

Discussion on the Legal Issues of Online Public Welfare Crowdfunding—Taking the “Bitten Incident of Chengdu Girl in China” as an Example

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Abstract: With the rapid development of the internet, public welfare crowdfunding has gradually shifted from offline forms such as donation boxes and charity organization fundraising to online forms of internet fundraising. The current model of online public welfare crowdfunding is in a legislative vacuum, with a lack of clear legal provisions regarding its rights, obligations, legal status, and legal relationships. In China, existing laws and regulations are unable to effectively respond to the series of issues arising from the development of the current online public welfare crowdfunding model, and the corresponding regulatory system has also lagged behind, leading to a series of controversial issues. This article, in light of recent social hot topics—specifically the “Chengdu girl bitten incident” and related judicial cases—points out the current legal issues regarding online public welfare crowdfunding and potential improvement paths in four parts.

1. Background and controversy of Chengdu girl bitten incident

Online public welfare crowdfunding is a product of the combination of the traditional charity industry and the internet as a medium^[1]. Its main operating model involves raising funds for specific public welfare projects or individuals through donations from the general public on internet platforms. Due to its convenience, interactivity, broad reach, and efficiency, more and more individuals are beginning to use internet platforms for fundraising. In rapidly developing China, with online crowdfunding platforms such as “Shuidichou” and “Qingsongchou” gaining public attention, controversies surrounding online public welfare crowdfunding have also increased.

On the morning of October 16, 2023, in the Hengda Xichen Lvzhou community in Chongzhou, Chengdu, Sichuan, China, a young girl was attacked by a large dog that was not on a leash. After the incident, the girl was taken to the hospital for ICU treatment and was in a serious condition, remaining in a coma. Due to the subsequent high medical expenses, the girl's mother initiated a fundraising campaign through the Chinese platform “Qingsongchou” with a target amount of 2 million yuan, which attracted widespread social attention and donations from enthusiastic netizens. By 6 pm that day, within just five hours, 2 million yuan had been raised. Discussions on whether the fundraising amount was reasonable, whether the fundraising process was legitimate, and

whether the use of the funds was lawful sparked heated debates online, with thousands of netizens demanding refunds. On October 25, the "Qingsongchou" platform issued a refund statement, indicating that the 2 million yuan raised for the girl had mostly been refunded. The main controversy surrounding this incident revolves around whether the platform has an effective regulatory system and how to establish or improve such a system.

2. Legal Issues of Online Public Welfare Crowdfunding

2.1. Relevant Laws of Online Public Welfare Crowdfunding

Research shows that the more times information about charitable crowdfunding projects is shared, the higher the total amount of funds raised for the project^[2]. In this incident, within just five hours, Qingsongchou raised 2 million yuan in donations, demonstrating the significant influence and wide reach of online public welfare crowdfunding in today's society. If effective legal regulations are not imposed on it, there is a high possibility of unpredictable impacts on the charitable sector in China. According to Article 8 of the Charity Law promulgated in China in 2016, "Charitable organizations referred to in this law are non-profit organizations that are legally established and comply with the provisions of this law, with the purpose of carrying out charitable activities aimed at society." Therefore, online public welfare platforms are not charitable organizations in the legal sense and do not meet the definition of charitable organizations in the Charity Law. However, according to Article 22 of the Charity Law, "Charitable organizations conducting public fundraising must obtain public fundraising qualifications." Since online public welfare crowdfunding platforms do not belong to charitable organizations but can still engage in public fundraising activities, does this imply that they are exempt from the constraints of the Charity Law?

There is a viewpoint that public welfare crowdfunding generally refers to the act of initiators raising funds for charitable activities through appropriate platforms, where donors, as investors, do not seek returns during the investment process, making it a non-profit financing behavior^[3]. The author believes that online public welfare crowdfunding platforms like Shuidichou and Qingsongchou, which are based on the characteristics of major illness assistance in current society, have registered companies and rely on commercial operations to address the medical expense challenges faced by some patients. At the same time, these platforms have accumulated a considerable number of clients through the model of mutual assistance for major illnesses and have correspondingly developed medical insurance businesses. These platforms balance both public welfare and commercial aspects, using the income from insurance operations to support the public welfare activities related to major illness assistance. Therefore, the essence of online public welfare crowdfunding platforms is that they are internet platforms with commercial attributes, and online public welfare crowdfunding is a product with public welfare characteristics within their commercial operations.

On March 18, 2022, the Department of Charity Promotion and Social Work of the Ministry of Civil Affairs of China responded: "The internet personal major illness assistance conducted by online platforms, in form, belongs to a civil donation relationship and does not fall under the charitable fundraising as defined by the Charity Law, thus it is not within the statutory regulatory responsibilities of the civil affairs department. The legal relationship of the relevant parties should be treated according to the conditional civil donation contract in civil law."^[4] It can be seen that, according to existing laws and regulations, online public welfare crowdfunding activities should be recognized as civil donations, theoretically applicable under the relevant provisions of the Civil Law.

2.2. Current Legal Application Status of Online Public Welfare Crowdfunding

On July 30, 2017, the Ministry of Civil Affairs of China announced the "Basic Technical Specifications for the Internet Public Fundraising Information Platform of Charitable Organizations" and the "Basic Management Specifications for the Internet Public Fundraising Information Platform of Charitable Organizations," clarifying that online assistance activities do not fall under charitable fundraising. The authenticity of the information is the responsibility of the provider, and the information platform should strengthen the review of materials for individual assistance, set a cap on the amount of aid, provide risk prevention warnings, and ensure accountability.

In practice, the situation is more complex, and the issues of legal application are more pronounced. In the "Chengdu girl bitten incident," after the girl's mother provided the relevant materials, she set the amount of aid at 2 million yuan, which raised many questions from netizens. First, what is the basis for setting the aid amount at 2 million yuan? Is this amount significantly beyond what is needed for assistance? Second, who decides the aid amount of 2 million yuan? Is it the girl's family or the Qingsongchou platform? Third, what will happen to the remaining funds after the assistance? If they are to be returned, what will be the return ratio? Although the two regulations mentioned above provide guidelines for the responsibilities of online public welfare crowdfunding platforms, they do not clearly define these responsibilities and cannot effectively respond to similar legal issues.

At the same time, it can be observed that the participants in online public welfare fundraising are not simply two parties, but involve multiple entities such as the families of the girls, the Qingsongchou platform, and donating netizens, among others. Various legal relationships may form among them. Regarding the relationship between the online public welfare crowdfunding platform and the initiators and donors, there is still no consensus in academia. Some scholars believe that the platform should be recognized as having a partnership relationship with the initiators and investors^[5]. However, according to the Civil Law, establishing a partnership typically requires a signed agreement to form a partnership enterprise. The author believes that in this case, the families of the girls and the donating netizens may form a gift contract relationship, while the Qingsongchou platform and the families of the girls may form an intermediary contract relationship. Given that there are numerous donors in online crowdfunding, with diverse channels and methods of donation, and considering the strong concealment inherent in the internet^[6], the platform is more likely to become a gray area for financial exploitation in the absence of comprehensive government regulation of online public welfare crowdfunding platforms. When donors discover that they may have been defrauded or face sudden financial difficulties, it is challenging for them to gather evidence and file a lawsuit to protect their rights.

2.3. The initiators of online public welfare crowdfunding

In general, completing a crowdfunding project requires the participation of three parties: the initiator, the crowdfunding platform that publishes the project, and the donors^[7]. While the types of crowdfunding platforms and donors are relatively fixed, there are many classifications of entities that initiate online public welfare crowdfunding, including individuals as well as various platforms and organizations. Currently, there are no established qualifications for initiators in China^[8]. Clarifying the qualifications of initiators in online public welfare crowdfunding and their rights and obligations is the most pressing issue for donors at present.

In this case, it can be observed that the national authorities have not set regulations regarding the qualifications of initiators. The qualifications of initiators are generally subject to a simple review by the staff of the "Qingsongchou" platform. "Qingsongchou" requires initiators to submit

identification, medical proof, and other relevant documentation. Additionally, initiators need to provide information about their family's financial situation and insurance status, which the platform reviews and publicly discloses online. However, based on the information currently available, the proof of assistance initiated by the mother of the girl lacks legitimate and effective verification channels regarding the family's economic situation (current vehicle assets, real estate, savings, etc.). As a result, "Qingsongchou" cannot fully fulfill its review obligations, making it difficult for many donors to exercise their right to know and their right to supervise.

2.4. Regulation of Online Public Welfare Crowdfunding Platforms

Relevant investigations show that the discovery of crisis events by platforms and their responses to these events can affect the platforms' credibility, leading to a further spread and escalation of trust crises in online public welfare crowdfunding. This can have adverse effects on the subsequent public's perceptions and behaviors^[9]. In the rapid development of online crowdfunding over the past few years, various major platforms have encountered numerous incidents, often involving inaccurate assessments of the initiators' family assets and excessively large donation amounts. The platforms have not provided the public with clear and satisfactory responses, resulting in a rapid decline in the credibility of online public welfare crowdfunding platforms in society.

Generally speaking, the regulatory bodies for online public welfare crowdfunding platforms can be divided into three types. The first type is government departments, which are the most formal and authoritative regulatory bodies, including the State Council, various levels of government, and civil affairs departments at all levels. The second type is industry associations, including charitable industry associations and self-governing organizations. The third type is public opinion forces, including the general public and the media. This design of supervisory bodies has formed a multi-layered regulatory framework, with government departments as the main body and industry associations and public opinion forces as supplementary.

On October 19, 2018, under the voices of the broad social public and the joint promotion of industry associations and organizations, Aixinchou, Qingsongchou, and Shuidichou jointly issued a statement aimed at further strengthening self-regulation management of the platforms, enhancing risk control levels, improving social supervision mechanisms, and promoting the healthy and orderly development of the major illness assistance industry, thereby creating a good atmosphere of social integrity^[10]. It can be seen that, in reality, the supervision of online public welfare crowdfunding platforms by government departments, whether from legal regulations or practical cases, has not reflected the role it should have. Therefore, the current main regulatory force comes from industry self-regulation and public opinion. However, the fairness and authority of the initiative and self-regulation agreements signed during the self-regulation process are relatively weaker in legal terms than laws and regulations. Without government department participation in supervision, there is a risk of internal collusion and complicity within associations.

3. Improvement Path for Legal Issues in Online Public Welfare Crowdfunding

3.1. Strengthening Government Department Supervision

Government departments should formulate comprehensive regulatory policies, continuously expanding the management and services of normative legal documents regarding the preemptive prevention, in-process supervision, and post-event tracking of public welfare crowdfunding platforms and initiated projects^[11]. When necessary, the government can establish specialized regulatory agencies responsible for the supervision and enforcement of public welfare online crowdfunding platforms, conducting regular inspections and audits of platform operations to

promptly identify issues and take corresponding measures. At the same time, the government can provide relevant policy consultation, technical support, and training services to online public welfare crowdfunding platforms to help them strengthen internal management and risk control capabilities.

Moreover, the government can offer vital support to online public welfare crowdfunding platforms. This support may include providing policy consultation services, offering technical expertise to improve platform security and functionality, and delivering training programs aimed at enhancing the platforms' internal management, risk control capabilities, and overall operational efficiency. By fostering a collaborative relationship between the government and crowdfunding platforms, the effectiveness and sustainability of these platforms can be significantly improved, ultimately benefiting the public welfare sector and ensuring the proper utilization of funds raised through crowdfunding initiatives

3.2. Emphasizing the Responsibilities of Platforms and Initiators

If a network public welfare crowdfunding platform and its initiators use false information to defraud public donations, it should not be limited to civil lawsuits initiated by donors under the provisions of the Civil Law to recover donations. For actions that involve significant amounts, severe circumstances, and violate the Criminal Law (such as fraud, illegal fundraising, etc.), criminal legal responsibility can also be pursued, firmly combating the malicious act of fraudulent donations. In addition to pursuing civil and criminal liabilities, consideration should also be given to the negative impact on social welfare undertakings, placing them on a blacklist of dishonesty, and restricting their eligibility for future applications and high-value consumption.

In addition to pursuing civil and criminal liabilities, authorities should also take into account the broader negative impact on social welfare undertakings. This can include placing the perpetrators on a blacklist of dishonesty, which could have far-reaching consequences for their future business operations. Once blacklisted, the individuals or organizations involved should face restrictions on eligibility for future public welfare projects, making it more difficult for them to participate in crowdfunding activities or other charitable initiatives. Moreover, they should be subject to limitations on high-value consumption, such as restrictions on luxury goods purchases or travel. These measures would not only hold the wrongdoers accountable but also deter others from engaging in similar fraudulent behaviors, helping to maintain trust in the public welfare system and ensuring that donations are used for their intended purposes.

3.3. Coordinating Multi-Department Collaboration to Carry Out Work

Relevant government departments should enhance coordination and cooperation to jointly promote the regulatory work of network public welfare crowdfunding platforms, forming a united effort to improve regulatory effectiveness. Network public welfare crowdfunding often has an urgent nature, which can lead to insufficient information review in the pursuit of efficiency. When crowdfunding situations are urgent and reach significant amounts, civil affairs departments can collaborate with network public welfare crowdfunding platforms to verify the information of the initiators. The platform can complete the initial qualification review of the initiators, while the civil affairs department can verify the initiators' information. Once confirmed to meet the requirements, the initiators will be granted the corresponding qualifications. Subsequently, the civil affairs department and the platform can establish a comprehensive personal credit registration system based on the initiators' personal, family, medical, and banking information, facilitating verification and control^[12].

Once the initiators' qualifications are confirmed, they should be granted the appropriate

qualifications to proceed with their crowdfunding campaigns. Beyond this, the civil affairs department and the platform can jointly establish a comprehensive personal credit registration system. This system would track the initiators' personal, family, medical, and banking information, facilitating ongoing verification and ensuring control over the fundraising process. By maintaining such a system, both parties can enhance transparency, prevent fraudulent activities, and ensure that the funds are directed towards legitimate and impactful causes. This comprehensive oversight mechanism will promote accountability, protect public trust, and improve the overall integrity of the public welfare crowdfunding sector.

3.4. Improve the Industry Management Mechanism

Public welfare crowdfunding platforms should strengthen their self-construction, continuously improve their rules and regulations, and enhance the professional training and management of platform personnel to ensure that public welfare crowdfunding platforms can be subject to public supervision^[13]. Actively establish industry organizations or associations to formulate and continuously improve industry norms and standards for online public welfare crowdfunding platforms, clarifying the platform's fundraising activities, information disclosure requirements, project review processes, etc., and establishing a foundation for industry self-discipline. Encourage online public welfare crowdfunding platforms to actively join industry self-discipline organizations, participate in the formulation and implementation of self-discipline rules, and use self-discipline organizations to regulate internal industry behavior, promoting healthy competition and standardized development.

In addition to improving internal practices, it is crucial for public welfare crowdfunding platforms to actively participate in the establishment of industry organizations or associations. These bodies would work to formulate and continuously update industry standards and guidelines, addressing key aspects such as fundraising activities, project review processes, and information disclosure requirements. By engaging in the development and implementation of self-regulatory standards, crowdfunding platforms can foster a culture of industry-wide accountability. Encouraging platforms to join such organizations will promote healthy competition, facilitate collaboration, and ensure that all platforms adhere to agreed-upon ethical practices and standards. This will ultimately lead to the sustainable and standardized development of the entire public welfare crowdfunding sector.

4. Conclusions

Analyzing the "Chengdu girl bitten incident" and exploring the legal issues surrounding online public welfare crowdfunding clearly illustrates the significant role such platforms play in social events. However, it also highlights several legal challenges and regulatory concerns, including the application of laws, the determination of legal responsibilities, and platform oversight.

In response to these issues, we need to further improve relevant laws, regulations, and regulatory systems, allowing online public welfare crowdfunding to have legal backing, protecting the legitimate rights and interests of donors and beneficiaries, and ensuring the steady development of social welfare undertakings. Additionally, it is necessary to strengthen the supervision and management of online public welfare crowdfunding platforms, standardize their operational behavior, and maintain their operational order.

Online public welfare crowdfunding, as an emerging form of charity, has a positive significance for the development of social welfare in China. However, its legal and compliant operation still requires the joint efforts of all sectors of society. It is hoped that in the future, a more robust legal framework for online public welfare crowdfunding can be established, allowing it to better

contribute to China's social welfare initiatives.

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