative law perspective, public funds carry specific characteristics and must be managed according to strict administrative standards. Budgeting, accounting, reporting, and accountability must all be conducted transparently and with public participation. Moreover, the management of the APB Desa is subject to oversight and audit.⁴⁷ In this regard, the Government Internal Supervisory Apparatus (APIP), both at the national and regional levels, is one of several institutions authorized to conduct oversight through reviews, monitoring, evaluations, inspections, and other supervisory mechanisms of village financial management.⁴⁸ Nevertheless, in the structured discussion, Susanto, an auditor at the Kotamobagu Regional Inspectorate, emphasized that private CSR funds are subject to internal accountability to the donor company, making full integration into the APB Desa system structurally incompatible, as the village financial system is rigid and must be strictly followed.⁴⁹

This ambiguity puts village officials in an untenable position: administrative rules require them to record CSR funds as revenue, while the terms of the contract with the company demand a different treatment. Failing either may lead to allegations of maladministration or even criminal prosecution, especially if CSR funds are viewed as misused under administrative law.

⁴⁷ Peraturan Menteri Dalam Negeri Nomor 73 Tahun 2020 Tentang Pengawasan Pengelolaan Keuangan Desa, Pub. L. No. Lembaran Negara Republik Indonesia Tahun 2020 Nomor 1496 (2020).

⁴⁸ Wono Sugito et al., "Pengawasan Penggunaan Dana Desa Di Kabupaten Indragiri Hilir," *Selodang Mayang: Jurnal Ilmiah Badan Perencanaan Pembangunan Daerah Kabupaten Indragiri Hilir* 9, no. 2 (2023): 111–22, <https://doi.org/10.47521/selodangmayang.v9i2.301>.

⁴⁹ Structured Expert Discussions with Susanto, Auditor at the Kotamobagu Regional Inspectorate, conducted as part of this research, 25 July 2025.

Theoretically, this issue can be examined using Friedman's Legal System Theory. Although Friedman does not explicitly distinguish between administrative and civil law, his systemic approach allows for analysis of the tension between bureaucratic logic and contractual principles. For example, Government Regulation No. 47 of 2012 on Corporate Social and Environmental Responsibility mandates that companies implement CSR programs, while Ministry of Home Affairs Regulation No. 20 of 2018 categorically requires all funds received into the village treasury to be recorded on a *cash basis*, through the registration of both incoming and outgoing transactions.⁵⁰ These regulations result in the uniform treatment of CSR funds, which in fact should be handled differently.

Musgrave's theory also enriches this analysis. According to his fiscal allocation theory, public funds are characterized by public genesis and public purpose, meaning they originate from state fiscal obligations and are intended for collective interests that fall under the authority and responsibility of the government.⁵¹ Non-donation CSR funds, which originate from private obligations and are directed toward specific contractual projects, do not fully meet these characteristics. If such funds are recorded in the APB Desa without administrative separation, they may be subject to a legal fiction that imposes a legal status inconsistent with the substance and origin of the funds.

These findings indicate a regulatory gap regarding the administrative classification of non-donation CSR funds at the village level. In structured expert discussions with experts in administrative law and government auditors, it was suggested that technical regulations are needed to distinguish non-donation CSR funds. Muh. Triasmara Akub, a public official with expertise in administrative law and former Head of the Legal Division of the Bolaang Mongondow Regency Government, emphasized the importance of establishing separate mechanisms for the recording and management of non-donation CSR funds, so that village governments have proper guidance aligned with the principles of state finance. In the same discussion, it was also affirmed that the village's financial system only recognizes funds that are the legal right of the village and are not subject to return, thus excluding non-donation CSR funds tied to private contracts.⁵²

Based on the analysis, such regulations may take the form of technical guidelines or amendments to existing regulations, providing options such as special accounting (off-budget), escrow accounts, or reporting mechanisms separate from the APB Desa. This framework would enable village governments to fulfill their administrative duties

⁵⁰ Peraturan Pemerintah Nomor 47 Tahun 2012 Tentang Tanggung Jawab Sosial Dan Lingkungan Perseroan Terbatas, Pub. L. No. Lembaran Negara Republik Indonesia Tahun 2012 Nomor 89, Tambahan Lembaran Negara Nomor 5305 (2012); Permendagri 20/2018, 2018 Arts. 20 and 30.

⁵¹ Badikenita Sitepu, "Analisis Anggaran Pemerintah (APBN dan APBN-P) dalam Perspektif Demokrasi Multipartai dan Koalisi," *Jurnal Ekonomi dan Pembangunan Indonesia* 17, no. 1 (2016): 28–43, <https://doi.org/10.21002/jepi.v17i1.03>.

⁵² Structured Expert Discussions with Muh. Triasmara Akub, a public official with expertise in administrative law and former Head of the Legal Division of the Bolaang Mongondow Regency Government, conducted as part of this research, 25 July 2025. See also Permendagri 20/2018, 2018. Art. 1 no. 12.

accurately, without infringing on corporate property rights or triggering criminal risks due to unintentional administrative errors.

Resolving this administrative ambiguity is accordingly a prerequisite for designing more adaptive regulations. Through this approach, the core objective of CSR integration at the village level, namely accountable development that is free from legal risk, can be achieved optimally. Accordingly, the presence of specific regulations is critical not only to ensure administrative certainty but also to affirm the state's role in structuring the relationship between public and private finances in a fair and organized manner, including through the application of good governance principles in village financial management focused on transparency and accountability.⁵³ In line with Budiono, the state plays a vital role in creating incentives and oversight mechanisms for activities that affect the public interest, including contractual CSR schemes implemented at the village level.⁵⁴

3.4 Criminal Aspect: Risk of Criminalisation Due to Regulatory Gaps

Beyond its civil and administrative dimensions, the integration of non-donation CSR funds into village accounts carries significant criminal risk, particularly in the form of corruption allegations directed at village officials. The core problem lies in the ambiguity of the legal status of these funds, specifically whether they automatically become state finances once deposited into village accounts.

Under Indonesian law, the element of “causing state financial losses or losses to the national economy” is a fundamental component of corruption offenses under Articles 2 and 3 of the Anti-Corruption Law.⁵⁵ In this context, determining whether the misuse of village funds constitutes corruption fundamentally depends on the status of the funds, specifically whether they qualify as state finances. This is different from bribery-related offenses, which do not require the element of state financial loss.⁵⁶ This distinction needs to be clarified here because that element is not uniformly required across all corruption offenses under Indonesian law. The following table shows that it is particularly decisive for the application of Articles 2 and 3, while other offenses may arise without proof of such loss.

⁵³ Dewi Ambarwati et al., “Implementation of Good Corporate Governance Principles in the Management and Accountability of Village-Owned Enterprises,” *Jurnal Cakrawala Hukum* 14, no. 3 (2023): 235–53, <https://doi.org/10.26905/idjch.v14i3.12368>.

⁵⁴ Indro Budiono, “Fulfillment of Environmental Rights: Policy Strategies and Their Impact on Sustainable Development,” *Jurnal Cakrawala Hukum* 15, no. 1 (2024): 21–36, <https://doi.org/10.26905/idjch.v15i1.14366>.

⁵⁵ Undang-Undang Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi, sebagaimana telah diubah dengan Undang-Undang Nomor 20 Tahun 2001 Tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi, Pub. L. No. Lembaran Negara Republik Indonesia Tahun 2001 Nomor 134, Tambahan Lembaran Negara Nomor 4150 (2001).

⁵⁶ Hamdani and Fauzan Misra, “The Role of Investigation Audit for the Calculation of State Losses in Governor Corruption Cases Handled by the Corruption Eradication Commission for 2013-2022 Period,” *Jurnal Bina Praja* 15, no. 2 (2023): 249–60, <https://doi.org/10.21787/jbp.15.2023.249-260>.

Table 2. Classification of Corruption Offenses by the State Financial Loss Element

Anti-Corruption Law	Element of State Financial Loss Required?	Type of Corruption Crime
Article 2	Yes	Unlawful enrichment causing state financial loss.
Article 3	Yes	Abuse of authority for personal or others' benefit causing state financial loss.
Articles 5, 6, 11, 12, 12A, 12B	No	Bribery and gratification involving public officials.
Article 13	No	Giving gifts or promises to public officials to influence their duties.
Article 21	No	Obstruction of justice in corruption-related cases.

Source: Compiled from Law No. 31/1999 as amended by Law No. 20/2001 (2025).

Table 2 shows that the element of state financial loss is decisive in applying Articles 2 and 3 of the Anti-Corruption Law. If CSR funds are classified as state finances, these provisions may apply. However, if the funds retain their status as corporate property, the relevant elements under Articles 2 and 3 would not be fulfilled.

In certain cases, such as the legal incident in Bakan Village, non-donation CSR funds from PT JRBM were transferred into the village account and classified as village income. As a result, administrative deviations were assessed as criminal offenses, especially after an audit reported financial losses to the state.

The problem is intensified by the absence of regulations explicitly separating village-owned funds from non-village funds within the same account. Technically, classifications rely only on account codes for each type of village revenue.⁵⁷ Even so, these codes are administrative tools and do not alter the legal status of the funds. They merely serve as a method of categorization for reporting purposes.⁵⁸ In implementation, all incoming funds are deposited into a single village account and managed under the APB Desa, with no administrative distinction between government funds and private funds originating from partnership projects. Consequently, all funds tend to be administered within the village financial system regardless of their source.

This situation becomes even more problematic when audits are conducted. As illustrated in the Bakan case, CSR funds gradually transferred into the village account were classified as state revenue, and the BPKP audit reported state losses amounting to IDR 6.6 billion.⁵⁹ This had direct implications for the village head, who, as the administrative officer

⁵⁷ Permendagri 20/2018, 2018, Art 10.

⁵⁸ Wilda Prihatiningtyas et al., "Optimisation of Village Funds in Achieving SDGs: Lessons Learned from East Java," *World Journal of Entrepreneurship, Management and Sustainable Development* 19, no. 1/2 (2023): 69–86, <https://doi.org/10.47556/J.WJEMSD.19.1-2.2023.6>.

⁵⁹ Indonesiapost, "Diduga Rugikan Keuangan Negara Lebih dari Rp. 6 Miliar, Polres Kotamobagu Tahan Oknum Sangadi bakan dan Kontraktor.," News, IndonesiaPost.Net, January 6, 2025, <https://indonesiapost.net/2025/01/06/rugikan-keuangan-negara-rp-6-milyaran-polres-kotamobagu-tahan-oknum-sangadi-bakan-dan-kontraktor/>.

responsible for the funds, faced serious consequences. Administrative errors in recording or reporting were interpreted as indicators of maladministration with the potential to escalate into corruption charges.

A comparable pattern of criminalisation appears in Decision Number 18/Pid.Sus-TPK/2025/PN Sby of 17 June 2025, which has acquired permanent legal force, involving Nurhasim as the convicted defendant in his capacity as Chair of the Village Consultative Body (BPD) of Roomo Village, Gresik Regency. Unlike the Bakan case, the CSR funds from PT Smelting, amounting to one billion rupiah in the Roomo case, had been included in the 2024 APB Desa under Village Regulation Number 7 of 2023 as other revenue under account code 4.3. The panel of judges concluded *mutatis mutandis* that CSR funds already incorporated into the APB Desa constitute state finance, without examining whether such funds substantively satisfied the normative requirement of being a right of the village that need not be returned as set out in Article 11 paragraph (1) of Minister of Home Affairs Regulation No. 20 of 2018.⁶⁰ A comparison of the two cases reveals the ambiguity at the core of the problem. When CSR funds are not incorporated into the APB Desa, administrative non-conformity becomes the basis for criminal prosecution, as in the Bakan case. Conversely, when CSR funds are incorporated into the APB Desa, the funds are automatically deemed state finance, so that irregularities in their management are also prosecuted, as in the Roomo case. Whatever administrative choice the village government takes, whether or not it records the CSR funds in the APB Desa, the result is the same exposure to criminal risk. This situation reinforces the argument that the problem does not lie in the administrative choices of village officials, but in the absence of a normative framework that establishes how non-donation CSR funds should be treated as a matter of law from the outset.

The lack of specific regulations also opens space for discretionary interpretations by law enforcement authorities. Unfortunately, this discretion is often not accompanied by a proper understanding of CSR funds as private corporate property. As a result, the risk of criminalizing village officials for ordinary administrative mistakes becomes significantly higher. In the case illustrated in this study, the village head was named a suspect partly because the management of CSR funds did not follow the village governance procedures under the APB Desa.⁶¹

This risk of criminalisation follows directly from the clash between legal subsystems that Friedman's framework anticipates. Through Friedman's systemic approach, it becomes clear that the absence of bridging norms between criminal law and administrative law creates

⁶⁰ Decision of the Corruption Court at the Surabaya District Court Number 18/Pid.Sus-TPK/2025/PN Sby of 17 June 2025, with Nurhasim, S.H., M.M. as the convicted defendant; upheld by Decision of the Surabaya High Court Number 51/Pid.Sus-TPK/2025/PT Sby of 28 July 2025; and granted permanent legal force by Decision of the Supreme Court of the Republic of Indonesia Number 10820 K/Pid.Sus/2025 (December 4, 2025).

⁶¹ Kronikotabuan.com, "Diduga Korupsi Dana CSR PT JRBM, Polres Kotamobagu Tahan Kades Bakan dan Kontraktor, Kerugian Rp6,6 Miliar," News, Kronikotabuan.com, January 7, 2025, <https://kronikotabuan.com/diduga-korupsi-dana-csr-pt-jrbm-polres-kotamobagu-tahan-kades-bakan-dan-kontraktor-kerugian-rp66-miliar/>.

normative conflict.⁶² Law enforcement authorities tend to adopt administrative logic when interpreting CSR funds, without considering their contractual nature. Meanwhile, Musgrave's approach, particularly in his allocative function theory, emphasizes that fiscal state losses only occur when the affected object qualifies as public funds.⁶³ Non-donation CSR funds arising from private contracts do not automatically become public assets.

Structured expert discussions underscored the urgent need for regulations or technical guidelines affirming that non-donation CSR funds are not village revenue or state finances. Article 4B of Law No. 1 of 2025 on State-Owned Enterprises (BUMN) was referred to by the experts to show that not all public entities represent the state in financial responsibility, and their losses should not automatically be treated as state losses.⁶⁴ Experts also stressed the importance of a restorative approach that prioritizes administrative correction before escalating issues into criminal matters, in line with substantive justice.

Therefore, regulatory reform that explicitly distinguishes between administrative errors and criminal offenses is urgently needed. Such clarification is essential to ensure that the integration of non-donation CSR funds into village development does not lead to disproportionate legal risks and continues to support the acceleration of infrastructure development.

3.5 Regulatory Reconstruction of Non-Donation CSR Fund Integration into the Village Financial System

The legal ambivalence surrounding non-donation CSR funds in village accounts underscores the need for a regulatory framework that integrates civil, administrative, and criminal law considerations in a manner suited to the realities of corporate-village partnerships. From a civil law perspective, the regulation must affirm that non-donation CSR funds deposited into village accounts remain private property until all contractual obligations have been fulfilled. These funds should not be automatically classified as village revenue or state finance.⁶⁵ Corporate civil rights, including claims and remedies for non-performance, must be protected.⁶⁶

Administratively, the regulation should establish a special management mechanism that differentiates non-donation CSR funds from public funds. Such guidance would enable village governments to administer these funds in a manner that is both accountable and transparent. Possible technical options include special off-budget accounts, which must

⁶² Ridwan Arifin et al., "A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia."

⁶³ Muhammad Rizky Akbar Ismail and Lego Karjoko, "The Ideality of Implementing Administrative Sanctions Against Environmental Damage," *Jurnal Cakrawala Hukum* 14, no. 2 (2023): 200–211, <https://doi.org/10.26905/idjch.v14i2.10420>.

⁶⁴ Undang-Undang Nomor 1 Tahun 2025 Tentang Perubahan Kedua Atas Undang-Undang Nomor 19 Tahun 2003 Tentang Badan Usaha Milik Negara, Pub. L. No. Lembaran Negara Republik Indonesia Tahun 2025 Nomor 25, Tambahan Lembaran Negara Nomor 7097 (2025) See the Elucidation of Art. 4B, which states that the capital and wealth of a BUMN belong to the entity, meaning any financial profit or loss incurred by the BUMN is not considered a state profit or loss.

⁶⁵ Undang-Undang Nomor 17 Tahun 2003 Tentang Keuangan Negara Art. 1 no. 1; Undang-Undang Nomor 6 Tahun 2014 Tentang Desa Art. 1 no. 10 and Art. 71(2); Permendagri 20/2018, 2018 Art. 11(1).

⁶⁶ Civil Code Art. 1338; Rayhan Fahriza Yose and Gunawan Djajaputra, "Analysis of Default in Cooperation Agreements."

remain subject to transparent reporting and external oversight to prevent accountability gaps, escrow accounts, and designated forwarding accounts, all of which should be managed transparently, responsibly, and be subject to audit. The choice among these mechanisms should depend on the character of the project, the degree of village involvement, and the level of financial control retained by the company.

From the perspective of criminal law, regulations must separate administrative errors from criminal acts. Administrative sanctions, civil liability, and criminal sanctions must be clearly distinguished because they serve different functions and should not overlap without clear normative boundaries.⁶⁷ Corrective and restorative approaches should take precedence, and administrative violations without *mens rea* should not be criminalized.

Where misuse or diversion of non-donation CSR funds occurs, the legal response should not begin by presuming state financial loss. The prior question is whether the funds remain private corporate property and whether the company, as the party directly affected, has suffered legal harm through the impairment of contractual rights. This confirms the need to distinguish private loss, administrative irregularity, and criminal wrongdoing before assigning legal responsibility.

Expert input from Apri Listiyanto, Head of the Legislation and Legal Development Division at the North Sulawesi Regional Office of the Ministry of Law, underscored the importance of adopting an adaptive regulatory approach in response to the evolving dynamics of CSR practices.⁶⁸ To date, CSR laws at the statutory or government level address only obligations for companies, especially in natural resources, but there are still no regulations governing how non-donation CSR schemes should interact with public financial systems. A clear framework should at minimum include: (1) a specific and clear definition and classification of both donation and non-donation CSR funds to ensure legal certainty in CSR implementation; and (2) standard operating procedures for oversight and auditing of non-donation CSR funds, conducted by independent auditors or, where possible, by APIP, with clearly defined boundaries regarding the scope of administrative audits.

To implement an adaptive regulatory model, a clear operational mechanism must be established. Based on normative analysis and expert discussions, the most viable option is a special accounting scheme (off-budget account) managed separately from the APB Desa but still under joint administrative supervision by both the village government and the company. Although separate from APB Desa, this account should be governed by clear accountability standards and monitored collaboratively. Under this scheme, the company transfers CSR funds to a dedicated escrow arrangement. Funds are disbursed only once the infrastructure project stipulated in the CSR contract has commenced, thereby ensuring that the funds are not misused or diverted for unintended purposes.

⁶⁷ Muhammad Rizky Akbar Ismail and Lego Karjoko, "The Ideality of Implementing Administrative Sanctions Against Environmental Damage."

⁶⁸ Expert consultation with Apri Listiyanto, Head of the Legislation and Legal Development Division, Regional Office of the Ministry of Law of North Sulawesi, conducted as part of the expert discussion process in this research, 18 July 2025.

This mechanism ensures accountability and transparency, as the village government is required to report regularly to the company on CSR fund usage. At the same time, the company retains the right to monitor the progress and implementation of CSR-funded projects for internal compliance and oversight. Implementing an integrative regulation depends on collaborative oversight among village governments, companies, APiP, and the public, supported through periodic reports to the company and annual public disclosures via village websites or notice boards.

Audits should be conducted by APiP or independent auditors with a clearly limited scope focused on compliance with CSR agreements. These audits must first produce administrative recommendations before any findings are escalated to criminal proceedings.⁶⁹ Such limits are important because the purpose of the audit is not to automatically transform every irregularity into an allegation of corruption, but to determine whether the funds were administered in accordance with the contractual scheme that governs them. A clearly bounded audit model would also reduce uncertainty for village officials when handling CSR funds that do not fit neatly within ordinary village revenue categories.

The regulatory framework should also encompass preventive measures. For example, companies should avoid transferring CSR funds to general village accounts. Instead, funds can go to project-specific escrow accounts or be paid directly to contractors, with reporting duties to the village. A well-designed regulatory framework, in short, must be both reactive and preventive. An integrative and adaptive regulatory model would allow CSR fund integration to proceed on a sound legal footing, protecting village officials from disproportionate criminal exposure while preserving the accountability expected of public administration.

4. CONCLUSION

This study concludes that integrating non-donation CSR funds into village accounts creates cross-regime legal ambiguity due to the intersection of civil, administrative, and criminal law frameworks that govern a single legal object. The research confirms that non-donation CSR funds do not automatically become state finances merely because they are deposited into village accounts, since, in substance, such funds remain contractually earmarked corporate assets until the fulfillment of agreed obligations under the principle of *pacta sunt servanda*. The absence of specific regulatory differentiation has generated significant legal uncertainty, particularly exposing village officials to the risk of criminalisation arising from administrative misclassification of private contractual funds as public finance. Accordingly, this study proposes a regulatory reconstruction through adaptive mechanisms such as off-budget administration, escrow arrangements, or designated forwarding accounts accompanied by explicit normative distinctions between maladministration, breach of contract, and corruption offenses. The novelty of this research

⁶⁹ Willibrordus Riawan Tjandra, "Shifting Corruption Prevention to Corruption Protection Through Government Policy In Indonesia?," *Journal of Law and Sustainable Development* 12, no. 4 (2024): e3417–e3417, <https://doi.org/10.55908/sdgs.v12i4.3417>.

lies in conceptualising non-donation CSR funds as a hybrid cross-regime legal category situated at the intersection of private ownership and public financial governance, an issue that has not been systematically theorised in previous CSR or village finance scholarship. In addition, this research contributes theoretically to the development of hybrid governance and public finance law by introducing a doctrinal framework capable of reconciling contractual corporate rights with principles of public accountability, while practically providing a regulatory model that may serve as a reference for policymakers, auditors, law enforcement agencies, and village governments in managing CSR-based infrastructure partnerships without undermining legal certainty, investment participation, or good village governance. This article was funded by the Directorate of Research and Community Service, Directorate General of Research and Development, Ministry of Higher Education, Science, and Technology of the Republic of Indonesia through the 2025 Beginner Lecturer Research Grant Scheme under Master Contract Number 137/C3/DT.05.00/PL/2025 and Derivative Contract Number 850/LL16/AL.04/2025, with institutional support from Universitas Dumoga Kotamobagu

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