

Legal Regulations Regarding Online Donation Management Through Platforms

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ABSTRACT

The development of digital technology has driven changes in various aspects of life, including in fundraising activities or online donations which are now widely carried out through various digital platforms, but this convenience also poses challenges in legal protection, transparency and accountability of donation management. Along with technological advances, fundraising activities can now be done via the internet. In this online donation process, donations given by donors are not directly received by the beneficiaries, this opens up opportunities for Platform organizers and Campaigners to commit acts of misuse of funds. Therefore, this study will discuss how the legal regulations regarding the management of online donations through platforms and how legal sanctions are imposed on platforms for embezzlement of online donation funds in Indonesia from the perspective of civil law, criminal law and government supervision of online fundraising activities. This study uses a normative legal method, is descriptive analysis, with a statutory approach. The results of the study show that; online donation management is regulated in general regulations, the legal materials used are primary legal materials including: Law Number 9 of 1961 concerning the collection of money or goods, Law Number 11 of 2008 concerning transactions and electronics, Law Number 15 of 2002, Law Number 27 of 2022, Government Regulation Number 29 of 1980 and Regulation of the Minister of Social Affairs Number 28 of 2021. These regulations have not fully regulated specifically regarding online donations. Meanwhile, legal sanctions for misuse of funds from online donations through platforms include civil and

administrative criminal sanctions in accordance with Article 372 of the Criminal Code and Article 1365 of the Civil Code.

Keywords: Online Donations, Misuse of Funds, Platforms

Introduction

The development of information and communication technology has transformed various aspects of people's lives, including social activities such as fundraising. One emerging technological development is online donations through digital platforms, which allow people to donate quickly and easily without time and location restrictions¹. Examples of existing platforms in Indonesia, such as Kitabisa.com and BenihBaik.com, have become a connecting medium between donors and beneficiaries in various social, humanitarian, and religious campaigns.

However, behind this convenience, there are serious legal challenges. Numerous cases of misuse of donation funds occur due to weak oversight and the absence of legal regulations specifically governing the management of online donation platforms². The regulations currently in use, such as Law Number 9 of 1961 concerning the Collection of Money or Goods and Government Regulation Number 29 of 1980 concerning the Implementation of the Collection of Donations, are no longer relevant to today's digital reality³.

The absence of specific regulations creates legal loopholes that can be exploited by irresponsible parties. Furthermore, online donations also involve electronic transactions and personal data management, and therefore must comply with the provisions of Law Number 11 of 2008 concerning Electronic Information and Transactions and Law Number 27 of 2022 concerning Personal Data Protection. In this regard, online donation platforms are obligated to guarantee system security, transaction reliability, and donor data confidentiality. This situation urgently calls for a comprehensive legal review of the regulation of online donation platforms, including an analysis of the sanctions that may be

¹Muhammad Rifa'at Adiakarti Farid, *Filantropi Milenial dan Platform Crowdfunding dalam Optimalisasi Sedekah*, Jurnal Pemuda Indonesia, Vol. 1, No. 1, 2024, hlm. 5.

² Thommy Budiman dan Rahel Octora, *Perlindungan Hukum bagi Donatur dalam Kegiatan Donation Based Crowdfunding secara Online*, Jurnal Kertha Patrika, Vol. 41, No. 3, Desember 2019, hlm. 222–223.

³ Lestari D. dan Hartini S., *Urgensi Pembaruan Hukum Pengumpulan Uang atau Barang dalam Era Digital*, Jurnal Rechtsvinding, 2021, hlm. 201.

imposed in the event of misappropriation of funds. This study aims to examine how the legal framework in Indonesia regulates the management of online donation platforms and examines the sanctions for violations in the form of embezzlement of donation funds. This study is expected to provide policy recommendations to strengthen legal protection and increase public trust in digital donation mechanisms.

Research Method

The method used in this research is normative juridical, which focuses on the study of applicable legal norms, such as statutory regulations. Normative juridical is the process of discovering relevant legal rules, legal principles, and legal doctrines to address existing problems⁴. The approach used is the Statute Approach. The statutory approach is an approach that uses legislation and regulations. The Primary Legal Sources used in this study are: 1) Law Number 9 of 1961 concerning the collection of money or goods, 2) Law Number 11 of 2008 concerning electronic information and transactions (ITE Law) regulating electronic transactions and the obligations of platform providers, 3) Law Number 27 of 2022 concerning personal data protection (PDP) regulating ensuring the confidentiality of donation user data, 4) Law Number 15 of 2002 concerning Money Laundering Crimes (TPPU), 5) Government Regulation Number 29 of 1980 concerning the implementation of donation collection, and 6) Regulation of the Minister of Social Affairs Number 8 of 2021 which regulates the implementation of money or goods collection.

Research Results and Discussion

1. Legal regulations regarding the management of online donations through platforms in Indonesia.

Online donations are a form of fundraising conducted online, bringing together fundraisers and donors through an electronic payment system. Online donations are defined as the act of raising funds for a specific cause through an online system, where the collected funds are first pooled on a platform according

⁴ Peter Mahmud Marzuki, *Penelitian hukum*, Kencana Prenada Group, Jakarta, 2021, h. 35.

to a predetermined target or timeframe. Once the target or collection period is reached, the collected funds can be withdrawn by the fundraiser and used for the purposes of the activity as previously described⁵. Social media has become a strategic tool for conducting donation activities, as 65% of Indonesians conduct brand research through social media, and 39.1% learn about new brands through social media. This fact supports branding on social media. It further confirms Indonesia's philanthropic nature⁶.

Online donations focus not only on fundraising but also have social and humanitarian dimensions. In this context, online donations are seen as an effort to increase public participation in social activities, but fundraising management and transparency are crucial to maintaining public trust. The study also emphasized the need for a robust oversight system to prevent misuse of collected funds⁷.

Currently, Indonesia does not have specific regulations governing online donations through platforms, there are several regulations that have generally regulated this online donation platform, but with the existence of these regulations, they have not been optimally regulated which is able to provide legal certainty and protection against the law. There are no legal regulations in Indonesia that specifically regulate this online donation platform so that this has the potential for disputes to occur and cannot be anticipated properly and correctly, in Indonesia the regulations that are the main basis regarding this online donation platform are regulated in Law Number 9 of 1961 concerning the collection of money and goods which require every activity of collecting funds from the public to obtain permission from authorized officials, but this law is considered not yet able to accommodate the complexity of online fundraising, this regulation is not yet

⁵ Iqbal Syauqi Mubarak, Moh. Idris. *Penerapan Indikator Transparansi dalam Website Donasi Online* Jurnal Universitas Islam Indonesia Vol. 9, 2023, h.2

⁶ Notulensi FGD Dan Workshop, *Buku Panduan Joint Fundraising HFI*, Humanitarian Forum Indonesia, 2022, h.11

⁷Hilda Amalia, Rima Ferdira, Maya Anggraini *Sistem Informasi Pengolahan Dana Donasi jurnal ekonomi dan manajemen akademi bina sarana informatika* Vol. XV, No. 1, Maret 2017, h.1

responsive to digital transformation and requires updates that are more in line with developments in information technology⁸.

The management of online donation platforms in Indonesia still lacks a clear and comprehensive legal framework. This has the potential to cause problems, such as misuse of funds, fraud, and lack of transparency. However, to date, there is no single regulation that specifically and comprehensively governs online donation platforms as separate entities. This creates legal loopholes that can be exploited by irresponsible parties. The absence of specific regulations leads to weak cross-sector oversight and a lack of guaranteed legal protection for donors and recipients⁹. The following are regulations governing licensing for online donation collection in Indonesia:

a). Law Number 9 of 1961 concerning the Collection of Money or Goods.

Article 4 of Law Number 9 of 1961, paragraph (1), explains: "The official who is authorized to grant permission to collect money or goods is: a) The Minister of Social Welfare, after hearing the opinion of the Advisory Committee appointed by him and consisting of at least 5 members, if the collection is carried out in the entire territory of the country or beyond a level I region or to organize/assist a social enterprise abroad, b) The Governor, Head of a Level I Region, after hearing the opinion of the Advisory Committee appointed by him and consisting of at least 5 members, if the collection is carried out in the entire territory that exceeds a level II region in the area of the level I region concerned, and c) The Regent/Mayor, Head of a Level II Region, after hearing the opinion of the Advisory Committee appointed by him and consisting of at least 5 members, if the collection is carried out in the area of the level II region concerned."

b) Government Regulation Number 29 of 1980 concerning the Implementation of Donation Collection

Article 7 of the government regulation explains: "A letter of application for permission to organize donation collection is submitted

⁸Lestari D, Hartini, S, *Urgensi Pembaruan Hukum Pengumpulan Uang Atau Barang Dalam Era Digital*, Jurnal RechtsVinding, 2021, h. 201

⁹Afifah M, Nabila R. *Perlindungan Hukum Terhadap Donatur Dalam Platform Donsi Online Di Indonesia*. Jurnal Hukum Dan Teknologi, 2023, 5 (1), h.45

by the applicant organization to: 1. The Minister, in cases where the collection of donations covers: a. the entire territory of the Republic of Indonesia; b. more than one provincial area; c. one provincial area, but the applicant is domiciled in another province. 2. The Governor/Head of a Level I Region, in cases where the collection of donations covers: a. the entire territory of the relevant province; b. more than one district/municipality area within the relevant province. 3. The Regent/Mayor/Head of a Level II Region, in cases where the collection of donations is carried out within the relevant district/municipality area.

c). Regulation of Minister of Social Affairs (Permensos) No. 8 of 2021 concerning the Implementation of the Collection of Money or Goods

Article 3 explains: (1) The implementation of PUB is carried out by the community through Community Organizations that are legal entities, (2) Community Organizations as referred to in paragraph (1) consist of: a. associations; or b. foundations. (3) The implementation of PUB as referred to in paragraph (1) and paragraph (2) must obtain permission from the Minister, governor, or regent/mayor in accordance with their authority.

In online donations, there are also general regulations related to online donations. The following are regulations related to online donations, namely Law No. 11 of 2008 concerning Electronic Information and Transactions. Article 15 states: "Every Electronic System Organizer must organize an Electronic System reliably and safely and is responsible for the proper operation of the Electronic System. The Electronic System Organizer is responsible for the Organization of its Electronic System. The provisions as referred to in paragraph (2) do not apply in the event that it can be proven that there was a force majeure, error, and/or negligence on the part of the Electronic System user."

In this case, online donation platforms, as electronic system providers, are required to ensure their systems are reliable and secure. Article 17 states: "Electronic Transactions can be conducted in public or private settings." This

article means that online donations made through open platforms are considered public electronic transactions. If donations are made directly between individuals through digital media, they are considered private. Article 26 states: "The use of any information through electronic media concerning a person's personal data must be carried out with the consent of the person concerned." This means that online donation platforms must safeguard and use users' personal data in accordance with the consent given. Law Number 27 of 2022 concerning Personal Data Protection (PDP)

Article 36 of the PDP Law states: "In processing Personal Data, the Personal Data Controller is obliged to maintain the confidentiality of the Personal Data." Article 36 can be interpreted as explicitly affirming the obligation for every Personal Data Controller to maintain the confidentiality of personal data in every data processing process. Online donation platforms, which collect and process donors' personal data such as names, email addresses, telephone numbers, and payment information, fall into the category of Personal Data Controllers and are therefore obliged to comply with this provision.

2. Legal Sanctions Against Platform Managers for Embezzlement of Online Donation Funds

Online donation embezzlement refers to the fraudulent and misuse of funds intended for legitimate charitable or social purposes, but instead used for personal gain by individuals or groups with access to the funds. This practice often occurs on online fundraising platforms, where individuals or organizations collect money from the public under the guise of donating the funds to a specific cause, such as a natural disaster, education, or humanitarian aid, but the collected funds are not distributed according to the original intention and are used for personal gain. Embezzlement of online donation funds is the act of misusing or using funds collected through digital platforms for purposes that are not in accordance with the original intent of the

fundraising, such as diverting funds for personal interests or activities that are not related to the established social goals¹⁰.

Appropriate law enforcement for these platforms is a crucial step in preventing future incidents and maintaining public trust in online donation mechanisms. In this regard, it is crucial to learn more about the types of sanctions that can be applied to platforms found to have embezzled funds, from a criminal, administrative, and civil perspective.

Several cases of embezzlement of online donation funds that have occurred in Indonesia demonstrate that the application of sanctions on these platforms remains very limited. This is undoubtedly due to the lack of specific regulations governing platform responsibilities in managing donation funds. Therefore, stronger regulations and oversight are needed to prevent similar crimes in the future.

Sanctions against online donation platform managers involved in embezzlement are crucial to uphold justice and protect the interests of donors. The application of firm and appropriate sanctions, whether criminal, administrative, or civil, is expected to have a deterrent effect and prevent similar crimes from occurring in the future. Strengthening regulations and oversight by authorities will also be key to ensuring safe and transparent online donations. The following are the sanctions against platforms for embezzlement.

a) Criminal Code (KUHP) Article 372 concerning embezzlement.

"Anyone who intentionally and unlawfully possesses something which belongs wholly or partly to another person, but which is in his control not because of a crime, is threatened with embezzlement, with a maximum prison sentence of 4 years or a maximum fine of Rp. 900 thousand."

b) Civil Code Through Article 1365 of the Civil Code (tort).

"a tort that causes loss to another person requires the person whose fault it is that caused the loss to compensate for that loss."

¹⁰ Muhamad Farudin, dan Haidar Hisyam Setiawan, "Perlindungan Hukum Bagi Yayasan Terhadap Penyalahgunaan Penggunaan Donasi Sosial Oleh Penerima Donasi Jembatan Hukum: Kajian Ilmu Hukum, Sosial dan Administrasi Negara Volume. 2 Nomor. 1 Tahun 2025, h.11

This article provides victims (donors) with the opportunity to sue the platform in civil court if they experience losses due to the platform's errors or negligence, for example, failure to verify funds or a lack of transparency in fund reporting.

- c) Administrative sanctions for embezzlement of donation funds by platform organizers are not specifically regulated. However, provisions for administrative sanctions are contained in several regulations. The following is a regulation containing these provisions: Minister of Social Affairs Regulation Number 8 of 2021 concerning the implementation of fundraising or goods collection. Article 27 explains that: (1) Administrative sanctions for PUB organizers who have PUB permits as referred to in Article 26 paragraph (2) letter a are in the form of: a. written warning; b. suspension of permit; and/or c. revocation of permit. (2) Administrative sanctions in the form of written warnings as referred to in paragraph (1) letter a are given to PUB organizers a maximum of 3 (three) times with a maximum time limit of 7 (seven) working days between the first warning and the next warning. (3) Administrative sanctions in the form of suspension of permits as referred to in paragraph (1) letter b are given if the PUB organizer does not fulfill and implement the provisions stated in the written warning. (4) Administrative sanctions in the form of revocation of permits as referred to in paragraph (2) are given if the PUB organizer does not fulfill the provisions of administrative sanctions as referred to in paragraph (2) and paragraph (3), and violates the provisions as regulated in this Ministerial Regulation.

Conclusion

Legal regulations regarding online donations through platforms in Indonesia have not yet been specifically regulated in a single regulation. Although several laws have been enacted, these laws are still general in nature and do not specifically address the governance, transparency, or accountability of online donation activities. Legal regulations regarding online donations through platforms in Indonesia are generally regulated through Law Number 9 of 1961, Law Number 11 of 2011, Law Number 27

of 2022, Government Regulation Number 29 of 1980, and Minister of Social Affairs Regulation Number 8 of 2021. The absence of specific regulations opens up the potential for misuse of funds and weak legal protection for donors and beneficiaries. This creates a legal loophole that can easily be exploited by irresponsible parties to commit fraud and misuse of funds. Sanctions for this embezzlement can be in the form of criminal sanctions regulated in Article 372 of the Criminal Code (KUHP), as well as the Civil Code through Article 1365, and administrative sanctions or revocation of operational permits in accordance with regulations related to online donation management in the Minister of Social Affairs Regulation number 8 of 2021. Strict law enforcement and strict supervision of online donation platforms are very necessary to prevent misuse and ensure that the collected funds are used according to their intended purpose.

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