



## Analysis of Public Policy and Criminal Law in The Perspective of Consumer Protection for Online Loan Users in Indonesia

Kalfin<sup>1\*</sup>, Willen Vimelia<sup>2</sup>, Fadiyah Hasna Nadiatul Haq<sup>3</sup>

<sup>1</sup>*Statistics Study Program, Faculty of Science, Technology and Mathematics, Matana University*

<sup>2,3</sup>*Master's Program of Mathematics, Faculty of Mathematics and Natural Sciences, Universitas Padjadjaran, Jatinangor, West Java, Indonesia*

*\*Corresponding author email: kalfin@matanauniversity.ac.id*

---

### Abstract

The development of online loan services or pinjol in Indonesia raises new problems in consumer protection. Many cases of fraud and misuse of customer personal data are very concerning. The government has not had specific regulations regarding online loans. The existing regulations are merely appeals and suggestions for fintech pinjol to conduct business responsibly. In fact, stricter regulatory and enforcement steps are needed to address the increasing violations that harm consumers. This study aims to analyze public policies and criminal law in the perspective of protecting pinjol consumers in Indonesia. This research uses a normative legal approach with statute and conceptual approaches. The results are expected to provide recommendations for more effective legal protection for online lending consumers in Indonesia, as well as enriching academic literature on fintech and digital consumer protection. The conclusion is that firmer public policy and criminal law provisions are needed to protect consumer rights in using online loan services which currently have weak legal protection.

**Keywords:** Online loans, Consumer protection, Public policy, Criminal law

---

### 1. Introduction

The rapid growth of technology in the current digital era has given birth to various online-based service innovations, one of which is the presence of online loans or pinjol. Online loans are money lending and borrowing schemes carried out online via digital platforms. Since its arrival in 2016, online loans have become an alternative financing for people to obtain additional business capital or meet urgent needs (Solihati et al, 2023).

Online loans emerged in Indonesia around 2016 as a response to low credit card penetration and the high financial needs of society, especially the Micro, Small and Medium Enterprises (MSME) sector (Tayibnapis et al, 2018). Carrying the Peer-to-Peer Lending (P2P) concept, the Pinjol platform is here to bring together lenders and borrowers easily and practically through an application or website. Initially, regulations were not strict, so the interest rates and loan fees were quite high. Even so, legal loans offer fast and affordable financial solutions for people who previously had difficulty accessing conventional loans. Slowly, with the rise of illegal lending which is detrimental to society, regulations are being tightened to protect consumers and encourage the healthy and sustainable growth of pinjol (Atikah, 2020).

Even though pinjol offers fast financial access, the potential losses for society cannot be ignored. The high interest and fees on legal loans, let alone the predatory practices of illegal loans, can create a suffocating debt trap. Plus, the public's lack of financial literacy makes it easier for unscrupulous borrowers to take advantage of them. The risk of personal data leakage is also a threat. It doesn't stop there, aggressive billing practices that often occur cause trauma and psychological stress. As a result, it is not uncommon for borrowers to be trapped in a cycle of debt that is difficult to break. To protect the public, firm steps from the government and OJK are needed, but the most important thing is individual awareness to understand the risks and use loans wisely (Imanuddin and Anggraeni, 2023).

However, behind the convenience offered, the rise of online loans also raises new problems, especially regarding consumer protection. Many cases of fraud and misuse of customer personal data by online loan fintech individuals are disturbing the public (Hamdani and Fauzia, 2021). Violations committed include providing misleading information,

withdrawing excessive installments, and intimidating billing. This shows weak legal protection for consumers using online loan services.

The government itself does not yet have special regulations regarding online loans. The existing regulations are merely appeals and suggestions for online loan fintechs to conduct business responsibly. In fact, the increasing number of violations committed by fintech pinjol requires stricter regulatory and law enforcement steps. If left unchecked, this illegal fintech lending practice could harm the interests of the wider community as consumers.

Therefore, an in-depth study is needed regarding consumer protection regulations in the online loan business. It is necessary to further analyze public policies and applicable criminal law provisions in providing legal protection to pinjol consumers in Indonesia. Thus, this research is important to carry out (Angkasa et al, 2023).

This research aims to analyze applicable public policies and criminal law from the perspective of online loan consumer protection in Indonesia. Specifically, this research will analyze: first, public policies related to online loan consumer protection in Indonesia; second, criminal law provisions in laws and regulations related to online loan consumer protection in Indonesia; and third, the effectiveness of implementing public policy and criminal law in providing legal protection to consumers using online loans in Indonesia (Safira and Lubis, 2023).

This research uses normative legal research methods with a statutory approach and a conceptual approach. The legal materials used include all laws and regulations in Indonesia related to consumer protection and online loans. The analysis was carried out in a qualitative descriptive manner to describe the applicable public policies and criminal law and their application in protecting pinjol consumers in Indonesia.

It is hoped that the results of this research can provide input to policy makers regarding concrete steps that can be taken to provide more effective legal protection to online loan consumers in Indonesia. Apart from that, the results of this research can be used as an academic reference regarding the study of consumer protection in financial technology in Indonesia.

## **2. Literature Review**

### **2.1. Consumer protection public policy in Indonesia**

Consumer protection policies in Indonesia are regulated in Law Number 8 of 1999 concerning Consumer Protection. The main aim of this policy is to increase consumer awareness, ability and independence to protect themselves and foster the attitude of responsible business actors (Budianto and Wulandari, 2020). Several consumer protection public policies implemented by the Indonesian government include:

- a). Establishment of consumer protection institutions, such as the National Consumer Protection Agency (BPKN) under the coordination of the Ministry of Trade. BPKN is tasked with carrying out supervision of consumer protection and handling public complaints.
- b). Implementation of supervision of goods and/or services circulating in the market. The Ministry of Trade and related institutions supervise product quality standards, labeling, advertising, promotions and other matters related to consumer protection.
- c). Issuance of regulations implementing the Consumer Protection Law, such as regulations regarding halal labels, standard contract standards, etc.
- d). Consumer education through socialization and counseling to increase public understanding of consumer rights and obligations.
- e). Providing legal assistance to consumers through legal aid institutions or mediating consumer disputes outside of court.
- f). Cross-sector coordination related to policy formulation and consumer dispute resolution.

### **2.2. consumer protection criminal law in Indonesia**

Consumer protection criminal law in Indonesia, especially in Law no. 8 of 1999, applies to loans. Consumers have the right to get clear and transparent information, including interest rates, fees and penalties (Irawati and Hutagalung, 2023). Loan perpetrators are prohibited from carrying out abusive, intimidating and threatening billing practices. Some examples of criminal violations in lending, offering loans without OJK permission, applying unreasonable interest rates and fees, carrying out billing in a harsh and unethical manner and distributing consumer personal data without consent. Apart from that, there are criminal sanctions for violations of pinjol (Aziz and Nur'aisyah, 2021). The maximum prison sentence is 5 years or a maximum fine of 2 billion rupiah and the maximum prison sentence is 10 years or a maximum fine of 5 billion rupiah.

### **2.3. Online loans in Indonesia (Pinjol)**

Online loans (pinjol) in Indonesia have experienced rapid growth in recent years. This is driven by several factors, such as. With high internet and smartphone penetration, there is still limited public access to formal financial services and an easy and fast loan application process. The following is the value of online loan distribution in Indonesia (January 2022–January 2023).

**Table 1:** Value of online loan distribution in indonesia (January 2022–January 2023)

No	Data name	Online loan distribution / IDR Trillion
1	31/01/2022	13.8
2	28/02/2022	16.52
3	31/03/2022	23.07
4	30/04/2022	17.91
5	31/05/2022	18.62
6	30/06/2022	20.67
7	31/07/2022	18.99
8	31/08/2022	19.21
9	30/09/2022	19.49
10	31/10/2022	18.72
11	30/11/2022	18.96
12	31/12/2022	19.52
13	31/01/2023	18.73

The Financial Services Authority (OJK) recorded that the value of fintech lending or online loans in January 2023 reached IDR 18.73 trillion, down 4.04% compared to the previous month (month-on-month/mom). However, online loan distribution in January 2023 increased by 35.72% compared to January last year (year-on-year/yoy). Online loans in January 2023 were distributed to 15.93 million borrowing entities. The number of borrowers fell 16.19% monthly. The majority or 12.54 million borrowers come from the Java region, equivalent to 78.71% of the total national borrowers. As much as IDR 7.08 trillion or 37.82% of loans were given to the productive sector. Of this amount, IDR 2.47 trillion was loaned to the wholesale and retail trade sectors Aryana et al (2023).

Then loans to the agriculture, forestry and fisheries sectors reached IDR 220.09 billion, followed by loans to the processing industry IDR 43.85 billion, and to the accommodation and food and drink provision sector IDR 1.01 trillion. The number of lending accounts reached 10.74 million accounts, with total funds disbursed IDR 18.81 trillion. Distribution cooperation by institutional lenders (super lenders) in this period was contributed by 1,010 conventional financial service institutions worth IDR 3.86 trillion Aryana et al (2023).

### 3. Methodology

#### 3.1. Normative legal research

This research will use normative legal research methods with statutory and conceptual approaches. The data used is secondary data obtained from statutory regulations, books, scientific journals and trusted internet sources. The results of this research are expected to provide theoretical and practical contributions in efforts to increase consumer legal protection in loan transactions in Indonesia. Theoretically, this research is expected to enrich legal studies regarding consumer protection in the digital era. Practically, it is hoped that this research can provide recommendations to the government, loan providers and consumers to improve consumer legal protection in loan transactions.

#### 3.2. Statute Approach and Conceptual Approach

The legislative approach focuses on analyzing statutory regulations related to the research topic. Researchers will research and analyze the texts of laws, government regulations, regional regulations and other relevant regulations. This approach aims to understand the meaning and interpretation of these laws and regulations. The conceptual approach focuses on analyzing legal concepts related to the research topic. Researchers will research and analyze legal doctrine, legal theory, and relevant legal principles. This approach aims to understand the conceptual framework underlying legislation and legal practice.

### 4. Results and Discussion

#### 4.1. Public policy for consumer protection for pinjol users in Indonesia

The Indonesian government is trying to protect consumers who use pinjol through various policies. POJK 77/2016 requires registration and licensing of organizers, limits interest and fees, and prohibits unethical billing. SEOJK 18/2017 strengthens Pinjol's governance and risk management, including the protection of consumer personal data. The Investment Alert Task Force was formed to eradicate illegal lending, while LKD increased public financial literacy.

## 4.2. Criminal law regulations in protecting consumers using pinjol in Indonesia

Consumer protection for loan users in Indonesia is not only regulated in civil regulations, but also criminal law. The following are some relevant criminal law regulations:

- a). Criminal Code (KUHP)
  - 368 concerning extortion: Any person who, by threat of force or by other means, forces someone to do something or not to do something, shall be punished for extortion, with a maximum imprisonment of nine years. Article 368 of the Criminal Code can be applied in situations where there is coercion or the threat of violence used to coerce someone, whether in an individual or group context.
  - Article 378 concerning fraud: Pinjol operators who deceive consumers by providing incorrect information can be punished with a maximum prison sentence of 4 years.
  - Article 310 concerning defamation: Loan operators who distribute consumer personal data without consent can be punished with a maximum prison sentence of 9 months.
- b). Law Number 8 of 1999 concerning Consumer Protection:
  - Article 62 paragraph (1): Business actors are prohibited from offering products that are unsafe and/or do not comply with the required quality standards.
  - Article 8 paragraph (1) letter c: Consumers have the right to obtain correct, clear and honest information regarding the condition and quality of the goods and/or services offered.
- c). Law Number 11 of 2008 concerning Information and Electronic Transactions:
  - Article 26 paragraph (2): Every person who deliberately and without right disseminates another person's personal data will be punished with a maximum imprisonment of 6 years and/or a maximum fine of IDR 600 million.

## 5. Conclusion

Based on the results of the analysis and discussion previously described, it can be concluded that legal protection for consumers using online loan services (pinjol) in Indonesia is currently still weak and inadequate. This can be seen from the rise in cases of violations such as fraud and misuse of personal data by fintech pinjol individuals which harm many consumers. This weak legal protection is due to the absence of specific government regulations governing consumer protection in the online lending sector. The public policies and criminal law provisions that have so far only been in the form of appeals and suggestions for fintech pinjol to be ethical, but have not been able to prevent abusive practices that are detrimental to consumers. Therefore, concrete steps are needed from the government and OJK to formulate more comprehensive and firm pinjol consumer protection policies and regulations, so as to provide legal certainty and protect the interests of the wider community as digital consumers.

## References

- Angkasa, A., Wamafma, F., Juanda, O., & Nunna, B. P. (2023). Illegal Online Loans in Indonesia: Between the Law Enforcement and Protection of Victim. *Lex Scientia Law Review*, 7(1), 119-178.
- Aryana, I. W. P. S., Setyaningsih, N. P. A., & Kayuan, P. C. K. (2023, December). Digital Persecution in Financial Technology-based Online Loan Collection. In *International Conference on "Changing of Law: Business Law, Local Wisdom and Tourism Industry" (ICCLB 2023)* (pp. 774-784). Atlantis Press.
- Atikah, I. (2020). Consumer protection and fintech companies in indonesia: innovations and challenges of the financial services authority. *Jurnal Hukum dan Peradilan*, 9(1), 132-153.
- Aziz, A., & Nur'aisyah, I. (2021). Role Of The Financial Services Authority (OJK) To Protect The Community On Illegal Fintech Online Loan Platforms. *Journal of Research in Business and Management*.
- Budianto, E., & Wulandari, D. A. (2020). Critical study of criminal aspects of Law Number 8 of 1999 concerning consumer protection. *Journal of Law and Legal Reform*, 1(2), 333-352.
- Hamdani, F., & Fauzia, A. (2021). The Urgency of Legal Protection for Online Loan Service Users. In *2nd International Conference on Law and Human Rights 2021 (ICLHR 2021)* (pp. 215-221). Atlantis Press.
- Imanuddin, I., & Anggraeni, R. D. (2023). Construction of Consumer Protection Against Illegal Online Loan Transactions As a Means of IUS Constituendum in Indonesia. *Jurnal IUS Kajian Hukum dan Keadilan*, 11(3), 539-556.
- Irawati, J., & Hutagalung, K. G. K. (2023). Standard Clauses in Vehicle Purchase Credit Agreements in Indonesia: An Examination of Consumer Protection and Legal Enforcement. *Journal of Judicial Review*, 25(2), 255-272.

- Safira, S., & Lubis, S. (2023). The Terror of Data Dissemination Due to Online Loan Default Perspective of Law Number 11 of 2008 concerning Electronic Information and Transactions (Case Study of Online Loan Customers in Medan City). *JHSS (JOURNAL OF HUMANITIES AND SOCIAL STUDIES)*, 7(1), 214-218.
- Solihati, K. D., Rizki, M., & Sari, N. (2023). The Role of The Government to Improve Financial Literacy in Efforts to Prevent The Use of Illegal Online Loans. *KnE Social Sciences*, 670-687.
- Tayibnapis, A. Z., Wuryaningsih, L. E., & Gora, R. (2018). The development of digital economy in Indonesia. *IJMBS International Journal of Management and Business Studies*, 8(3), 14-18.