

Comparative Analysis Of Electronic Agreement Regulations Online Arisan In Indonesia And Malaysia (Study Decision No. 106/Pdt.G/2017/Pn Plk)

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Received: 25/09/2025

Revised: 20/10/2025

Accepted: 15/12/2025

Abstract

The development of information technology has transformed the way people engage in economic activities, including the conduct of online arisan (rotating savings groups). Online arisan represents an electronic agreement between parties that does not require written documentation but still establishes legally binding rights and obligations. This study aims to analyze and compare the legal regulations governing online arisan agreements in Indonesia and Malaysia, using Decision No. 106/Pdt.G/2017/PN Palangka Raya as a case study. The research employs a normative legal method with statutory, case, and comparative approaches. The results show that in Indonesia, online arisan agreements are considered valid as long as they fulfill the requirements stipulated in Article 1320 of the Indonesian Civil Code and are carried out in accordance with the principles of freedom of contract, good faith, and pacta sunt servanda. Meanwhile, in Malaysia, online arisan activities, also known as kumpulan wang kutu, are regulated under several laws, including the Contracts Act 1950, the Electronic Commerce Act 2006, and the Kumpulan Wang Kutu (Prohibition) Act 1971. This study concludes that Indonesia emphasizes contractual freedom and legal validity, while Malaysia prioritizes consumer protection through strict prohibition, reflecting fundamentally different regulatory approaches to online collective financial arrangements.

Keywords

Online arisan; Electronic agreement; Contract Law

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1. INTRODUCTION

Indonesia is widely recognized as a country with rich cultural and linguistic diversity. One social practice that continues to evolve within Indonesian society is *arisan*, a form of rotating savings and credit activity (Pratiwi et al., 2020). According to the Indonesian Dictionary (*Kamus Besar Bahasa Indonesia*), *arisan* refers to an activity in which a group of individuals collectively contribute money or goods of equal value, which are then distributed to participants in turn through a periodic drawing process, until all members receive their share. (KBBI online, 2025)



Traditionally, *arisan* is conducted through a simple mechanism involving the appointment of an organizer or *bandar arisan* who manages contributions, records participants, determines the amount of money or goods involved, and conducts regular drawings. The collected funds or goods are subsequently handed over to the selected participant without any mandatory additional charges, except those voluntarily incurred. Such activities are generally held at agreed-upon times and locations on a regular schedule. (Prabandari, 2024)

Alongside technological developments, *arisan* has evolved into an online-based activity conducted through digital platforms. In Indonesia, online *arisan* constitutes a form of electronic transaction, as defined under Article 1, point 2 of Law No. 19 of 2016, which amends Law No. 11 of 2008 on Electronic Information and Transactions. Legally, online *arisan* agreements are subject to Book III of the Indonesian Civil Code, specifically Article 1320, which concerns the validity requirements of agreements, and Article 1338, which outlines the principle of freedom of contract. Electronic agreements remain legally binding as long as they fulfill the elements of consent, legal capacity, a certain object, and a lawful cause. However, in practice, non-performance by participants frequently occurs, leading to disputes and claims of default (*wanprestasi*). (Nasution et al., 2023)

In contrast, Malaysia adopts a more restrictive approach toward similar practices known as *wang kutu*. Such activities are regulated under the Kumpulan Wang Kutu (Prohibition) Act 1971 (Act 28), which imposes prohibitions and legal sanctions (Saiman & Dahlan Salleh, 2021). In addition, online transactions are governed by the Electronic Commerce Act 2006 (Act 658) and the Consumer Protection Act 1999 (Act 599), enacted on November 15, 1999, which aim to protect consumer rights (Valda & Walangitang, 2023). Section 16 of the Contracts Act 1950 regulates the concept of *undue influence*, which may be defined as an abuse of circumstances, occurring when one party exploits a dominant position or special relationship to influence the will of another party in order to obtain an unfair advantage. *Section 16* illustrates a contract containing such an agreement. (Umam & Fidhyanti, 2022)

The author raises the case in Decision No. 106/Pdt.G/2017/PN Plk concerning the management of an online arisan by Ahhiny, S.Hut. through Facebook Messenger based on verbal agreements without written documentation. Initially, the activity ran smoothly; however, several participants later failed to continue their payments after receiving their turn. As a result, the plaintiff covered the unpaid contributions to maintain the continuity of the arisan, which caused significant financial losses.

The plaintiff attempted to resolve the matter amicably with the defendants, but they showed no good faith in settling the dispute. On Saturday, July 7, 2017, the plaintiff sent a letter of demand to the defendants requesting payment or the return of the plaintiff's funds amounting to IDR 393,000,000; however, no response was received. Consequently, the plaintiff filed the case with the Palangka Raya District Court. (Melati, 2023)

Several previous works related to this study are notably included, such as the research conducted by Irene Puteri A. S. Sinaga, Jennifer Almelia Lim, and Kezya (2024) (P. I. Sinaga et al., 2024), which focuses on the differences between contracts in Indonesia and Malaysia. However, the focus of this study is different, namely emphasizing the legal regulation of online *arisan* agreements based on the Indonesian Civil Code and the applicable laws in Malaysia. Furthermore, the study by Adawiyah Nasution, Farrel Maulana, and Haya Qonita (2023) (Nasution et al., 2023) explains the importance of the validity of unwritten online *arisan* agreements under the Civil Code.

This study examines the provisions of agreements based on Article 1320 of the Civil Code with a focus on the capacity of the parties, objects, and legitimate causes, as well as obstacles to proving oral and electronic agreements. This study aims to analyze: (1) How online arisan agreements are regulated in Indonesia, particularly based on the Civil Code and Decision No. 106/Pdt.G/2017/PN Plk, and (2) How online arisan agreements are regulated in Malaysia according to applicable laws and regulations, particularly in the context of contract law and consumer protection.

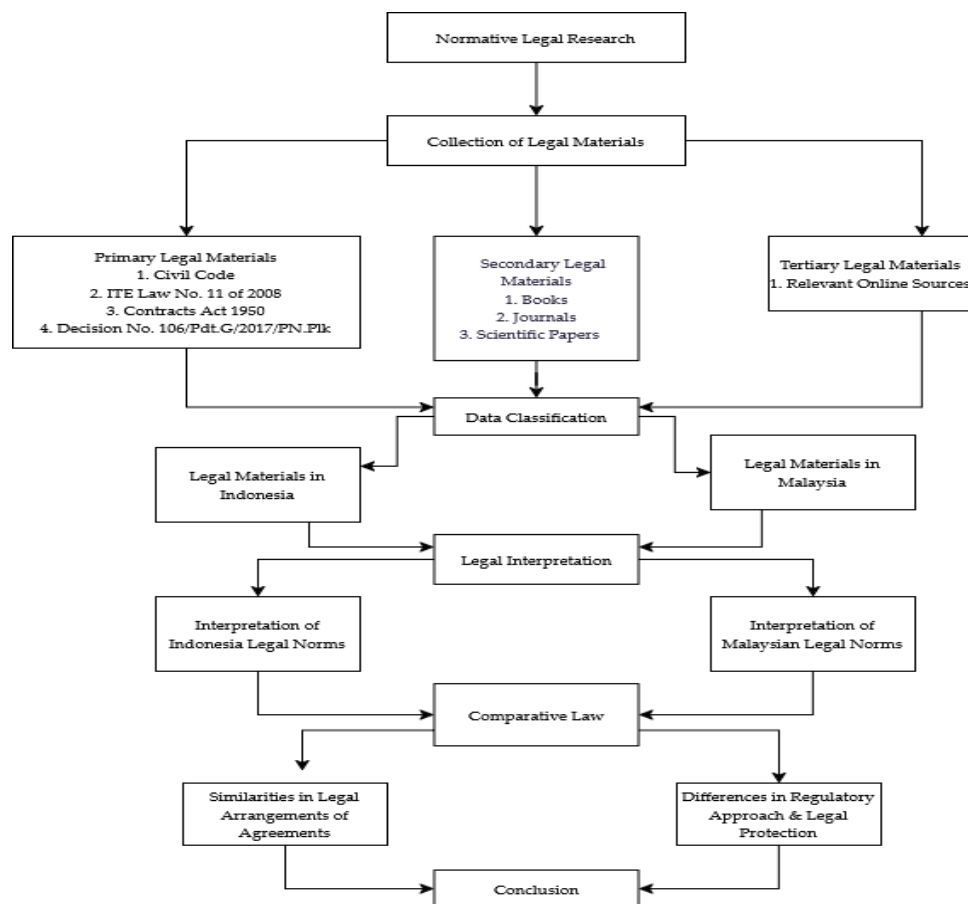
2. METHOD

The research method employed in this study is a normative legal research approach, which aims to analyze the comparative regulation of electronic agreements in Indonesia and Malaysia through the examination of statutes and regulations, legal doctrines, and relevant court decisions. (Marzuki, 2017)

This research employs three approaches: a statute approach by referring to the Indonesian Civil Code, Law Number 11 of 2008 on Electronic Information and Transactions, and the Contracts Act 1950; a case approach through the analysis of Decision Number 106/Pdt.G/2017/PN Palangka Raya as an example of practical implementation; and a comparative approach to examine the similarities and differences in the legal regulation of online arisan agreements in Indonesia and Malaysia.

The research data were obtained from primary legal materials (laws and regulations, doctrine, and jurisprudence), secondary materials (books and papers), and tertiary legal materials collected from relevant online sources through *library research* (Nugroho et al., 2020). All of these materials were analyzed descriptively by interpreting and comparing Indonesian and Malaysian legal norms.

Figure 1. Research Diagram



Source: Elaborated by the Author, 2025.

3. FINDINGS AND DISCUSSION

3.1. Legal Regulations For Electronic Online Arisan Agreements In Indonesia (based on the Civil Code and Decision No. 106/Pdt.G/2017/PN Plk)

Based on Article 1313 of the Civil Code, an agreement is a legal action involving one or more parties who mutually promise and are bound to each other. The validity of the agreement is determined by the laws in force in Indonesia (Puspita & Gunadi, n.d.). In general, the concept of an agreement in arisan activities has different provisions as stipulated in the Civil Code. In this case, Book III, Chapter II, discusses obligations that contain provisions related to contracts or agreements. Furthermore, Chapters V to XVIII of the Civil Code also outline the principles and legal norms that govern types of agreements with specific characteristics, known as named agreements. (Nasution et al., 2023)

The legal regulations related to online arisan agreements fall under the category of unwritten law, but their validity is still recognized. This is in accordance with Article 1338 of the Civil Code, which affirms the principle of freedom of contract, and Article 1320 of the Civil Code, which regulates the conditions for a valid agreement. An agreement not only governs the rights and obligations of the

parties but also contains force majeure provisions, which constitute an essential basis for terminating the agreement. (Hartanto, 2019)

Based on Article 1320, online arisan legally fulfills the elements required to be considered a valid agreement (Christiana et al., 2024). First, the element of agreement is fulfilled when all participants join the arisan group, which indicates their consent and intention to follow the applicable rules. Second, the element of competence is fulfilled if the participants have reached the legal age, possess the capacity to perform legal actions, and are not under the supervision of a guardian.

This is in line with Article 1330 of the Civil Code, which states that parties who do not have legal capacity include children, legally incompetent persons, women who are married under certain conditions, and other parties who are prohibited from entering into agreements. (Hermawan & Putranto, 2024)

Third, the basic requirements related to certain issues have been met. The object of the agreement in the arisan is clear. Article 1333 of the Civil Code states that an agreement must have an object that is the subject of the agreement. This can be an object, a subject, or an achievement. An achievement is something that is to be accomplished. There are three types of performance: giving something, performing a specific action, and not performing an action. Fourth, the requirement of a permissible reason has also been fulfilled, because the object of the arisan does not conflict with applicable law, and arisan is a common activity in Indonesia, so it does not violate moral norms. (Nasution et al., 2023)

The first and second conditions are categorized as subjective because they are directly related to the parties' agreeing. If one of the conditions is not met, the party that suffers a loss has the right to cancel the agreement. Conversely, the third and fourth conditions are objective because they are related to the object or content of the agreement itself. If the objective conditions are not met, the agreement is considered null and void, meaning that it has no legal force from the outset, without the need for a court decision. The time limit for filing a lawsuit to cancel an agreement is five years, unless the applicable laws and regulations stipulate otherwise.

In the field of contract law, several fundamental principles are essential to understand regarding the nature of the law itself. By understanding these principles, the implementation of the agreement is expected to run smoothly and result in a valid agreement between the parties. Legal clarity and certainty are crucial for the law to function as intended and for the conditions of a valid agreement to be fulfilled (Wulandari, 2024). These principles include:

a. Principle of Freedom of Contract

The principle of freedom of contract, as derived from Article 1338, Paragraph (1) of the Indonesian Civil Code, grants parties the autonomy to establish, define the content, and determine the format of agreements that carry the force of law between them, provided they do not violate legal statutes,

morality, or public order. This scope of liberty includes the right to choose contracting partners and deviate from optional legal provisions; however, such freedom is not absolute and is strictly governed by the validity requirements outlined in Article 1320 of the Civil Code. These limitations mandate genuine mutual consent, legal capacity of the parties, a definite subject matter, and a lawful cause to ensure the agreement is legally enforceable and not rendered null and void. (N. A. Sinaga, 2018)

b. The Principle of Consensualism

The principle of consensualism is closely related to the moment when a contract comes into existence. Under this principle, a contract is deemed to be formed once the parties reach a mutual agreement. This concept is reflected in Article 1320 of the Indonesian Civil Code concerning the validity requirements of a contract, particularly the element of consent, as well as Article 1338 paragraph (1) of the Civil Code. Accordingly, it can be concluded that a contract essentially comes into force upon the attainment of agreement between the contracting parties. (Sufiarina et al., 2024)

c. The Principle of Pacta Sunt Servanda (Principle of Legal Certainty)

The principle of pacta sunt servanda literally means "promises must be kept." This principle constitutes a fundamental basis for upholding the validity of a contract. If it is not properly observed, a contract may become invalid, leading to a loss of trust among the parties in the institution of contractual agreements. As one of the core principles of contract law, *pacta sunt servanda* plays a crucial role in maintaining legal certainty, stability, and the integrity of legal relationships between the parties to a contract. (Syamsiah et al., 2023)

d. Principle of Good Faith

Good faith, as stipulated in Article 1338 paragraph (3) of the Indonesian Civil Code, is a fundamental principle of contract law that authorizes judges to supervise the performance of agreements so that they remain in line with fairness and propriety. Judges may depart from the literal terms of a contract when its implementation harms the sense of justice of one of the parties. While Article 1338, paragraph (1), emphasizes legal certainty through the binding force of contractual provisions, paragraph (3) has a flexible character, as it applies throughout the entire course of the contractual relationship. (Priyono, 2025)

e. Principle of Personality

The principle of personality emphasizes that, in general, a person may enter into a contract only for their own interests, except in specific circumstances permitted by law. This principle, as stipulated in Articles 1315 and 1340 of the Indonesian Civil Code, states that a contract binds only the parties who enter into it, thereby applying the rights and obligations arising from the agreement solely to those parties. (Suhada, 2022)

Referring to Decision Number 106/Pdt.G/2017/PN.Plk, it began with Ahhiny, S.Hut, as the plaintiff who managed an online arisan using Facebook Messenger social media. This arisan system was run by mutual agreement between members, without a written agreement, in which participants, including the defendants, agreed to deposit a certain amount of money and would receive money in turn according to the agreed-upon order.

Based on Article 1320 of the Civil Code, this arisan agreement fulfilled the elements of a valid agreement, namely the existence of an agreement, competence, a clear object, and a lawful cause. Even though it was conducted digitally and without a written form, the agreement remained valid because it was based on the principle of consensualism, namely that an agreement is formed when there is mutual understanding between the parties.

Initially, the arisan ran smoothly. However, after several participants received their turn to receive money, some of the defendants stopped paying the next installments, causing the arisan to come to a halt. To maintain the reputation and smooth running of the arisan, the plaintiff covered the defendants' payments, resulting in a loss of IDR 389,000,000. The defendants' actions are considered a breach of contract, as stipulated in Article 1243 of the Civil Code, because they failed to fulfill their obligation to make the promised contributions.

This action also violated the principles of good faith and fair dealing in contract law, as the defendants received benefits without acting in accordance with the terms of the agreement. After attempts at amicable settlement and the sending of a letter of summons on July 1, 2017, were ignored by the defendants, the plaintiff filed a lawsuit with the Palangka Raya District Court.

During the trial, the plaintiff presented evidence in the form of screenshots of Facebook Messenger conversations showing the agreement, as well as evidence of payment transfers. Based on this evidence, the panel of judges concluded that the online arisan agreement was valid and legally binding, as it was in accordance with Article 1338 paragraph (1) of the Civil Code. The judge also emphasized that civil law does not require a written form as long as the elements of a valid agreement are fulfilled. Finally, the panel of judges declared that the defendants had committed a breach of contract and ordered them to pay compensation of Rp389,000,000 jointly to the plaintiff. (Puspita & Gunadi, n.d.)

Based on this decision, the online arisan agreement between the plaintiff and the defendants was declared to have fulfilled the requirements for a valid agreement and the elements stipulated in the Civil Code, namely the essentialia, naturalia, and accidentalia elements. The Essential elements are fundamental components that must be fulfilled for a contract to be formed, as these elements constitute the basic structure of the agreement (e.g., arisan turun, arisan barang, or other types) (Kornelis, 2019). These elements must be clearly and transparently explained to avoid misunderstandings among members.

After the *essential* elements, there are the *naturalia* elements, which are legal provisions that are deemed to automatically apply to a contract once its essential elements are fulfilled, unless otherwise agreed by the parties (Br Ginting, 2022). In the context of arisan, *naturalia* elements can include provisions regarding payment methods made through bank transfers, where the sender automatically bears interbank administration fees without the need for an explicit statement in the contract. Furthermore, there are *accidentalia* elements, which are elements that need to be specifically stated in the agreement. In online arisan agreements, these elements include provisions regarding penalties, administrative fees, and payment due dates. (Andani et al., 2023)

Agreements made in online arisan fall under the category of unnamed or *innominate* agreements, which are forms of agreements that do not yet have specific provisions in legislation. However, these agreements still have legal force as long as they are in accordance with the principle of freedom of contract and fulfill the elements of a valid agreement. As stated in Article 1320 of the Civil Code, an agreement is not always required to be made in writing. Thus, agreements made in online arisan can still be considered valid as long as they fulfill all the elements and conditions described above. (Andani et al., 2023)

3.2. Legal Regulations For Electronic Online Arisan Agreements In Malaysia

Malaysia is a country with a constitutional monarchy and a parliamentary form of government. This country operates under a mixed legal system, comprising common law, Sharia law, and customary law. Generally, the Malaysian legal system is divided into two categories: written law and unwritten law. Written law includes various provisions that are officially stated in the constitution and legislation. Meanwhile, unwritten law originates from norms or provisions that are not explicitly stated in the law, but are formed through judicial practice or court decisions. (Gultom & Subhandi Bakhtiar, 2025)

Referring to a case in Malaysia involving Nor Jaimah Kamarudin, a 38-year-old nasi lemak seller, she began promoting a money pool through Facebook, offering the public the opportunity to join the activity with the promise of double returns or profits. In the span of approximately 8 months, from January to August 2018, Nor Jamilah successfully attracted 5 participants to join the money pooling scheme. The activity was carried out from her home located in Kubang Semang, Bukit Mertajam, Penang. Participants were asked to deposit a certain amount of money, with the promise of receiving a larger return if they recruited new members. (Mohamad, 2022)

This case then attracted the attention of the Malaysian Companies Commission (SSM) after receiving reports from the public about alleged unlicensed fundraising activities. The SSM emphasized that pyramid schemes, which generate significantly more money than the contributions made, are illegal activities and are not exempt from the law. (Suruhanjaya Syarika Malaysia, 2025)

The Pyramid Scheme (Prohibition) Act 1971 serves as the primary legal basis for prohibiting the establishment of, or participation in, pyramid schemes in Malaysia without prior official permission. Based on Section 3(1), it is stated that "*no person shall promote, manage, or participate in a pyramid scheme.*" Violations of this provision are punishable by imprisonment of up to 10 years, a maximum fine of RM 500,000, or both. (Semula, 2014)

In addition, money lending activities can also be reviewed from a contract law perspective, namely through the Contracts Act 1950 (Contract Law 1950). This law originated from the Indian Contracts Act of 1872; therefore, many provisions in the Contracts Act of 1950 are similar to the regulations contained in the Indian Contracts Act of 1872. (Mastura, 2025)

In contract law, Section 10 of the 1950 Act states that "an agreement may become a contract when it is drawn up with the consent of both parties who have the legal capacity to contract, accompanied by a valid exchange, and has a valid purpose, and is not declared invalid by law"(LAWS OF MALAYSIA, 2006). In other words, an agreement is only considered a contract if it is made with the free consent of both parties, where the parties meet the legal criteria, the object of the agreement is valid, and the purpose is also legally recognized. (Sunarjo, 2015)

Under the Malaysian legal system, the terms "agreement" and "contract" are not synonymous and carry distinct legal meanings. While every contract constitutes an agreement, not all agreements qualify as contracts. A contract gives rise to enforceable legal consequences, whereas an agreement does not necessarily produce legal obligations (Manurung et al., 2025). Based on the Contracts Act 1950 (Contracts Act 1950) in Malaysia, a contract is considered valid if it fulfills several elements, namely: (1) the existence of an offer, (2) acceptance, (3) a valid consideration or exchange, (4) consent, (5) the capacity of the parties, (6) the existence of a valid object, and (7) it is not included in the category of agreements that are null and void. (Fathi Bin Yusof, 2016)

However, in the context of loan sharking, the object of the agreement is clearly prohibited under the Loan Sharking (Prohibition) Act 1971. Therefore, in accordance with Section 24 of the Contracts Act 1950, which regulates "*What considerations and objects are lawful, and what not*" (LAWS OF MALAYSIA, 2006). Legally, the contract is considered void ab initio (*void from the outset*) and has no legal force to be enforced in court.

The formation of electronic contracts is not limited to parties within the same jurisdiction but may also involve parties across different legal jurisdictions. Issues commonly arise in determining the validity of contracts entered into by parties with limited authority, such as business licenses that are valid only in certain areas, the capacity to conduct transactions that depends on specific licenses, and other legal restrictions. (Manap, 2018)

The Electronic Commerce Act 2006 (ECA 2006), based on *Section 7(1)*, states that "In the process of forming a contract, the submission of offers, the acceptance of those offers, and the withdrawal of offers or acceptances, as well as any related communications, may be conducted through electronic messages." Contracts made electronically can be considered valid as long as they fulfill the elements of a contract as stipulated in the Contracts Act 1950 (LAWS OF MALAYSIA REPRINT, 2006). Meanwhile, breach of contract in Malaysia is known as *breach of contract*, which is a situation where one party fails to perform its agreed obligations, thereby causing loss to the other party and is considered a breach of contract.

The provisions regarding *breach of contract* in *Section 40 of the Malaysian Contracts Act* also refer to *Section 65*, which regulates the obligation to return everything that has been done if the contract is canceled. *Breach of contract* by one party can cause losses to the other party, and the party in breach is obliged to provide compensation for its failure to fulfill its agreed obligations (Patrimonium, 2023). In Malaysia, participants who experience violations related to money pooling activities can have their rights protected through the Consumer Protection Act 1999, based on *Section 10* which states "False or misleading representation," meaning a prohibition on false or misleading statements to participants. (LAWS OF MALAYSIA, 2019)

Table 1. Comparison of the Legal Regulation Of Online Arisan in Indonesia and Malaysia

Comparative Aspect	Indonesia	Malaysia
Form of Agreement	Online arisan is categorized as an innominate contract.	Kumpulan Wang Kutu
Legal Basis	Book III of the Indonesian Civil Code and No. 19 of 2016 amending Law No. 11 of 2008 on Electronic Information and Transactions.	Kumpulan Wang Kutu (Prohibition) Act 1971, Contract Act 1950, and Electronic Commerce Act 2006.
Legal Force of Agreement	The Agreement is legally valid as long as it fulfills the legal requirements under Article 1320 of the Civil Code, even if it is not made in writing and adheres to the principle of freedom of contract.	The agreement is deemed <i>void ab initio</i> if the object is contrary to statutory law.
Legal Violation	A party may be sued for breach of contract (default) for failure to perform obligations.	The Parties may be subject to criminal prosecution.

Source: Elaborated by the Author, 2025.

Indonesia and Malaysia employ pluralistic judicial systems shaped by diverse legal traditions. Indonesia applies a mixed legal system that integrates customary law, Islamic law, and Western legal principles, whereas Malaysia is predominantly based on the common law tradition (Azhari & Saleh, 2024). Nevertheless, substantial differences arise in the organization and distribution of judicial authority.

Indonesia places both general and religious courts within a centralized judicial hierarchy under the Supreme Court. In contrast, Malaysia maintains a dual judicial structure in which Syariah courts operate separately from civil courts and are administered by individual state authorities. This structural divergence also affects the handling of small claims, as such cases in Indonesia are adjudicated by District Courts and Religious Courts. In contrast, in Malaysia, they fall under the jurisdiction of the Second Class Magistrate. (Rofi Ayyasy & Handar Subhandi Bakhtiar, 2025)

In both countries, the development of the digital economy demands reform of legal policies. Indonesia has recognized the validity of electronic transactions through the ITE Law and the requirements for valid agreements, as outlined in Article 1320 of the Civil Code. However, there are no specific regulations regarding online arisan or community-based digital fundraising schemes. However, if there is a breach of contract, a legal warning can be issued. This legal warning is regulated in Articles 1238 and 1243 of the Civil Code. If fraud occurs, criminal penalties can be imposed under the Criminal Code Article on fraud and Article 28 paragraph (1) of the ITE Law. (Nisrina, 2024)

The prohibition of *wang kutu* under the Kumpulan Wang Kutu Act 1971 aims to reduce the risk of fraud and to protect consumers from unregulated fund-collecting practices. By imposing criminal sanctions, the government seeks to create a deterrent effect against parties who intend to misuse online *arisan* schemes. Pursuant to Section 3 of the Act, any person proven to promote such schemes may be subject to fines or imprisonment. (LAWS OF MALAYSIA, 2006)

4. CONCLUSION

Based on the discussion in the previous section, it can be concluded that the legal regulation of online *arisan* agreements in Indonesia classifies such arrangements as unnamed contracts (*innominaat*). These agreements are not specifically regulated by statutory law but remain legally valid as long as they fulfill the requirements outlined in Article 1320 of the Indonesian Civil Code and adhere to the principle of freedom of contract. This position is reinforced by Decision No. 106/Pdt.G/2017/PN Plk, in which the court found that a breach of contract (*wanprestasi*) had occurred under Article 1243 of the Civil Code due to the defendant's failure to fulfill the agreed payment obligations. Indonesia adopts a legal approach grounded in consensualism and party autonomy, recognizing electronic agreements as a legitimate adaptation to the development of information technology.

In contrast, the regulation of online *arisan* agreements in Malaysia is governed by several statutory instruments, including the Kumpulan Wang Kutu (Prohibition) Act 1971 (Act 28), the Contracts Act 1950, the Electronic Commerce Act 2006, and the Consumer Protection Act 1999. Under Act 28, the organization or promotion of such collective fund schemes without official authorization is strictly prohibited and subject to criminal sanctions. Although the Contracts Act 1950 recognizes contracts that satisfy fundamental contractual elements, any agreement that contravenes the Act 28 is deemed *void ab initio* (void from the outset). Malaysia, therefore, applies an interventionist consumer protection doctrine, whereby the state limits contractual freedom through strict regulatory measures to prevent illegal financial schemes and safeguard public order and financial security.

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