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CHALLENGES OF INDONESIAN CONTRACT LAW IN THE DIGITAL BUSINESS ERA

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Abstract

This research is motivated by the author's interest in observing the development of Indonesian contract law which until now continues to face challenges, especially in the era of globalization where there has been a shift in business activities from conventional to digital era. The purpose of this study is to analyze the readiness of Indonesian contract law in the face of its increasingly diverse developments that affect social aspects and change the way business people interact with each other. The transaction process in the business world that is carried out without direct meetings using internet media is included in the category of electronic transactions. Electronic transactions in business have various forms, one of which is electronic commerce or commonly known as e-commerce. This advancement makes it easier for individuals and companies to carry out various types of business transactions, especially in trade. This research uses normative legal research method through conceptual approach. The results show that there are several issues that are still a problem for Indonesian contract law, one of which is the validity of electronic contracts and dispute resolution in online transactions. In answering this issue, the author urges the government to immediately create and pass a new contract law, namely the National Contract Law which, as of this writing, is still in the drafting stage.

Keywords: *contract law; online transactions; electronic contracts.*

1. Introduction

In modern times, contracts are a necessity in various business matters. A business contract is a form of professionalism as well as formal communication between the parties and between legal entities and individuals. Contracts are also a link in establishing relationships and the existence of a business.

By adhering to the principle of freedom of contract (consensual), everyone freely enters into contracts with business relations. This principle establishes that the parties are free to enter into any contract, whether existing or unauthorized, so long as the contract is not contrary to law, public order, and decency. With a business contract, the consequence is that if a dispute occurs, the content of the contract made and signed becomes the main reference in deciding the resolution of the dispute. So that from these circumstances, it is reflected in the importance of a good contract, which is able to provide a sense of security and benefit each party without ending disputes.

Almost every business, trade, legal, or governmental matter, whether corporate, Small and Medium Enterprises (SMEs) or individuals, requires a contract as a basic corridor that will determine the rights, obligations, and authorities of the parties involved in it. Moreover, in today's digital era, the development of contracts is also increasingly diverse. The development of technology, especially the internet, creates a new world virtually. This development also resulted in the social aspect, where the way of connecting between people also changed.

The transaction process carried out in the business world without any meeting between parties using internet media is included in electronic transactions. Electronic transactions in the business world have various forms, including electronic commerce or commonly referred to as e-commerce. This development makes it easier for people and companies to carry out various kinds of business transactions, especially trade. The e-commerce contract carried out by the parties is not like a contract in general, but the contract can be carried out even without a direct meeting between the two parties.

Contracts in e-commerce with ordinary contracts are not much different, which distinguishes only in form and validity. This, of course, gives rise to various views regarding whether the contract is valid or not.

2. Method Research

The legal research method used by the author is a normative legal research method with a conceptual approach. In normative research, reseachers study cases to obtain an interview of the impact of the normative dimension in a rule of law in legal practice, and use the results of the analysis for input in legal explanations (Jonaedi Efendi&Johnny Ibrahim, 2018).

Normative legal research is carried out using literature, such as laws, court decisions, books, notes and reports on research results from previous research and to compile discussions, these legal materials are analyzed normatively. The case approach is carried out by reviewing cases related to the issue at hand that have become court decisions that have had permanent force (Marzuki, 2005).

3. Results and Discussion

3.1 Contract Law in the opinion of experts

In terminology, the word contract comes from the English "contract", which means agreement or contract (Echols, M. John & Shadily, 1990), however, in drafting a contract in writing there are other terms that are also often used such as agreement which means "agreement", "consensus" and there are also those who interpret the word agreement with agreement. In the practice of drafting contracts the two terms are not so problematic, depending on the parties who use which term is preferred, it's just that in contracts made in Indonesian always used the term agreement or contract, while in English (for example international contracts) the term agreement is used, for example:

agreement / sale and purchase contract, lease agreement / contract, work agreement, loan agreement, distribution agreement, technical assistance agreement, joint venture agreement, and so on (Emirzon, 2021).

In Black's Law Dictionary, a contract is defined as an agreement between two or more persons that creates an obligation to do or not do a special thing.

"Contract: An agreement between two or more persons which creates an obligation to do or not to do a peculiar thing. Its essentials are competent parties, subject matter, a legal consideration, mutuality of agreement, and mutuality of obligation."

There are several definitions of contracts put forward by experts (Novera, Arfiana&Utama, 2014), as follows:

A contract is a set of laws that regulate only certain aspects of the market and regulate certain types of agreements.

Lawrence M. Friedman:

"A contract is a set of laws that only regulate certain aspects of the market and govern certain types of agreements."

Michael D. Bayles:

"Contract as a rule of law relating to the execution of an agreement or agreement."

Van Dunne:

"A contract is a legal relationship between two or more parties based on the word agreement to give rise to law."

Charles L. Knapp & Nathan M. Crystal:

"Contract is an agreement between two or more persons not merely a share belief, but common understanding as to something that is to be done in the future by one or both of them."

J. Satrio:

"A contract can have two meanings, namely the broad meaning and the narrow meaning. In a broad sense, a contract means any agreement that gives rise to legal effects as desired by the parties including marriage, marriage agreement, etc. As for in a narrow sense, contract here means only addressed to legal relations in the field of property law only, as referred to by book III of the Civil Code. (Satrio, 1987).

In the Civil Code, in addition to the term contract, the term agreement is also used, which basically the meaning of the term is the same as the understanding of the agreement, this can be seen in Book III of the Second Chapter "On Engagements born of contracts or Agreements". According to Article 1313 of the Civil Code, "A consent agreement is an act by which one or more binds themselves against one or more other persons." The elements contained in Article 1313 of the Civil Code are:

(1) the existence of an act;

(2) the act is committed by two or more persons/parties;

(3) there is an engagement between two or more people/parties (Soerodjo, 2016).

Purwadi Patrik explained that the definition of agreement specified in Article 1313 of the Civil Code has several weaknesses, namely:

1. The definition concerns unilateral agreements only. This can be seen from the formula "one or more people bind another". The word "binding" is a verb that only comes from one party, not from both parties. While the meaning of the

agreement is that the parties bind themselves to each other, so that it appears that the shortcomings that should be added "bind themselves";

2. The word deed includes also without consensus/agreement, including acts of taking care of the interests of others (zaakwaarneming) and unlawful acts (onrechtmatige daad). This shows that the meaning of "deed" is broad and has legal consequences;

3. It should be emphasized that the formulation of Article 1313 BW has a scope in property law (vermogensrecht) (Patrik, Purwadi & Hernoko, 2013).

The definition of agreement according to Article 1313 of the Civil Code is very broad and not deep, this causes various definitions of agreements submitted by contract law experts, but basically the meaning and purpose of conveying these understandings are the same, for example Subekti defines an agreement as "an event where there is an event where there is a promise to another person or two people promise each other to carry out something, From this event, a relationship arose between the two men called 'engagement'." Therefore, the agreement establishes an alliance between the two people who make it (Soebekti, 1979). Engagement is a legal relationship that occurs between two or more people, located in the field of wealth where one party is entitled to achievements and the other party is obliged to fulfill achievements (Badrulzaman, 1994).

From this formulation, it can be seen that the engagement consists of four elements, namely: (1) legal relations; (2) wealth; (3) the parties; and (4) achievements.

The relationship that occurs between the parties is governed by law which at the same time puts "rights on one party and puts obligations on the other, if one party violates the relationship, then the law will force the relationship to be fulfilled."

Furthermore, R. Wirdjono Prodjodikoro defines an agreement as "a legal relationship regarding property between two parties in which one party promises to do something or not do something, while the other party has the right to demand the agreement." (Prodjodikoro, 1985). Yahya Harahap argued, "an agreement is a legal relationship of property between two or more people, which gives the power of the right to one party to obtain achievements and at the same time obliges the other party to perform achievements."

Daniel V. Davidson, in his book Comprehensive Business Law Principles and Cases, argues that an agreement is: "a contract is a legally binding and legally enforceable promise, or set of promise, between two or more competent parties." Or "a contract is a promise or set promises for which the law gives a remady, or the performance of which the law in some way recognizes as a duty" (Davidson, 1987). Daniel further explained that a contract consists of the following elements:

An agreement;

1. Must be supported by consideration, something bargained for and given in exchange for a promise;
2. The parties must have capacity;
3. Must be based on the gemune assent of each party;
4. The subject matter of contract must be legal; dan
5. In some case a contract must be in proper form.

As for Lawrences S. Clark et al., in their book entitled Law and Business explains that a contract consists of five components, namely: (Clark, Lawrence S&Kinder, 1986):

1. Mutual assent (offer + acceptance);
2. Consideration;
3. Possesion of contract capacity by the parties;
4. Legal objectives; dan
5. A writing, if required by statute.

3.2 The Development of Contract Law in Indonesia and Its Challenges

The development of contract law in the era of globalization really covers a wide range of issues and complexities and covers various aspects. A number of legal problems, including: agreements or contracts, tort law, Alternative Dispute Resolution (ADR), legal aspects of multinational companies, competition law, consumer protection, intellectual property rights protection, antidumping law, international economic organizations, aspects of technology and business law, space commercialization, and so on (Parker, 1997).

The rapid dynamics of the national economic field have undeniably spurred the development of the legal field which is the rule of the game of economic activity. Various legal instruments in the field of agreements based on the Civil Code (KuhPerdata) and the Trade Law Code (KUHD) which are relics of the Dutch East Indies Colonial government which is based on the Continental European school are no longer able to accommodate the problems of the dynamics of existing economic activities (Hartono, 1980).

In Indonesia's development efforts in relation to law and economics, there are two paradigms. First, economic development based on value added which is oriented towards mastering advanced technology and industry. Second, economic development based on competitive advantage oriented to the free market and exports, based on people and natural resources themselves (Ellandra, 2021).

The problem that must be answered immediately is about Indonesia's readiness to enter the industrialization era and respond to the challenges of economic globalization in the form of a free market and the risks that may arise, namely sharp competition and the occurrence of economic crises. No less important aspect to build in accompanying economic development is the construction of contract law. For this reason, it is necessary to develop contract law that can cover all actions or practices that arise or that may arise from competition or crises that surround.

Basically, contract law in Indonesia is regulated by the Indonesian Civil Code. The Civil Code regulates the general principles governing the formation, execution and termination of contracts. However, it should be noted that contract law may change from time to time through court rulings, new regulations, or amendments to legislation.

Based on the author's observations, there are several important developments in contract law in Indonesia that are very interesting to be investigated further, namely:

1. Acknowledgement of Electronic Contracts. In recent years, Indonesia has recognized the existence and validity of electronic contracts. This is reflected in the Law on Information and Electronic Transactions (UU ITE) which regulates the legal aspects of electronic transactions, including contracts made electronically.
2. Mediation as an alternative to dispute resolution. There has been a significant shift towards the use of mediation as an alternative method for resolving contractual disputes in Indonesia. Mediation is provided for in the Mediation Act, which encourages the parties to try to resolve the dispute through mediation before entering court proceedings.
3. Consumer Protection. The Indonesian government has also improved consumer protection in the context of contracts. The Consumer Protection Law (UUPK) provides stronger legal protection to consumers, including in the transaction of buying and selling and providing services.
4. Contractual Obligations. Indonesian courts continue to develop principles relating to contractual obligations, including concepts such as party competence, good faith performance, contract interpretation, and settlement of damages in cases of breach of contract.

Contract law as the main source of economic law of the country must also be developed, updated in such a way that the prospects for economic development and other areas in free trade as well as economic globalization become foreseeable. Contract law also needs to be implemented so that it can be determined precisely the direction and strategy of economic development that is more oriented towards added value and comparative profit. The elements listed in contract law, as stated below: (H.S., 2019)
1. The existence of legal rules; Rules in contract law can be divided into two types, namely written and unwritten. The rules of written contract law are legal rules contained in laws and regulations, treaties, and jurisprudence. The rules of unwritten contract law are legal rules that arise, grow, and live in society. Examples: freelance buying and selling, annual buying and selling, and others. These legal concepts are derived from customary law.
2. Legal subject; Another term of the subject of law is rechtsperson. Rechtsperson is defined as a supporter of rights and obligations. The legal subjects in contract law are creditors and debtors. The creditor is the person who owes the debt, while the debtor is the person who owes the debt.
4. The existence of achievements; Achievement is what the creditor is entitled to and the debtor's obligations. Achievement consists of: a) giving something; b) do something; and c) do nothing.
5. Word of agreement; in Article 1320 of the Civil Code stipulated four conditions for the validity of the agreement. One of them said agreement. An agreement is the correspondence of a statement of will between the parties.
6. Legal consequences; Any agreement made by the parties will have legal consequences. Legal consequences are the emergence of rights and obligations. Rights are enjoyment and obligations are burdens.

The implementation of democratic governance can only be achieved by using the law as an instrument for planning and implementing a comprehensive development program, which will lead the country towards a society with the level of welfare it

aspires to. The development of contract law still requires progressive thinking with an emphasis on the orientation of the present to the future. For this reason, it is necessary to identify constructively the opportunities and obstacles that arise. In accordance with the rapid development and development of the economy, careful planning is needed, in addition to requiring the skills and involvement of stakeholders in a progressive economic legal system.

The author observes several developments in the issue of contract law regulation, namely:

1. There is an increase in privatization efforts or tendencies in various public affairs and those involving the interests of many people, which should be the responsibility of public bodies such as government contracts, project financing, and so on.
2. There is a convergence of principles and regulations derived from the Civil Code, which has its roots in the Civil Law tradition and principles and regulations developed in the Common Law tradition.
3. There are significant differences in the practice of applying the principles and regulations of contract law contained in Book III of the Rata Code through court decisions (jurisprudence).
4. Supreme Court Circular (SEMA) No. 3 of 1963, proposes the view that Burgerlijk Wetboek is not law.
5. The development of the use of contract law principles derived from Sharia economics in various commercial activities.
6. Increased understanding of the importance of paying attention to the principles of customary law which basically reflects the mindset of Indonesian people towards life and relationships between people.

In addition, the presence of information technology, especially the internet, has contributed to the growth and development of contract law in Indonesia. Business actors use the internet as a network to connect their activities. Then the term electronic contract was born as a contract formed by transmitting electronic message between computers or commonly called virtual contract / e-commerce.

The dynamics of the development of computer technology and the internet in the era of globalization has had a significant impact on human activities in all areas of life. The use of telematics technology in people's lives has become a global phenomenon in order to develop a knowledge-based society. In economics, the use of knowledge has become the basis in production and distribution so that it has become the main driver of improving welfare and placement of labor for all industries. Production resources are not only 4 M (man, money, material, and machine) but are now added with information. Telematics technology has three main roles, namely: (Barkatullah, 2019).

(1). Instruments in optimizing the development process are by providing management support and services to the community.

(2). Telematics technology products and services are commodities that are able to provide increased income both for individuals, the business world and even the State in the form of foreign exchange from exports of telematics services and products.

(3). Telematics technology can be the glue of national unity and unity, through the development of information systems that connect all institutions and areas throughout the archipelago.

Agreements made in cyberspace have essentially no extreme differences. However, however, there are completely new circumstances or can be said to be new discoveries in the field of information technology and there are no provisions that apply expressly to this matter, causing a new dilemma that must be faced by the world community. In addition, it can be seen in terms of contracts made, the existence of e-commerce as technology-based trade which is a form of modern business model that is non-face (does not present real business people) and non-sign (does not use original signatures). In e-commerce transactions create a more practical form of business transactions, namely without using paper media directly.

An illustration of the occurrence of a contract on the internet media is for example logging into the internet and entering the website of a company that offers books, complete with sample pictures, resumes, and all information about its products, including prices and shipping costs and packing. Then, there is a purchase form. If you are interested in purchasing the product, you must fill out the form provided completely including the credit card number and then submit it with the execution order provided. With this execution, a contract has been entered into with the company. If the company then sends the ordered product and gets payment via credit card, then the contract has been fulfilled and completed. The government is committed to encouraging the development of e-commerce in Indonesia. This commitment is evidenced by the government's plan to issue regulations that will facilitate e-commerce. The presence of law in the community is inseparable from the community's need for a sense of order, security and harmony. Therefore, the existence of law cannot be separated from the development of society (Setiyawan, 2008).

3.3 Enforceability of electronic contracts in the security of transactions and protection of privacy rights and personal data.

Technology created by humans does not always produce positive things but can also produce various negative impacts. This is where one of the important meanings of the need for laws and regulations in the field of information technology.

Many say that the law always lags behind technology. The criticism is not always wrong. Indeed, this is the nature of law when it comes to technology. The law is unlikely to be ahead of the development of information technology. It is impossible for people to predict what technology will be invented in the future and then organize it in a legal product. The law is naturally behind keeping up with technological developments. If the law is ahead, technology cannot develop freely. The most important thing to note is how long it will take for the law to finally take shape after new technology emerges. The rapid slow formation of law will affect the stability of society, peace and order that the law aims to achieve with the development of new technology. The formation of laws that can be completed because there is no governing law (Barkatullah, 2019). Various

problems raised by information technology and must be faced by law should be quite clear and predictable (Bainbridge, 1996).

In the era of globalization, it is undeniable that the use of telecommunications and information technology that is increasingly integrated (global communication network) with the increasing popularity of the internet seems to have made the world shrinking the world and increasingly fading the boundaries of countries and their sovereignty and society. Ironically, the dynamics of Indonesian society, which is still just growing and developing as an industrial society and information society, seems premature to accompany these technological developments. The existence of the internet is very influential (also for the people of Indonesia) as a developing country, which directly indirectly affects the real life of humans themselves (Barkatullah, 2019).

In the era of globalization, the use of telecommunication media and information technology occupies an important position in facilitating the process of business transactions in general and free trade in particular as mentioned above. In addition, Jack Febrian argued: the evolution of telecommunications technology and information technology starts from information system technology innovation based on the integration of communication technology with computer technology, called Interconnection Networking or abbreviated as INTERNET, which can be interpreted as a global network of computer networks or a computer network on a global and global scale (Febrian, 2003).

The presence of computer technology produced for public consumption, and the emergence of an internet network that connects the world without knowing national borders intends to facilitate the fulfillment of all human activities and needs in the world. Innovation in the field of information technology is believed to bring benefits and convenience in various great interests to society and countries in the world.

Through information technology, all telecommunication activities are possible to be carried out, not limited to just sound. Through satellites, monumental events in different parts of the world can be seen at the same time in various places. In addition, telephone, facsimile, and electronic mail or email can connect individuals, organizations and entrepreneurs around the world. Telecommunication systems will complement the infrastructure of every industry and company competing in the global market. The telecommunications business will develop towards global interconnectivity (Barkatullah, 2019).

Such rapid development and advancement of information technology has caused changes in human life activities in various fields, including in Indonesia which has directly influenced the birth of new forms of legal acts that must be anticipated by the government balanced with the formation of laws and regulations as positive laws that must be implemented and obeyed by all levels of society.

The use and utilization of information technology must continue to be developed to maintain, maintain, and strengthen national unity and unity based on laws and regulations in the national interest. If not, then the Indonesian state and nation will be left behind from the progress of science and technology in a

world that continues to grow rapidly, so that the Indonesian state will forever continue to develop even it is not impossible to become a failed state.

In this advanced century, the use of information technology and electronic transactions must be done because it plays an important role in supporting the world of trade and for accelerating national economic growth to realize public welfare, because by utilizing information technology and electronic transactions means implementing a low-cost economy.

The development of information technology has caused the world to become borderless and caused significant social changes to take place so quickly. Information technology is currently a double-edged sword, akrena in addition to contributing to improving welfare, progress and human civilization, as well as being an effective means of unlawful acts (Ramli, 2004). For example, fraud, violations of intellectual property rights, exploitation of children or pornography, hacking, violations of one's personal life, the spread of computer viruses, and defamation that are familiar in cyberspace.

In the perspective of the future, the world will become a large village, so the boundaries of the country become very blurred. In today's world of global commerce, electronic transactions are inevitable. Electronic Commerce (E-Commerce) is an example of the advancement of information technology, where business transactions are no longer carried out conventionally, which requires buyers to interact directly with sellers or there is a need to use cash. But the seller is represented by a system that serves buyers online through the medium of computer networks. In making a transaction, a buyer confronts and communicates with the system that represents the seller. Therefore, E-Commerce requires a system infrastructure that is able to guarantee the security of these transactions (Lukito, 2017).

The era of global trade requires the support of the digital economy which is reflected by the birth of electronic trading activities in various forms of activities such as: retail trade, auction of goods, offering services, and so on. As a consequence, traditional stores are replaced by electronic stores known as: Cyberstore, Virtual Store, Digital Market, Electronic Mall, Online Shop and so on. This digital economic growth certainly has a positive and negative impact on global economic life that no longer knows a country's territorial borders.

The implementation of contract law as a result of the push of the internet is actually not without its problems. There are some problems that often arise in practice, for example transaction security. Consumers and businesses must be confident and legally guarantee that their transactions are safe. Other issues that are also important to note are clarity of parties, integrity of information, protection of privacy rights and personal data, cross-border trade with different currencies and legal systems.

An electronic agreement or electronic contract according to the ITE Law is an agreement of the parties made through an electronic system. Electronic agreements are made when the parties carry out electronic transactions or legal actions through computers, computer networks or other electronic media. Electronic transactions can be carried out based on electronic contracts or other

contractual forms as a form of agreement between the parties. An example of an electronic contract is an agreement between a borrower and a lender in fintech lending or peer to peer lending such as a loan provider, which must use a funding agreement in the form of an electronic document (Munawaroh, 2022).

The validity of an electronic agreement is the same as a non-electronic agreement, because basically the validity of an agreement does not depend on the physical form of the agreement. Both in printed and electronic form, both oral and written, the agreement will be considered legally valid if it meets the conditions stipulated in Article 1320 of the Civil Code.
The four legal terms of the agreement include:
1. There is an agreement between the parties involved.
2. Legal competence of the parties involved.
3. The existence of a specific object or certain thing that is the subject of the agreement.
4. There is a lawful reason to make the agreement.

More specifically, based on PP 71/2019 concerning the Implementation of Electronic Systems and Transactions, there are several legal conditions for electronic agreements or electronic contracts, including:

1. There is an agreement between the parties involved.
2. Carried out by a capable legal subject who is authorized to represent in accordance with the provisions of laws and regulations.
3. There are certain things as transaction objects.
4. The object of the transaction must not violate laws and regulations, decency and public order.

In addition to these four conditions, electronic agreements addressed to Indonesian residents must be made in Indonesian (Article 47 paragraph (1) PP 71/2019). If the electronic contract uses standard clauses, it must be in accordance with the provisions of laws and regulations regarding standard clauses (Article 47 paragraph (2) PP 71/2019).

Electronic agreements or contracts must also contain at a minimum: (Article 47 paragraph (3) PP 71/2019):

1. Identity data of the parties;
2. Objects and specifications;
3. Electronic transaction requirements;
4. Price and cost;
5. Procedure in case of cancellation by the parties;
6. Conditions that give the aggrieved party the right to be able to return the goods and/or request replacement of the product if there are hidden defects; and
7. Choice of law of electronic transaction settlement.

Electronic contracts based on the ITE Law are valid legal evidence, because electronic information and/or electronic documents are an extension of valid evidence in accordance with the applicable procedural law in Indonesia (Article 5 paragraph (1) and paragraph (2) of the ITE Law). In this case, it also includes an

electronic agreement that can be used as electronic evidence in court in the event of a dispute between the parties.

Based on the provisions of the Civil Code and the ITE Law as outlined above, the electronic agreement or electronic contract as long as it meets the legal conditions of the agreement, the agreement is valid and has the same force as a conventional agreement or signed and attended by the parties directly. Similarly, with its evidentiary power, an electronic agreement has the same evidentiary power as an agreement signed directly by the parties.

The most prominent problem in electronic contracts is the legality of e-commerce, particularly proof. There are three key issues in this context:

First, it is a matter of the validity of the methods used in trading. Contracts of any kind, online or not, can be written or oral. Whatever the form, the agreement starts from an agreement between the parties. An important principle in contracting according to the Civil Code is consensualism, that is, the agreement of the parties. The agreement of both parties applies as a law (pacta sunt servanda). The issue that arises in this case is when is there an agreement between the parties to the agreement?

Second, the enforceability of electronic contracts. In this case there are two problems arising: payment and guaranteeing execution with an electronic signature. The most common way of payment in electronic contracts is using a credit card.

Third, recognition. Recognition of the information generated by electronic transactions is necessary, especially when associated with proof. The ITE Law has brought developments because it recognizes electronic information and/or documents as valid legal evidence.

Business transactions and legal issues are increasingly complex today. This situation is of course difficult to reach by conventional contract law rules which have been guided by rules that are a legacy of the Dutch East Indies colonial government, namely the Civil Code (KUHPer), especially Book III on Engagement because some of it is out of date along with the increasingly high flow of globalization. Therefore, the renewal or modernization of the law of engagement is absolutely carried out. Legal reform can be done through two ways, namely legislation and jurisprudence. In Indonesia, the main way taken in organizing and transforming society still relies on or through laws and regulations.

Legislation is a tool to carry out and direct, and encourage changes in society. Therefore, the reform and development of law, especially those controlled by government policy in carrying out their functions must always create prosperity and welfare of the people, and this is one of the characteristics of the welfare state. With the existence of progressive contract law, with progressive economic law politics, welfare and justice become easily realized.

E. Conclusion

Indonesia does not yet have a Contract Law. The regulation of engagement still uses Book 3 of the Civil Code which is the result of adoption since the Dutch colonial era which is outdated and no longer relevant to the development of

society, many things are up-to-date or contemporary in business practices that are not regulated in the Civil Code. These matters need to be further regulated in the National Engagement Law.

The law of engagement is closely related, especially with the position of creditors, debtors, and agreements in relation to the debtor's property. However, it must be admitted that, especially in modern business practices driven by the development of information technology, the Civil Code has fallen behind a lot. Various problems related to the need for business practices are currently growing rapidly and giving birth to various new legal institutions.

The principles of contract law need to be clearly formulated in the law of engagement, for example regarding when the principle of good faith applies, the regulation of good faith buyers, and the limitations of the principle of freedom of contract.

Some agreements need to obtain arrangements in the law of engagement, namely regarding the regulation of buying and selling, especially for land objects that refer to customary law, binding agreements for the sale and purchase of land and units of flats, pre-contract agreements, standard agreements, as well as agreements arising based on custom in practice, for example agreements arising from electronic commerce. In addition, it is also necessary to strictly regulate certain agreements that must be stated in a notarial deed as a form of legal protection for consumers or parties.

The regulation regarding the law of engagement regulated in the Third Book of the Civil Code (Kuh Perdata) has experienced a very significant development. BPHN sees several new things that need to be accommodated in the Perikatan Bill, including the development of the use of contract law principles sourced from the Islamic economic concept such as in financial and banking activities.

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