



Regulation of Electronic Fundraising in the Donation Based Crowdfunding System

Komang Ayu Candra Dewi ^{1*}, Ni Luh Made Mahendrawati ², IB Gede Agustya Mahaputra ³

¹⁻³ Faculty of Law, Warmadewa University, Denpasar, Indonesia

* Corresponding Author: **Komang Ayu Candra Dewi**

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Abstract

Based on the 2021 World Giving Index report, the world charity Charities Aid Foundation (CAF) placed Indonesia first on the list of generous citizens. This is influenced by the increasingly rampant development of social fundraising based on electronic systems. However, in its development, it is not separated from a problem, the fact of misappropriation of funds that have been donated. The legal issue raised in this study is related to the lack of norms regarding the regulation of electronic fundraising in the *donation based crowdfunding* system. The problems raised in this study are: a) what are the legal arrangements related to licensing in the implementation of electronic social fundraising in the *donation based crowdfunding* system? b) What is the form of accountability of electronic fundraising organizers to campaigners and donors in Indonesia? This research uses a type of normative legal research, the approach used in solving problems is through the approach of laws and regulations and the approach of analyzing legal concepts. The results of the study show that the regulations on the implementation of social fundraising in Indonesia are no longer sufficient in regulating the current development of philanthropic activities, as well as the extent of the form of legal responsibility of parties involved in organizing electronic fundraising in the *donation based crowdfunding* system. So that regulations related to the implementation of social fundraising need to be reviewed in terms of law to be able to provide guarantees and legal protection to the community.

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Introduction

The main concept of this donation-based crowdfunding is voluntary fundraising that aims to help other individuals or groups in need. Although the characteristic is voluntary, accountability is still needed to ensure that donation funds are properly distributed to those in need. Donation-based crowdfunding is the practice of raising funds from the community for various purposes, especially social and charitable ones. The media used to connect donors with donation recipients is the internet, as well as applications or platforms that function as intermediaries in this process (Budiman: 2019) ^[2].

Donation-based crowdfunding provides various conveniences compared to conventional social fundraising approaches. One example is the wider range of information that can be provided to the public through the internet. In donation-based crowdfunding activities that are carried out online, donors can participate regardless of geographical restrictions. They can participate from different countries as long as they have access to the information available on the online donation platform. In addition, the relatively low cost of publication is one of the main advantages. Donation-based crowdfunding platforms allow both small organizations and individuals to collect donations from many people without having to spend a fortune on promotion and publication.

Crowdfunding in Indonesia has played a significant role in helping finance for creative industry players. However, there is a weakness in donation-based crowdfunding, namely that even though there is legality for crowdfunding site operators, it does not provide a clear explanation of the status of legal entities regulated in laws and regulations. In addition, there is still no adequate clarity and supervision from the government as a form of protection for collective funds collected from the community.

A number of other platforms do not expressly display their legal status in the process of collecting donations or donations. This condition occurs due to the lack of firmness in the regulations governing online fundraising. Clear regulations are needed that require every fundraising platform to transparently demonstrate their legality as proof that they have obtained a valid operating license. There needs to be clear standards regarding how each fundraising platform should disclose their legal status. This happened because the responsibility of the fundraising organizer was not regulated in Law Number 9 of 1961 concerning the Collection of Money or Goods and Government Regulation Number 29 of 1980, even though one of the responsibilities of the organizer was to provide security and distribution of donations from the community to those in need.

The presence of the regulations mentioned earlier has not fully guaranteed security in the implementation of social fundraising through the platform electronically. This is due to several factors, including the absence of regulations that comprehensively regulate the responsibilities of donation fundraising organizers based on electronic systems, campaigners (people who initiate campaigns), and donors.

Regulations regarding donation-based crowdfunding in Indonesia refer to Law Number 9 of 1961 concerning the Collection of Money or Goods and Government Regulation Number 29 of 1980. The arrangement does not recognize the crowdfunding that has developed at this time as a whole, starting from the form of business entities for the management site, the standard amount of administrative fees, the form of responsibility and supervision of stakeholders related to the fundraising activities. Therefore, further clarification or more detailed additional regulations are needed to regulate crowdfunding-based donations and the types of entities that can be involved in such fundraising.

With the existence of electronic system-based social fundraising, there is the potential for fraudulent practices easily. Electronic Transactions are legal acts carried out using Computers, Computer networks, and/or other electronic media, the Government also facilitates the use of Information Technology and Electronic Transactions in accordance with the provisions of laws and regulations. The government protects the public interest from all types of disturbances as a result of the misuse of Electronic Information and Electronic Transactions that disturb public order, in accordance with the provisions of laws and regulations.

Therefore, within the legal framework, there needs to be a comprehensive regulation to regulate this electronic system-based social fundraising practice. In this context, changes are needed to Law Number 9 of 1961 concerning the Collection of Money or Goods in order to accommodate the latest developments in social fundraising, especially those carried out through websites or online applications. This includes the collection of donations that often do not comply with the provisions of laws and regulations related to donations spread across various laws and regulations. Therefore, it is necessary

to formulate more specific laws and regulations in accordance with modern social fundraising, in order to provide legal certainty and the necessary protection for all parties involved in the implementation of the social fund (Harina: 2019) ^[3].

The reform of the legal basis of social fundraising is expected to form a fairer legal basis for all parties involved in social fundraising. This includes affirming the rights and obligations of stakeholders and regulating provisions that are more relevant to the current dynamics of social fundraising. In line with the times, Law Number 9 of 1961 concerning the Collection of Money or Goods is no longer in accordance with increasingly modern social fundraising activities electronically, so there needs to be changes in several provisions of Law Number 9 of 1961 concerning the Collection of Money or Goods in accordance with the vision of national development.

If it is associated with the Regulation of the Minister of Social Affairs Number 11 of 2015 concerning Standard Operating Procedures for Service Permits for Free Lottery with Prizes and Collection of Money or Goods with an Online System, as amended by the Regulation of the Minister of Social Affairs Number 22 of 2015 (hereinafter referred to as Permensos No. 22 of 2015). Permensos No. 22 of 2015 does not regulate the enforcement mechanism in the event of irregularities in donation collection activities. In Article 21 paragraph (4) which stipulates that, "In the event that irregularities, frauds, violations, and obstacles are found as referred to in paragraph (3), the provincial local government and the regency/city local government can make a complaint to the Central Government". Follow-up actions after the provincial and district/city governments make complaints to the Central Government, have not been explicitly regulated.

The Ministry of Social Affairs has a very important role in formulating these regulations and overseeing various platforms that organize electronic-based social fundraising that may violate the rules, operate without a license, or commit unlawful acts. In addition, sanctioning organizers who violate the rules is also a necessary action to maintain the integrity and trust of the community in social fundraising activities. The platform that implements social fundraising based on the electronic system as an electronic system operator is not only required to obtain permission from the Minister of Social Affairs, but also required to obtain a permit from the Ministry of Communication and Information before carrying out operations.

As previously explained, it can be said that there is a legal vacuum in the type of financial technology crowdfunding, especially in the donation-based crowdfunding sector. There are things that are no longer relevant to the development of the all-digital era like today and things that have not been clearly regulated such as the responsibilities of fundraising organizers, legality for crowdfunding site operators, and supervision of fundraising site operators. Based on the description above, the author is interested in conducting research on legal issues in the form of a thesis entitled "Regulation of Electronic Fundraising in the Donation Based Crowdfunding System". From the above background, two problem formulations emerged as follows, 1) What are the legal arrangements related to licensing in the implementation of electronic social fundraising in the *donation based crowdfunding system* ?, 2) What is the form of accountability of electronic fundraising organizers to *campaigners* and donors in Indonesia?

Research Methods

The type of research used in this study is normative juridical research that describes legal research that examines positive legal norms as the object of study. Normative legal research is also aimed at legal systematics, namely identifying the main meanings in law such as legal subjects, rights and obligations, legal events in laws and regulations, one of which is in the regulation of electronic fundraising in the Donation Based Crowdfunding System (Muhaimin: 2020) [6]. Furthermore, the research approach in this study uses the STATA approach. This research is descriptive, which makes a systematic depiction, in this case the arrangement of organizing fundraising electronically in a donation based crowdfunding system, and this research prescribes because there is a proposal in it and will be analyzed qualitatively (Amiruddin: 2016) [1].

Results and Discussion

Legal arrangements related to licensing in the implementation of electronic social fundraising in the donation based crowdfunding system

Along with the development of social fundraising in the electronic system which is increasingly massive, of course, it must be balanced with the presence of clear regulations and supervision. The implementation of social fundraising collection is carried out by organizations voluntarily and without coercion with the aim of supporting activities in the fields of social, education, health, sports, religion, culture, and other social welfare, and is required to obtain permission from authorized officials.

Based on Article 4 of Law Number 9 of 1961 concerning the Collection of Money or Goods which regulates that, "The official in question is the Minister of Social Affairs if the collection of social funds covers the entire territory of the Republic of Indonesia, the Governor if it covers the Province or the Regent/Mayor if it covers the district or city area".

However, both Law Number 9 of 1961 concerning the Collection of Money or Goods and Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection have not accommodated the implementation of electronic social fundraising, the target of the provisions of the two regulations is still limited to the implementation of direct or conventional social fundraising.

It can be said that the regulation of *donation-based crowdfunding*, especially those based on the electronic implementation system in Indonesia, is inadequate. *Donation based crowdfunding*, which is mostly electronic, is still regulated by Law Number 9 of 1961 concerning the Collection of Money or Goods which clearly does not accommodate crowdfunding organized by electronic system operators as it is today. In fact, with the existence of *electronic-based donation-based crowdfunding*, making fake campaigns can be easily carried out. In terms of legal construction, the practice of *crowdfunding* in Indonesia is not very well known. *Crowdfunding* can run because of the accountability and responsibility of the owner of the idea and the manager of *the crowdfunding site*.

Because Law Number 9 of 1961 concerning the Collection of Money or Goods and Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection do not regulate the implementation of social fundraising based on electronic systems, so the Minister of Social Affairs of the Republic of Indonesia, Khofifah Indar Parawansa issued the Regulation of the Minister of Social Affairs

(Permensos Number 22 of 2015), this regulation was issued in order to improve the quality of service for changes in money collection or goods from a manual system to an online system through the application of the information system for the collection and management of social assistance funds and so that the implementation of the collection of money or goods can be carried out effectively and efficiently. However, because the organizers of social fundraising based on electronic systems also provide, manage and operate their activities through electronic systems, it is also mandatory to obtain permission from the Ministry of Communication and Information. So that the organizers of social fundraising based on electronic systems or also known as *donation based crowdfunding platforms* are required to have 2 (two) permits, namely:

1. Permission to collect money and goods from the Ministry of Social Affairs of the Republic of Indonesia, and;
2. Permit for the implementation of electronic systems from the Ministry of Communication and Information of the Republic of Indonesia.

The elaboration for the fulfillment of the legality of social fundraising organizers to be able to operate if it is associated with Permensos Number 22 of 2015 in Article 3 paragraph (2) stipulates that, the Minister of Social Affairs grants permission to social fundraising organizers based on electronic systems including:

1. The entire territory of the Republic of Indonesia;
2. More than 1 (one) provincial area;
3. 1 (one) provincial area, but the applicant is domiciled in another province.

So that the organizers of social fundraising based on an electronic system that can be accessed by the public throughout Indonesia, of course, the license will be issued by the Minister of Social Affairs of the Republic of Indonesia.

This arrangement is very important considering that in electronic transactions, the parties involved do not meet in person. Although it is done virtually, the legal consequences that are caused are real, for example, the misappropriation of donation funds carried out by irresponsible parties. The examination and testing process is carried out by an authorized and competent institution to ensure that an electronic system functions properly, through supervision of registration to certification of feasibility.

Electronic system operators are obliged to protect their users and the wider community from losses caused by electronic systems. The Electronic Transaction in question is a legal act carried out using a computer, computer network and/or other electronic media (Lestari *et al*: 2023) [5]. Supervision of the implementation of electronic certification is carried out by the Ministry of Communication and Informatics. Meanwhile, violations of these provisions are subject to administrative sanctions in the form of written warnings, administrative fines, temporary suspension or removal from the list of organizers. Law enforcement is necessary to ensure that every component and cohesion of the entire electronic system operates as it should. Electronic system operators are any person, state administrator, business and community who provide, manage and/or operate electronic systems individually or jointly to electronic system users for their own needs and/or the needs of other parties (Rismajayanti: 2022) [8].

Legal arrangements related to *donation-based crowdfunding* should receive serious attention because it is important for the sustainability of social funds based on electronic systems. This is of course related to the legality of implementing social fundraising based on the electronic system, because its implementation has potential risks, namely those related to consumer protection, financial system stability and economic stability.

Based on this, it can be said that the regulation of social fundraising based on electronic systems in Indonesia is inadequate. The regulation of social fundraising based on electronic systems still refers to Law Number 9 of 1961 concerning the Collection of Money or Goods which clearly does not accommodate social fundraising based on electronic systems organized by electronic system operators as it is today. In fact, with the existence of social fundraising based on an electronic system, making fake campaigns can be easily carried out.

In relation to Law Number 9 of 1961 concerning the Collection of Money or Goods and Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection, because the aforementioned regulations are inadequate with the conditions of the community, including the many practices of collecting donation funds based on electronic systems, so it would be good if the renewal of regulations related to the implementation of social fundraising could be formed to provide legal certainty to the community. Where in this case regulations related to online fundraising still have limitations, which can result in legal uncertainty. One of the problems that arises is the provision in *the donation based crowdfunding platform* which is not responsible in the event of losses to fundraising platform users. Thus, it is necessary to prepare more comprehensive regulations to protect all parties involved in electronic social fundraising in Indonesia.

Thus, in relation to this, the theory of legal certainty shows the importance of reforming the law that regulates social fundraising based on an electronic system. The renewal of the law is directed to achieve legal certainty related to licensing the implementation of social fundraising based on electronic systems. In other words, existing laws must ensure that the practice of social fundraising is fair, provides maximum benefits to the community, and provides legal clarity and stability in its implementation.

Currently, regulations related to electronic fundraising still have limitations, in which case there is a legal vacuum that can result in legal uncertainty in the future. *A donation based crowdfunding platform* that is not responsible if losses occur to its service users. Therefore, it is necessary to prepare more comprehensive regulations to protect all parties involved in electronic social fundraising in Indonesia.

Furthermore, the absence of norms regarding the legal regulation of electronic fundraising in the *donation-based crowdfunding* system will certainly cause legal uncertainty. Regulations on the implementation of social fundraising in Indonesia are no longer sufficient in regulating the development of philanthropic activities today. One of them is that there are several organizers who do not have permits from both the Ministry of Social Affairs and the Ministry of Communication and Information, if in the future they cause a loss. So that regulations related to the implementation of social fundraising need to be reviewed in terms of law or form special regulations to be able to provide guarantees and legal protection to the community.

Accountability of Electronic-Based Fundraising Organizers to Campaigners and Donors in Indonesia

Referring to the previous discussion, it is known that fundraising is interpreted as a conceptual framework about an activity in the context of fundraising and other resources from the community that will be used to finance the institution's operational activity program so as to achieve its goals. Fundraising is not only understood in the context of collecting funds as the meaning of the language. In general, the implementation of fundraising is carried out as a form of spontaneity, solidarity on behalf of humanity, social activities or natural disaster assistance. The rapid development of technology has made social fundraising no longer need to be done conventionally by taking to the streets. Helping others can now be done online (in the network) or online in the form of money, services, or goods and the results are used for the survival of many people which are not only carried out by individuals, but also more complex actions, can be in group actions and even actions carried out by corporations (Herna: 2019) ^[4].

The use of technology in fundraising is also inseparable from the influence of technological developments, in this case fundraising using technology is increasingly massive in line with technological developments that are easy to use and affordable, so that various existing information can be easily accessed by anyone. The digital ecosystem in Indonesia has shown significant development in line with the development of technological adaptation in society, coupled with the Covid-19 pandemic which has changed people's way of life, especially in donation or fundraising activities. Factors that cause people's interest in donating digitally include that the donation process is faster and easier than conventional donations, there is no need to visit the donation location directly because it can be easily accessed which involves the wider community anywhere and anytime without thinking about distance and time limitations and can make non-cash donation payments.

A concept that must be understood first before moving on to the next discussion is the difference in legal subjects involved in conventional fundraising activities compared to electronic system-based fundraising. The difference is that in conventional social fundraising, the parties involved are social fundraising organizers and donors, while in electronic system-based social fundraising organizers involve 3 roles of legal subjects, including electronic-based fundraising organizers or better known today as *Donation Platforms, Campaigners, and Donors*. *A platform* is a forum or digital media that appears in the era of digitalization where parties with mutual interest can meet and establish *platform cooperation* in the implementation of social fundraising, which is the party that facilitates donation transactions between *campaigners* and donors.

In these fundraising activities, it will create a legal relationship between the parties involved. The legal relationship between the parties in the implementation of social fundraising based on the electronic system can be briefly described as follows:

1. Organizers of fundraising based on electronic systems/*platform managers*, Organizers of fundraising based on electronic systems can be in the form of Indonesian legal entities in the form of associations or foundations. However, based on the author's findings from several fundraising organizers, the form of legal entity used is in the form of a foundation. Organizers are

required to obtain permission from the Ministry of Law and Human Rights (HAM) before conducting foundation operations. Provisions regarding foundations are regulated in Law Number 28 of 2004 concerning amendments to Law Number 16 of 2001 concerning Foundations. For example, *kitabisa.com* is a platform owned by the Kita Bisa Foundation for donation collection activities, and PT. We Can Indonesia for technology development. Meanwhile, ACT (Aksi Cepat Tanggap) and Rumah Zakat are purely in the form of Foundations. The legal relationship between the organizer of the fundraising based on the electronic system/*platform* manager and *the campaigner* (campaigner) has a legal relationship born from an electronic agreement. The agreement between the organizer and *the campaigner* is to give the organizer the right to display the activities or campaigns carried out by the campaigner in order to obtain donations from donors, and receive donation funds from donors to then distribute them to *the campaigner* (campaigner) after the campaign period of the activity has expired. Where in this case there is generally a specified period of time in conducting electronic fundraising.

2. *Campaigner*, both Law Number 9 of 1961 concerning the Collection of Money or Goods, Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection do not regulate the definition of a campaigner. Based on the author's findings from several fundraising organizers based on electronic systems, the parties who can become *campaigners* are foundations that need donation funds.
3. Donors, donors are parties who donate to activities or campaigns that have been published on the website of social fundraising organizers based on electronic systems. The legal relationship between the organizer and the donor is a legal relationship arising from the electronic agreement, where the donor is obliged to guarantee that the donation funds distributed to the organizer are not funds obtained from the proceeds of crime. Meanwhile, organizers are required to distribute donation funds from donors to *campaigners*.

The use of social fundraising platforms not only gets opportunities to profit from the ease of obtaining financial assistance or making it easier to distribute donations, but there are also problems that may occur for both *platform* providers and *campaigners*. Problems that may occur include the misuse of donation funds or *cybercrime* and user data leaks. Organizers of social fundraising based on electronic systems are an important aspect of running the system. Changes in regulations related to donation *platforms* need to be immediately formed by the government to immediately fill the legal void to avoid forms of unlawful acts and other indications related to the implementation of the activities in question. The legal consequences that arise if the organizer of the social fundraising based on the electronic system does not register and license are that their operational activities will be dismissed by the Ministry of Social Affairs, and; The Ministry of Social Affairs will provide recommendations to the Ministry of Communication and Information Technology to remove applications or services that organize social fundraising on social media and electronic media. Paying attention to the risks and business processes of *platform providers* in electronic system-based social fundraising, there

are at least 4 (four) aspects of the protection of platform service users in question, which include:

1. Completeness of information and transparency of products/services;
2. Handling complaints and resolving consumer disputes;
3. Fraud prevention and reliability of service systems, and;
4. Protection of personal data (*cybersecurity*).

Based on Article 1 number 4 of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, a *platform* provider or also known as an electronic system operator is, "every Person, state administrator, Business Entity, and community who provides, manages, and/or operates Electronic Systems individually or jointly to Electronic System Users for their own needs and/or the needs of other parties". Electronic system operators are required to register before the electronic system begins to be used by electronic system users. However, even though it can be said to be the legal subject of the ITE Law, there are no specific regulations explicitly regulating platform managers, so regulations are needed that can ensnare if they cause losses in the future.

Furthermore, regarding the form of accountability of *platform* managers as electronic system operators, in this case, they are responsible for the security and protection of electronic system facilities and infrastructure. If there is a failure of an information system that results in the system not running as it should, then of course there will be material and immaterial losses that may not only be suffered by the organizer directly but also by other parties (third parties) as users of the system. As a consequence, there will be a legal liability for a lawsuit for compensation due to damage to the system.

The theory of legal responsibility related to the organizers of fundraising or donations based on electronic systems has an obligation to ensure the reliability of technology. In the context of the implementation of electronic systems, the ITE Law has provided a standard of liability that is *presumed liability* because it is impossible for consumers to prove errors that occur in the system, because the system in question is high technology that cannot be easily accessed and know what the actual substance of the system is. The implementation of donation fundraising activities based on the electronic system should have limitations in the form of responsibility arrangements in carrying out their activities to be able to provide protection for parties involved in the implementation of electronic fundraising activities in the *donation based crowdfunding system*. Until now, the legal umbrella for the implementation of social fundraising based on electronic systems has not been explicitly regulated.

Furthermore, regarding the accountability of *campaigners*, *campaigners* are the parties who submit information about parties who need funds. After the donor distributes the funds, the funds will go into the account belonging to the *platform manager* and then forward to the account belonging to the *campaigner*. *Campaigners* are responsible for delivering the donation to those in need. *Campaigner* is an individual, group, business entity or legal entity that uses fundraising facilities on the *platform* for a specific *campaign* and is responsible for the implementation of the campaign in question. Until now, based on the author's research, there are no regulations regulating the responsibility of *campaigners* in organizing social fundraising based on electronic systems. As has been explained, it can be said that the principle of

liability based on fault (*fault liability/liability based on fault*), where this principle states that a person can only be held legally responsible if there is an element of fault committed by him. This principle is illustrated in several provisions of Article 1365 of the Civil Code, which requires the fulfillment of four main elements to be held legally accountable for unlawful acts, namely the existence of acts, the existence of elements of fault, the existence of losses suffered, and the existence of a causal relationship between fault and loss (Suardana *et al.*: 2020)^[9]. So that the common thread between responsibilities *campaigner* for the implementation of fundraising based on an electronic system, where *the campaigner* is the party that submits the broadcast of information regarding the existence of parties who need funds. So that after the donor distributes the funds, the funds will go into the account belonging to the platform manager and then forward to the account belonging to the *campaigner*. *Campaigners* are responsible for delivering the donation to those in need.

The existence of a legal relationship between the organizer or platform manager and the campaigner (campaigner) has a legal relationship born from an electronic agreement. The agreement between the platform manager and the campaigner is the right to display the activities carried out by the campaigner in order to obtain donations from donors, and receive donation funds from donors to then distribute them to the campaigner after the campaign period of the activity has expired.

The last party involved in organizing an electronic system-based fundraising is donors. The definition of a donor according to the Great Dictionary of the Indonesian Language, a donor is defined as a person who casually makes donations in the form of money to an association and so on; permanent contributors; permanent donors. Donors are parties who donate to activities that have been published on the website of social fundraising organizers based on an electronic system. Donors in the implementation of social fundraising based on electronic systems are individuals, groups, business entities and legal entities that register on the platform to support the campaign by distributing funds. Donors are very important parties in the implementation of social fundraising activities based on electronic systems because they are the parties who donate their funds to every campaign made by campaigners. Without donors, it is impossible for a donation fundraiser to carry out its activities. Therefore, the rights of donors are very important to be regulated to ensure their protection.

Of course, behind the rights given to donors, there is also an inherent responsibility. The responsibility of the donor itself lies in the legal relationship between the organizers or platform manager and the donor, there is a legal relationship arising from the electronic agreement, where the donor is obliged to guarantee that the donation funds distributed to *the platform manager* are not funds obtained from the proceeds of crime. Meanwhile, *platform managers* are required to distribute donation funds from donors. To register the project, the recipient of the funds must meet various requirements, namely completing a registration form and various supporting documents. After agreeing and creating the project page, at that time a direct relationship between *the campaigner* and the site manager was born based on an agreement. With the existence of a contractual relationship, the agreement between the two is valid as law. In this case, it is stipulated in the provisions of Article 1338 of the Civil

Code which stipulates that, all agreements that are legally made apply as law to those who make them. Agreement clauses are standard clauses that are unilaterally determined by the *platform manager* so that the legal relationship formed is an affiliate relationship. On one of the sites, namely KitaBisa.com, there is a clause that the *campaigner* is fully responsible for the correctness of the project, the implementation of the project or campaign and the accountability of the project. In the event that there is a dispute over the agreement that has been agreed, a civil lawsuit can be filed on the basis of default.

Donors and recipients interact through the available website pages. There is no relationship based on the agreement between the two. The donor has a legal relationship with the site manager. Problems arise in the event of fictitious projects or *campaigns*, because donors cannot hold recipients directly accountable. In the event of a loss or inconsistency in the implementation of the project with what is listed, the donor can only hold the site manager accountable. A civil lawsuit can be filed on the basis of an unlawful act (Article 1365 of the Civil Code). Therefore, regulations are needed that regulate the authority and duties of subject's related to this electronic fundraising.

The relevance of donor responsibility to the implementation of electronic system-based fundraising in which, donors as a very warring party are important in the implementation of electronic system-based social fundraising activities because they are the parties who donate their funds to every *campaign* made by *campaigners*. Therefore, the rights of donors are very important to be regulated to ensure their protection. Furthermore, if in the future there is a matter involving donors with an electronic system-based fundraising organizer, then the theory of responsibility that is in line with this is responsibility based on fault (*fault liability/liability based on fault*) where it must meet the elements included in Article 1365 of the Civil Code, namely the existence of unlawful acts, there are losses suffered, There is a causal relationship between the unlawful act and the loss, and the existence of the error. Meanwhile, the Law that is the legal umbrella for the implementation of social fundraising is currently more than 60 (sixty) years old. The implementation of social fundraising regulated in Law Number 9 of 1961 concerning the Collection of Money or Goods, it can be seen that the substance regulated in the law is no longer adequate in regulating the development of the current implementation of social fundraising. One of them is that many practices in organizing social fundraising have been disrupted and have generally been based on electronic systems, making it easier for donors to transfer their donation funds.

The ease of organizing this social fundraising, if not accompanied by the responsibility of the organizers, will make it easier for irresponsible parties to carry out their actions. The Ministry of Social Affairs should also be able to do the same thing, namely coordinating with relevant ministries that are considered needed in the supervisory function to supervise the implementation of social fundraising based on electronic systems. If it is associated with the theory of legal responsibility in the implementation of electronic system-based social fundraising, it is to be able to find out the extent of the limitation of the legal responsibility of the parties involved in the implementation of electronic system-based social fundraising. The responsibilities of the parties in the implementation of social fundraising based on electronic systems have not been found

either in Law Number 9 of 1961 concerning the Collection of Money or Goods, Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection, so that regulations related to the responsibility of *Donation Platforms, Campaigners* (campaigners) and donors need to be regulated. This is an urgency to establish regulations regarding the implementation of electronic fundraising in the *donation based crowdfunding system*.

Conclusion

Legal arrangements related to licensing in the implementation of social fundraising based on the electronic mash system refer to Law Number 9 of 1961 concerning the Collection of Money or Goods, Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection and Permensos No. 22 of 2015 and related to the implementation of social fundraising based on electronic systems as an electronic system operator is also required to comply with the provisions of Law Number 19 of 19 2016 concerning Amendments to Number 11 of 2008 concerning Information and Electronic Transactions regulates that every electronic system operator is obliged to register, the obligation to register for electronic system operators is carried out before the electronic system begins to be used by electronic system users. The ease of organizing social fundraising based on an electronic system if not accompanied by the responsibility of the organizer will cause a problem. Meanwhile, regulations related to the responsibilities of parties in the implementation of social fundraising based on electronic systems have not been found either in Law Number 9 of 1961 concerning the Collection of Money or Goods, Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection, so that regulations related to the responsibilities of fundraising organizers based on electronic systems are *Donation Platforms, Campaigners* (campaigners) and donors need to be regulated. In this case, if you look at the comparison of regulations related to the regulation and legal protection of Donation Based Crowdfunding in the United States, Denmark and France with Indonesia.

Based on the conclusions that have been explained above, in order to provide legal certainty and legal protection for the parties involved in the implementation of fundraising, the suggestions that can be given to the problems discussed in this study are as follows: The Ministry of Social Affairs should establish regulations related to the implementation of social fundraising based on an electronic system that regulates what permits need to be possessed by the organizers before starting operations. Then the regulation related to the responsibilities of the parties in the implementation of social fundraising based on electronic systems needs to be formulated in laws and regulations to provide certainty, protection of funds for good governance in the implementation of social fundraising based on electronic systems.

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