



Preventing Illegal Online Loan Crimes

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Abstract. Online illegal loan crimes have colored reports of crimes that occurred during the covid-19 pandemic. Advances in internet technology support the realization of this type of crime. Various existing regulations have been made but this crime still dominates. This is a part of financial crime. What is the cause of the rise of this type of crime and how to overcome it? A sociolegal approach is used to uncover this phenomenon. Various laws and regulations and various behaviors recorded by the media are the basis for making this paper. The Police, the Ministry of Communication and Informatics, the Ministry of Cooperatives and UMKM to the Financial Services Authority have made a joint agreement to deal with it. The global pandemic, ignorance and haste are conditions that need to be overcome. This is the main cause for the development of this type of crime. Adequate digital literacy is needed for all Indonesian people. The legal protection provided by laws and regulations will be meaningless without digital literacy. Online loans should be a way for national economic recovery. Does not worsen the national economic situation in the midst of a global pandemic that is not over yet.

Keywords: crime · Loan online · illegal

1 Introduction

The eradication of illegal fintech peer to peer lending (P2P) aka illegal online loans (online loans) continues. The Investment Alert Task Force has carried out cyber patrols to protect the public from victims of terror and the spread of personal data by illegal online lenders. From 2018 to March 2022, the Task Force has closed a total of 3,889 illegal online loans [1]. As technology advances and the world pandemic conditions occur, illegal online loan crimes are increasing both in quality and quantity. The Investment Alert Task Force encourages law enforcement against these illegal online lending actors by continuously blocking public access to websites and applications.

Financial services that can be linked to online loans are widely used. Online loan users see the current situation, namely the COVID-19 pandemic. People are experiencing difficulties in the economic field. Some users use these loans to meet their daily needs [2]. The high needs of the community due to the economic situation due to the Covid-19 pandemic outbreak, the convenience required and technological advances further emphasize the importance of institutions that provide easy and practical loans. Although it is undeniable that there are also new types of crime according to the existing situation and conditions.

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Illegal money lending (IML), often also referred to as usury or moneylenders, is the practice of lending money at a higher interest rate than the legal limit, using illegal harassment methods for loan withdrawal, and trying to lock the borrower into a debt trap never ending [3]. In the era of technological advances, this illegal money loan is known as illegal fintech peer to peer lending (P2P), known as illegal online loans (online loans). Conventional activities but take advantage of actual technological advances.

Financial technology is a must-have that can change the lifestyle, especially for those who are financially or tech savvy or struggling. Finance is playing a key role in driving a country's economic growth, one of which is the emergence of fintech. The development of the fintech industry in Indonesia is growing rapidly and is increasingly being felt by legal consultants in the capital and financial markets. In addition, the fintech referred to today has developed various products similar to banking and other financial services that are more efficient so as to produce a separate industry whose products go hand in hand with commodities of various conventional financial institutions. Technology is advancing day by day, so the legal aspects for fintech continue to develop and current regulations cannot accommodate current conditions. This phenomenon also occurs in various legal systems in the world.

Various writings about online loans were found, including discussing legal protection for online loan recipients [4], criminal acts committed by online loan application providers [5], criminal accountability of illegal fintech collector desks and protection of victims [6] and application of criminal law in handling illegal online loan cases [7]. There are many discussions about illegal online loans, but no one has discussed it from the criminological aspect. Crisis and technological advances often open up new crime opportunities. The crisis certainly raises public interest to make irregularities in the financial sector. It is not surprising to criminologists who study the amplification cycle, that since the crisis more crimes and other abuses in the financial industry have been exposed [8].

Based on the various considerations above, the problem formulation of this article is how to approach criminology to tackle the phenomenon of illegal online lending prevalent in the community. This article will reveal the need for coordination and synchronization of regulations to tackle illegal online loan crimes that cause many problems. The problems caused include disruption of economic stability and security.

2 Research Method

The method and type of this research is normative through literature review. This research is sociolegal because it examines legal rules, journals, papers, legal writings/opinions, and other forms of scientific work related to illegal online loan crimes related to online loan applications from a legal perspective. The technique of collecting data in this study was carried out by means of library research, namely to collect data through the literature by reading legal references, legislation, scientific works, articles from the internet and related documents. With the problems discussed in this paper to obtain data relevant to the research.

3 Findings and Discussion

Illegal money lenders, often referred to as loan sharks or moneylenders, are the practice of lending money at interest rates above legal limits and using illegal harassment methods to withdraw loans, and trying to lock the borrower into a never-ending debt trap [9]. Due to its detrimental effect on society, law enforcement has made great efforts to eradicate this phenomenon. Interventions range from resources to police to arrest lenders and other members of the criminal gangs they belong to.

Reliable and comprehensive transaction-level data for the IML market is lacking because lenders are part of organized crime groups under law enforcement control and borrowers are vulnerable individuals who fear the consequences of reporting. The stigma of acknowledging their loan sharks and their financial problems. Online loans incorporate the use of technology in the provision of financial services. Cooperation between official online loans and unofficial online loans under the auspices of 'business groups', where there are official online loan companies that have several subsidiary or affiliate subsidiaries that are not registered with the OJK. It is these 'subsidiary' entities that are used to carry out 'dirty' actions in the form of billing using terror, intimidation, and violence against borrowers online lending practices concerning compound interest (interest bearing interest) to borrowers, so that it becomes a debt trap for those concerned. As for the various crimes derived from these illegal online lending activities, such as: extortion, threats in the form of terror, intimidation, and violence to borrowers, dissemination of personal data, fraud etc.

Determining the specificity of financial crime and its conceptual differentiation from traditional white-collar crime. For example, defines what he calls financial crime as "the large-scale illegality that occurs in the world of finance and financial institutions" [10] and argues that treating such crimes is equal to other crimes. Forms of white-collar crime in the broadest sense, they become combined with various illegal or unethical activities that are much more limited in terms of both scope and impact [11]. Illegality in money lending services is part of a white collar crime that needs to be looked at. The impact is very large and can disrupt the economic growth of a country.

Many characteristics of illegal online loans that all Indonesian people should understand include:

- a. Not Registered with the Financial Services Authority (OJK)
- b. Promotion Via SMS
- c. Very High Loan Interest
- d. Very Short Loan Term
- e. Unclear Office Location and Complaint Service
- f. Theft of Borrower's Personal Data unilaterally
- g. Loan Collection Done Without Ethics
- h. Lots of Negative Testimonials on the Internet [12]

High-interest loans not only violate the state financial supervision system, disrupt the normal order of state finances, damage the rules of access to financial markets, competition and transactions of a country, but also disrupt normal social life [13].

1. The Cause of the Rise of Illegal Online Lending Business

Regarding online loan business activities, the POJK (Financial Services Authority Regulation) Provider provides, manages and operates information technology-based lending and lending services from lenders to borrowers and states that its funding source is from lenders. Thus, in essence, online loans are intermediaries that bring together borrowers and lenders, or commonly known as the concept of peer-to-peer lending. Currently, the Financial Services Authority Regulation No.77/POJK.01/2016 concerning Information Technology-Based Borrowing-Lending Services (POJK) is the main reference for the implementation of online lending activities.

Meanwhile, The POJK Online Loan Origination Agreement states that the agreement contains a contract between the provider and the lender and a contract between the lender and the borrower. The absence of a loan agreement with an online loan in the regulation reaffirms that online loans are not creditors. Unlike banks or finance companies, online loans are not allowed to make loans. If later in practice there is an online loan application that has a loan agreement with the debtor, it is certain that the online loan will not obtain permission from the OJK, as illegal.

The Covid-19 pandemic has brought a very bad risk to the national economy [14]. Indonesia itself has taken various measures to reduce the impact of the Covid-19 pandemic on its communities. Currently, in order to help people get out of economic difficulties, many online loan services (online loans) offer low-interest loans. This online loan can be easily accessed with only a National Identity Card (KTP) and a cell phone. In the current pandemic, online loans are considered a helper for the community, because they are able to provide funds to meet daily needs on easy terms. With the various conveniences available in online loans, it is hoped that the community's economy will grow [15].

The Investment Alert Task Force (SWI) found 151 illegal peer-to-peer lending financial technology (fintech). All illegal online lending platforms (online loans) were immediately closed by the Ministry of Communications and Informatics after the findings were made [16]. The reasons for the development of online lending activities (online loans) are [17]:

a. Minimal Requirements

One of the most striking advantages of fintech is the ease of applying for loans. In fact, applying for a loan at fintech can be done by anyone, whether it's officials, ordinary people or civil servants. The requirements are quite general, namely being 18 years old marked with an ID card and having a salary slip (as a special requirement). In addition to these two conditions, prospective debtors must also have a good financial history, in other words, they are not in debt at the bank or have bad credit.

b. Fast Disbursement

Details about the advantages and disadvantages of online loans are general information that should be shared with everyone. The goal is that no one feels cheated after they apply for an online loan. In addition to providing simple conditions, fintech also

offers easy disbursement of funds. Almost all competing fintechs currently feature a disbursement feature in just 24 hours per loan. This advantage provides fresh air for prospective debtors who really need quick money for various reasons.

c. Limit and Tenor Varies

Another advantage that might make you decide to borrow from a fintech is that their limits and tenors are quite varied. Although using an online basis as a marketing medium, fintech does not necessarily offer a small limit and tenor. Prospective debtors can take advantage of large loan facilities for business capital. A number of fintechs provide a ceiling of up to IDR 10 million, a fairly large amount for online-based loans.

2. Countering Illegal Online Loans.

Online loans have recently been very disturbing to the public. The most concerning is the suicidal intention (already happened) by online borrowers due to depression because the way the loan is collected is too excessive. Information technology-based lending and borrowing services are regulated by the Financial Services Authority Regulation Number 77/POJK.01/2016 Year 2016 concerning Information Technology-Based Borrowing-Lending Services. However, it is these illegal online loans that actually cause public unrest.

Chairman of the Board of Commissioners of the Financial Services Authority (OJK) Wimboh Santoso, Governor of Bank Indonesia (BI) Perry Warjiyo, Chief of the Indonesian National Police (Kapolri) General Listyo Sigit Prabowo, Minister of Communication and Information (Menkominfo) Johnny G. Plate, and Minister of Cooperatives and Small and Medium Enterprises (Menkop UKM) Teten Masduki, are jointly committed to tackling illegal online loan crimes [18].

To prevent the development of illegal online loans, OJK continues to carry out various strategies, such as education programs for the general public to decide to use fintech lending registered or legalized at OJK and not to take advantage of illegal online loans. OJK also favors the efforts of other WI individuals, particularly through the creation of cyber patrols, blocking illegal online loan sites and applications, controlling reserve funds and promoting cooperatives that apply for illegal online loans, banning payment gateways, and handling illegal online loan legal regulations.

For the time being, the National Police guarantees the search for illegal online loans in Indonesia. The investigators tracked many elements of illegal online loans with financial backers in the form of foreigners (overseas). In addition, the servers they use for applications are also known to come from abroad. For this reason, the Criminal Investigation Unit of the National Police called the assistance of the Directorate General of Immigration of the Ministry of Law and Human Rights to pursue the perpetrators who smuggled abroad. If the examiner uses the ITE Law, Article 27 paragraph (4) concerning extortion or potential danger can be imposed with a maximum imprisonment of 6 (six) years and a maximum fine of Rp. 1.000.000.000,00 (one billion rupiah) or Article 29 concerning the danger of savagery or terror which is emphasized personally with a

maximum imprisonment of 4 (four) years and a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah).

Furthermore, illegal online lenders who disseminate individual information can be charged with Article 32 paragraph (1) of the ITE Law, with a maximum sentence of 8 (eight) years and a maximum fine of Rp. 2,000,000,000 (two billion rupiah). While related to the Criminal Code, the perpetrators can be threatened with Article 368 concerning extortion with a maximum imprisonment of 9 (nine) months or Article 378 of the Criminal Code concerning fraud or misdirection with the threat of imprisonment for 4 (four) years.

Additionally, there are other rules for fintech companies that have been proven to break the law. For example, he explained that fintech companies that commit violations in the form of disclosing personal data can be subject to Article 32 juncto (jo) Article 48 of Law no. 11 of 2008 Juncto Law no. 19 of 2016 concerning Information and Electronic Transactions (ITE). Then, the threat of fintech companies to customers can be imposed under Article 368 of the Criminal Code and Article 29 in conjunction with Article 45B of the ITE Law, Dissemination of Personal Data (Article 32 in conjunction with Article 48 of the ITE Law), threats in billing (Article 368 of the Criminal Code) and Article 29 in conjunction with 45 of the ITE Law.), Fraud (Article 378 KUHP), Defamation 311 Paragraph (1) KUHP KUHP), Sexual Harassment Through Electronic Media (Article 27 Paragraph 1 jo 45 Paragraph 1 UU ITE). Meanwhile, the director of the “naughty” fintech company could also be charged with Article 55 of the Criminal Code for being involved in a criminal act. If the crime is in the form of physical violence, the taking of goods may be subject to sanctions in accordance with the Criminal Code Article 170, Article 351, Article 368 Paragraph (1), Article 335 Paragraph (1) after the decision of the Constitutional Court [19].

That is a criminal law tool that can be used to anticipate the occurrence of various crimes related to illegal online loans that are worrying. These various regulations will not be useful when awareness of digital literacy is minimal. Technological progress must be balanced with adequate knowledge.

4 Conclusion

A criminological approach is needed in tackling the phenomenon of illegal online loans that are often found in the community. The use of clear and tangible regulations as described in the Consumer Protection Law, the Electronic Information and Transactions Law (ITE), and the Criminal Code and Financial Services Authority Regulations is very important. The position of online loan users is as consumers, so all the rules relating to consumer protection in online loan applications can be applied in this arrangement. In practice, illegal online loan actors also use electronic devices in committing acts against the law, so the criminal law policy used is to implement a criminal policy to provide protection for users of illegal online loan services. Disclosure of the factors that cause the development of illegal online loan crimes in Indonesia will help achieve legal protection for the community. The use of various laws and regulations will be adjusted to the interests of the community. Various obstacles experienced by law enforcement in resolving illegal online loan cases in Indonesia can also be more resolved. Victim

participation is very necessary, not only reporting but also knowledge of digital literacy. Ignorance about digital literacy is the main cause of the development of this illegal online loan crime.

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