

**HANDLING THE CRIME OF THREATS AND MISUSE OF PERSONAL DATA IN
ILLEGAL ONLINE LOAN CASES**

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ABSTRACT; *Online loans are loans that can be applied for via an online application. This application is the result of technological innovation in the financial sector or what is known as financial technology (fintech), so that borrowing money becomes faster, easier and the process is simple. The emergence of various loan companies has attracted the interest of many people with the programs and conveniences they offer. However, behind its convenience, pinjol also has a dark side. Technological developments are often misused by irresponsible individuals. This results in problems for consumers, such as; Offering high interest rates and non-transparent loan schemes, unethical and intimidating billing, personal data being misused and getting trapped in mounting debts. Pinjol offers convenience and benefits, but it needs to be used carefully and intelligently. The purpose of writing this journal is to find out the legal handling of illegal online loans, the legal handling of criminal acts of extortion and misuse of personal data according to Indonesian law, and the procedures regulated in Indonesian law regarding how to collect online loan payments. The research method used is a normative juridical approach, which focuses on the use of secondary data. To protect personal data from theft by irresponsible parties, the Personal Data Protection Law imposes harsh sanctions, including criminal penalties, to provide a deterrent effect on perpetrators so they do not repeat their actions. The series of articles that regulate these sanctions can be found in Law No. 27 of 2022 concerning Theft of Personal Data, starting from Article 67 to Article 69.*

Keywords: Crime; online loans; personal data

INTRODUCTION

Currently, technology is rapidly advancing in various sectors, including the financial sector, known as financial technology (fintech). One of the most popular fintech services among the public is online loans (pinjol). Although pinjol is supposed to be regulated by the Financial Services Authority (OJK), the increasing presence of illegal pinjol has become a source of concern. Therefore, research is needed to explore awareness of the risks of pinjol and to identify the possible social impacts (Online Ilegal Menjadi Bencana Sosial Bagi Generasi Milenial Fanny Novika et al., 2022).

Online loans are loans that can be applied for through an online application. This application is the result of technological innovation in the financial sector, known as financial technology (fintech), making borrowing money faster, easier, and simpler. The public only needs to download the online loan application, register, fill in the required information, and then proceed to the loan application process. Fintech is the application and utilization of technology to enhance banking and financial services, typically carried out by start-up companies using the latest software, internet, communication, and computing technologies.

The practice of online lending is a business involving the lending of money, where there is a contract between the online lending company and the public as borrowers. In the context of consumer protection law, the relationship between service providers and consumers is

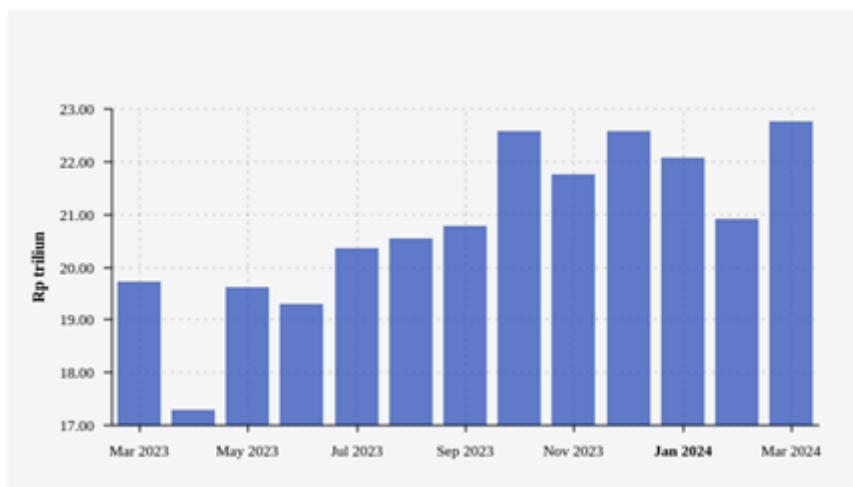
governed by an agreement that binds them under the provisions of contract law. This includes the legal requirements of the agreement, general principles of the contract, and conditions that cause an agreement to become void. This business is legally considered a debt agreement that must meet established requirements, as stipulated in Article 1320 of the Civil Code¹.

Money is an essential means of exchange for society, especially for those with greater needs. People have started borrowing money through online loan applications, whether legal or illegal. With the increased use of online loans, the government has issued specific regulations to protect online lending activities, both for providers and users. These regulations include points such as the maximum interest rate that can be charged to borrowers, the maximum amount of funds that must be repaid, late fees, and collection methods (Muhammad Andi Gustiar & Dian Alan Setiawan, 2022).

As technology advances, new innovations have emerged in the financial sector, namely Financial Technology (Fintech). Fintech offers convenience for the public in financial transactions. Fintech services cover a wide range, such as payments (P2P payments, digital wallets), investments (P2P Lending), financing (crowdfunding, micro-loans), insurance (risk management), data analysis (big data analysis), and infrastructure (security). One of the popular types of Fintech in Indonesia is Fintech Lending, an online-based money lending service. Fintech Lending serves as a solution for two parties: those who need funds and those who want to invest. This platform connects borrowers in need of capital with investors looking to gain profit from funding. The types of loans offered vary, from Unsecured Loans (KTA), Public Housing Loans (KPR), to loans for weddings and motor vehicles. For investors, Fintech Lending offers easy, flexible, and profitable investment opportunities. They can choose funding projects based on their risk profile and investment goals. This business model connects lenders with borrowers online. Fintech acts as an intermediary between those with excess funds and those in need of funds, serving as a financial intermediary for the public (Tasya Ramadani Jalil et al., 2023).

Online loans (pinjol) have emerged as a practical and easily accessible funding alternative for the public. The emergence of various pinjol companies attracts many people with the programs and conveniences they offer. However, behind the convenience, pinjol also has a dark side. Technological advancements are often misused by irresponsible individuals. This leads to problems for consumers, such as high-interest rates and non-transparent loan schemes, unethical and intimidating collections, misuse of personal data, and mounting debt. Pinjol offers convenience and benefits, but it must be used carefully and wisely. Ensure to choose legal and registered pinjol companies with the OJK, carefully study the terms and conditions, and calculate your financial capability before taking out a loan (Manayra Aisha Putri Indradjaja et al., 2022).

¹ Subekti, *Hukum Perjanjian*, (Jakarta: PT Intermedia, 2001), hlm. 17.

Figure 1 Pinjol graph in Indonesia

From the table above, it can be seen that according to the report from the Financial Services Authority (OJK), the value of fintech lending, also known as online loans (pinjol), in Indonesia decreased at the beginning of 2024. It was recorded that the value of pinjol disbursement in January 2024 reached IDR 22.07 trillion, down 2.22% from the previous month (month-on-month/mom) which was IDR 22.57 trillion. However, compared to a year ago, the national pinjol disbursement in January 2024 increased by 17.84% (year-on-year/yoy). The pinjol disbursement in January 2024 reached 9.94 million loan recipient accounts. This number of borrowers decreased by 1.2% monthly (mom). Borrowers from Java Island still dominate, with 7.63 million accounts or equivalent to 76.77% of the total national borrowers. Of the total loan value in January 2024, IDR 6.48 trillion or 29.4% went to the productive sector. The productive sector receiving the largest pinjol disbursement was wholesale and retail trade, amounting to IDR 3 trillion. Then, IDR 295.67 billion went to the agriculture, forestry, and fishery sectors; IDR 85.74 billion to the manufacturing sector; and IDR 851.57 billion to the accommodation and food and beverage supply sector. The disbursement cooperation by institutional lenders (super lenders) in January 2024 came from 99 conventional financial service institutions with a value of IDR 8.11 trillion.

Crimes involving technology often occur in the form of online loan offers. There are legal and illegal online loans. Illegal online loans not only lack official permits but also involve criminal activities such as fraud and unlawful debt collection. The collection practices in illegal online loans often involve coercion and sometimes threats to the borrower. This issue has garnered attention due to the rising popularity of online loans and the number of complaints received from the public since 2018. The Legal Aid Institute (LBH) has reviewed many complaints related to this issue, most of which are associated with online loan practices. Despite offering convenience and attractive promises in transactions, many online loan transactions do not comply with the positive law in Indonesia. There have been many legal violations, especially in criminal law aspects, such as intimidating collection practices, threats, defamation, and even extortion (Syamila et al., 2023).

Law Number 8 of 1999 on Consumer Protection Article 7 mandates that in conducting their business activities, business actors must: a. Act in good faith. b. Provide clear, honest, and accurate information about the condition and guarantee of goods or services, and offer explanations regarding their usage, repair, and maintenance. c. Treat and serve consumers fairly, accurately, and without discrimination. d. Ensure the quality of goods or services produced or traded in accordance with established standards. e. Provide consumers the

opportunity to test and try the quality of goods or services traded. f. Provide compensation and restitution for goods or services that do not conform to the agreement made (Hartati, 2002).

The purpose of this journal is to understand the legal handling of illegal online loans, the legal handling of criminal acts of extortion and misuse of personal data according to Indonesian law, and the procedures regulated in Indonesian law regarding the methods of collecting online loan payments.

Problem

Based on the above discussion, there are three problem statements in this article:

1. How is the legal handling of illegal online loans in Indonesia?
2. How is the legal handling of the criminal acts of extortion and misuse of personal data according to Indonesian law?
3. What procedures are regulated in Indonesian law regarding the methods of collecting online loan payments?

Research Methods

This research adopts a normative juridical approach, focusing on the use of secondary data. The secondary data includes primary legal materials such as legislation, secondary legal materials such as books, scientific works, or journals, and tertiary legal materials such as legal dictionaries, encyclopedias, reports, and websites. The research specification used is descriptive-analytical, beginning with the classification of data and information to then be analyzed, in order to obtain a comprehensive overview of the research object. The data analysis method applied is the qualitative arrangement of data to gain clarity on the issues to be discussed.

Discussion

1. Illegal and Legal Online Loans in Positive Law

At the beginning of 2020, the Investment Alert Task Force recorded that there were still 508 illegal fintech peer-to-peer lending platforms, or online loans (pinjol), that were not registered with the Financial Services Authority (OJK). Since 2018, a total of 2,406 illegal pinjol entities have been discovered. The existence of these illegal pinjol platforms has become a source of concern for the public, particularly regarding debt collection methods that do not follow the rules, such as the use of third parties as debt collectors, which accounted for 39.5% of complaints received by the Indonesian Consumers Foundation (YLKI). The OJK has carried out numerous blockings of illegal pinjol, but these illegal platforms continue to emerge due to the ease of developing illegal pinjol applications, facilitated by technological advancements. Additionally, many people are still tempted by illegal pinjol offers because of the convenience, speed, and ease they provide. However, behind these promises lie dangerous risks that need to be considered (Sugangga & Sentoso, 2020).

The Financial Services Authority issued OJK Regulation No. 77/POJK.01/2016 on Information Technology-Based Cash Loan Services as a legal framework for financial innovation in Indonesia's online lending sector. Although this regulation aims to protect consumers and is supplemented by other guidelines from the Monetary Authority, it is still insufficient to stop the spread of illegal online loans that violate the law in Indonesia. The Monetary Authority has the authority to impose sanctions on legal and officially registered pinjol companies with the OJK. However, this regulation does not apply to pinjol companies that engage in illegal activities. Since its existence until now, there are still victims of illegal online loans, often ensnared in illegal pinjol schemes offering credit with unreasonable terms and not in accordance with applicable regulations, making it difficult to repay. Many victims,

especially those from the low-income working class, face serious difficulties due to exorbitant interest rates on illegal pinjol, and some have even ended their lives feeling trapped in unpayable debts. Furthermore, the OJK consistently receives criticism from the public regarding pinjol issues² (Sriyono & Syaafi, 2022).

OJK Regulation Number 77 of 2016 regulates information technology-based money lending services. According to Article 1, paragraph 3 of POJK 77/2016, information technology-based money lending agreements involve providing financial services that connect lenders with borrowers to enter into loan agreements in Indonesian rupiah directly through an electronic system using the internet³. Online loans (pinjol) are a business activity in the service sector where businesses offer money loans to the public in the form of Indonesian rupiah through electronic means such as SMS, WhatsApp, or other electronic means, and must be registered with the OJK. In addition, online loan businesses are required to comply with OJK regulations and other legal provisions that protect consumer rights, including contract law, consumer protection, and financing institution regulations. There is also a joint statement from the OJK, Bank Indonesia, the Indonesian National Police, the Ministry of Communication and Information Technology (Kominfo), and the Ministry of Cooperatives and Small and Medium Enterprises (Kemenkop UKM) to combat illegal online loan practices⁴.

The benefits of online loan services include providing a quick solution for people who need funds in a short time, with rules and mechanisms that are very easy, making it easy for everyone to obtain the desired funds. However, this reputation is tarnished by the presence of illegal online loans. Although they promise ease in the disbursement process, many consumers experience unpleasant treatment when the due date arrives, and they are unable to fulfill their payment obligations. According to data from LBH Jakarta up to 2018, there were at least 195 victims of online loans with the following cases:

1. Victims were asked to dance naked on train tracks to have their loans forgiven;
2. Victims were threatened with death for not being able to repay their loans;
3. Victims were fired by their superiors because the online loan company collected debts from their bosses;
4. Victims were forced to resign from their jobs out of shame after the online loan company collected debts from their colleagues;
5. Victims were divorced because the online loan company collected debts from their in-laws;
6. Victims attempted to sell their kidneys due to being trapped by excessive loan interest rates;
7. Victims attempted suicide by drinking kerosene because they were burdened by high loan interest rates.

These actions are clearly inhumane and harmful to consumers. Therefore, consumers deserve legal protection from the state. Legal instruments are needed to ensure that consumers receive their protection rights when online loan companies engage in excessive debt collection, which can lead to criminal acts of extortion, threats, violations, and defamation. Criminal law policies related to legal protection for users of illegal online loan services in Indonesia are often inadequate and have harmed many victims. Criminal law policies have not specifically regulated illegal online loan actors because the agreement between the actor and the pinjol user

² Sriyono, J., & Syaafi, A. (2022). Pinjaman Online Tidak Beizin Dalam Perspektif Kebijakan Kriminal. *WASAKA HUKUM*, 10(2), 1-19.

³ Indonesia, Peraturan OJK Nomor 77 Tahun 2016, Pasal 1 angka 3

⁴ [Hhttp://www.ojk.go.id](http://www.ojk.go.id). siaran pers

is considered a civil agreement. Moreover, since there are no specific regulations governing online loan cases involving personal data, in practice, various applicable laws can be used to resolve the issue (Crepido, 2022).

2. Legal Handling of the Criminal Acts of Extortion and Misuse of Personal Data

A. Extortion

Article 4 of the Consumer Protection Law regulates the rights of users of online loan services in Indonesia. These provisions include the right to comfort, security, and safety in using online loan services in Indonesia. Online loan service users are considered consumers and have protection according to existing regulations. They also have the right to choose goods or services with appropriate exchange value, conditions, and guarantees, as well as the right to accurate, clear, and honest information. Users of these services also have the right to express opinions and complaints to the service providers. In terms of legal protection, they have the right to fair dispute resolution within the framework of consumer protection. Additionally, online loan service users are entitled to good service without discrimination and to receive compensation for any losses they suffer. Other regulations governing contracts or other matters also apply, although not specifically mentioned in the Article.

Based on these provisions, users of online loan services as consumers have rights that must be respected by online loan companies in every transaction in Indonesia. However, in practice, online loan service providers often engage in actions that violate applicable regulations, causing significant harm to online loan service users. The rights of these service users are sometimes ignored by online loan service providers. Some inappropriate actions taken by online loan services against users include threats or terror from debt collectors and the use of intimidation methods such as sending images or messages to users' close contacts. Such practices clearly violate the applicable provisions, including Article 29 paragraph 1 and Article 30 of Law Number 39 of 1999 on Human Rights, as well as the provisions contained in Article 4 of the Consumer Protection Law (UUPK).

If a borrower returns funds in an amount not in accordance with the payment schedule, they are usually subject to a fine according to the initial loan agreement. In general legal terms, extortion is covered under Chapter XXIII, which regulates extortion and threats (Pérez Dávila, 2020). In criminal law, extortion is defined as an act that meets certain criteria, as stipulated in Article 368 paragraph (1) of the Criminal Code (KUHP). According to this article, extortion occurs when someone, with the intention of obtaining an illegal advantage for themselves or others, uses violence or threats of violence to force someone to give up goods that are wholly or partly the property of that person or someone else, or to create or cancel a debt. This act is punishable by a maximum of nine years in prison.

Basic extortion, as described in Article 368 paragraph (1) as the definition of extortion, includes several objective elements as follows:

1. The act of coercion.
2. The subject of the coercion is a person.
3. The method of coercion used can be: a. Violence, or b. Threats of violence.

In this situation, the very harmful conditions experienced by online loan service users in Indonesia have raised concerns and disrupted individual security. The existing regulations in the Criminal Code and the Electronic Information and Transactions (ITE) Law still do not fully address the protection aspects of the rights of online loan service users in Indonesia. This is because the criminal provisions in these regulations do not comprehensively cover the criminal acts that occur in the implementation of online loan services in Indonesia. In law enforcement, illegal online loan service providers are often involved in criminal acts such as the

dissemination of personal data, threats, unfair debt collection, fraud, defamation, and sexual practices conducted through electronic media. In these cases, the crimes committed by illegal online loan service providers often require a complaint from the aggrieved party for law enforcement to be carried out by the police. In the Indonesian legal system, some types of criminal acts fall into the category of complaint offenses, where prosecution can only be initiated if there is an official complaint from the affected party (*gelaedeede parti*). Absolute complaint offenses, such as those regulated in Articles 284, 310, and 332 of the Criminal Code, require a complaint from the aggrieved party as a prerequisite for prosecution. Meanwhile, relative complaint offenses, such as those found in Article 367 of the Criminal Code on theft, require a special relationship between the perpetrator and the victim. As a result, many cases involving online loan service users in Indonesia cannot be legally processed due to the lack of an official complaint from the service users, who are often afraid or unable to make a complaint about the violations they have experienced from online loan service providers in Indonesia (Pratama Sinaga & Alhakim, 2022).

B. Dissemination of Personal Data

The dissemination of personal data from illegal online loan applications involves the act of spreading sensitive information such as Identity Cards (KTP), photos, and consumers' personal phone numbers, which should be kept private or as their personal rights. Personal rights are rights owned by individuals without interference from others. If someone discloses another person's personal information without permission, it can cause both material and emotional harm.

From 2018 to 2021, 3,516 websites or illegal online loan applications have been closed and blocked. According to Article 7 of the Financial Services Authority Regulation Number 77/PJOK.01/2016, illegal online loan companies are those not registered or officially licensed, making them illegal. Crimes of consumer data theft from illegal online loans are increasing, which is a concern for the government because every Indonesian citizen has the right to protection from the state. Therefore, the government responded to this with actions from Commission I of the House of Representatives and the Minister of Communication and Information Technology, Johnny G. Plate, who collaborated to pass the Personal Data Protection Bill (RUU PDP).

To prevent the theft of personal data by irresponsible parties, the Personal Data Protection Law imposes strict sanctions, including criminal penalties, to deter perpetrators from repeating their actions. The articles regulating these sanctions are found in Law No. 27 of 2022 on Personal Data Theft, including Articles 67 to 69. For example:

1. Article 67 (1) states that anyone who intentionally and unlawfully obtains or collects personal data that does not belong to them with the intention of benefiting themselves or others can be sentenced to up to 5 years in prison and/or a maximum fine of Rp5,000,000,000.00. (2) Anyone who intentionally and unlawfully discloses personal data that does not belong to them as described in Article 65 paragraph (2) can be punished with a maximum of 4 years in prison or a maximum fine of Rp4,000,000,000.00. (3) Anyone who intentionally and unlawfully uses personal data that does not belong to them as regulated in Article 65 paragraph (3) can be sentenced to a maximum of 5 years in prison or a maximum fine of Rp5,000,000,000.00.
2. Article 68 regulates that anyone who intentionally creates false personal data or falsifies personal data with the intent of benefiting themselves or others, which may cause harm to others as described in Article 66, can be sentenced to a maximum of 6 years in prison or a maximum fine of Rp6,000,000,000.00.
3. Article 69 also allows for additional penalties, such as the confiscation of profits or assets obtained from the crime, as well as the payment of compensation.

The articles in the law clearly state that personal data theft can be subject to criminal prosecution. This provides legal certainty that protects victims from such actions, so they no longer have to worry about what steps to take. Victims are expected to report the incident to the authorities to ensure that the perpetrator can be punished according to the applicable law⁵.

3. Loan Collection Procedures According to Legal Provisions

The collection of online loans is regulated in the third section of Articles 102, 103, and 104 of the Financial Services Authority Regulation of the Republic of Indonesia concerning Education and Protection of Users of Information Technology-Based Money Lending Services (LPMUBTI). Article 102, paragraph (1) states that if the recipient of the funds does not fulfill their obligations, the provider must issue a warning letter within the time frame agreed upon in the contract between the funder and the recipient. Paragraph (2) specifies that the warning letter must include at least the following information: a) The number of days of delayed payment; b) The total amount of funding still owed; c) The economic benefits from the funding; and d) The penalties that must be paid.

Article 103 permits the provider to collaborate with other parties in performing the collection function on the recipient as regulated in Article 102, paragraph (1). The provider is required to document this collaboration in the form of a written agreement. Cooperation with other parties must meet the following conditions:

1. The other party must be a legal entity;
2. The other party must have a license from the relevant authority;
3. The other party must have certified human resources in the field of debt collection from a professional certification body registered with the Financial Services Authority;
4. The other party must not be affiliated with the provider or the funder. The provider is fully responsible for the consequences of cooperation with other parties as regulated in paragraph (1). Additionally, the provider must regularly evaluate the cooperation with the other party.

Article 104 mandates that in conducting collections on the recipient as regulated in Article 102, paragraph (1), and Article 103, paragraph (1), the provider must ensure that the collection is carried out in accordance with societal norms and applicable legal regulations. Further provisions regarding collection will be determined by the Financial Services Authority. Additional information regarding collection can also be found in the Explanation of the Financial Services Authority Regulation (Nurhaliza, 2024).

Conclusion

Crimes through technology often occur in the form of online loan offers. There are both legitimate and illegitimate online loans. Illegitimate online loans not only lack official licenses but also involve criminal activities such as extortion and illegal debt collection, along with more serious risks like the dissemination of personal data.

In the context of criminal law, extortion is defined as an act that meets certain criteria as stipulated in Article 368, paragraph (1) of the Indonesian Criminal Code (KUHP). According to this article, extortion occurs when someone uses violence or the threat of violence to force someone to hand over property that is wholly or partially owned by themselves or others, or to create or cancel a debt, with the intention of obtaining illegal benefits. This act can be punished by imprisonment for up to nine years.

⁵ Rukmana, F. A. S. K. A., & Muzacky, A. Penjatuhan Sanksi Pidana Dalam Aktifitas Penagihan Pinjaman Online Terkait Pencurian Data Pribadi.

To protect personal data from theft by irresponsible parties, the Personal Data Protection Law imposes severe penalties, including imprisonment, to deter perpetrators from repeating their offenses. The series of articles governing these penalties can be found in Law No. 27 of 2022 on Personal Data Theft, from Articles 67 to 69.

Suggestion

Strengthen penalties for registered online loan companies that violate consumer rights. This could include revoking licenses, imposing fines, and mandating compensation for affected consumers. Require online loan providers to clearly disclose all terms and conditions, including interest rates, fees, and repayment schedules, in a language and format easily understood by consumers.

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