

Business Ethics Study of Illegal Technology Financial Practices in the Form of Online Loans

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Abstract

This article analyzes the legal challenges of illegal online lending practices from the perspective of business ethics and the government's role in supporting financial technology. Online lending offers convenience in obtaining funds through quick and easy processes. The research employs a constructivist paradigm and a descriptive-analytical method, with the theory of justice in business as a reference. One major issue is the rise of illegal online lending. The Financial Services Authority (OJK) recorded that from January 2018 to April 2019, 947 illegal peer-to-peer lending fintech entities were blocked. The study results highlight two key points: first, the legal challenges of illegal online lending involve issues related to legal entity structure, licensing, legality, and legal protection for parties involved. From a business ethics perspective, legal online lending must maintain trust, which significantly impacts a company's reputation. However, illegal lending can lead to criminal activities such as fraud and money laundering. Second, the government's role in business development includes improving the national legal system and regulations that cover funding, taxation, consumer protection, education, cybersecurity, and the management of online lending practices.

Keywords: Financial Illegal Technology, Online loans, Business Ethics.

Abstrak

Artikel ini menganalisis tantangan hukum dalam praktik pinjaman online ilegal dari perspektif etika bisnis dan peran pemerintah dalam mendukung teknologi finansial. Pinjaman online memberikan kemudahan dalam mendapatkan dana dengan proses cepat dan mudah. Penelitian ini menggunakan paradigma konstruktivisme dan metode deskriptif analitis, dengan teori keadilan dalam dunia usaha sebagai acuan. Salah satu permasalahan utama adalah maraknya pinjaman online ilegal. Otoritas Jasa Keuangan (OJK) mencatat bahwa dari Januari 2018 hingga April 2019, sebanyak 947 entitas fintech peer-to-peer lending ilegal telah diblokir. Hasil penelitian menunjukkan dua poin penting: pertama, tantangan hukum dalam pinjaman online ilegal mencakup masalah bentuk badan hukum, perizinan, legalitas, dan perlindungan hukum bagi para pihak. Dari perspektif etika bisnis, pinjaman online legal harus menjaga kepercayaan yang memengaruhi reputasi perusahaan. Namun, pinjaman ilegal dapat memicu tindak pidana seperti penipuan dan pencucian uang. Kedua, peran pemerintah dalam pengembangan dunia usaha melalui penyempurnaan sistem hukum nasional dan regulasi yang mencakup pendanaan, perpajakan, perlindungan konsumen, edukasi, keamanan siber, serta manajemen implementasi praktik pinjaman online.

Kata Kunci: *Teknologi Keuangan Ilegal, Pinjaman Online, Etika Bisnis.*

1. INTRODUCTION

In the era of digitalization in all its forms, countries in Southeast Asia are following the flow of digitalization. Ifrani & Said (2020), the results of their research analysis show that entering the digital era consciously requires a preparation stage, because no matter how sophisticated the technology is, there must be positive and negative sides. Entering the era of digitalization consciously will enable society to utilize technology positively, where technological progress is considered capable of improving the national economy to achieve societal prosperity (Wahyuni, 2019). Likewise in the financial sector which is now starting to be integrated with electronic system platforms. One of the advances in the financial sector today is the adaptation of FinTech (Financial Technology), the emergence of which is caused by the choice of digital transactions via gadgets that many people choose. The rapid growth of online lending business practices (P2P Lending) is also caused by the potential of the Indonesian people themselves to become a fairly large market for online lending business practices (P2P Lending). The existence of FinTech can provide a more practical and safe financial transaction process (Chrismastianto, 2017). An example of a financial service platform offered by fintech businesses is online loans. Online lending business practices (P2P Lending) connect lenders with borrowers online. Apart from the positive impact of fintech, there are negative impacts that can arise as a result of fintech, based on data recapitulation throughout 2018, the disbursement of credit by financial technology businesses reached IDR 22 trillion, the ratio of non-performing loans (NPL) in 2018 was 1.45%, an increase compared to in 2017 which was at the level of 0.99% (Budiyanti, 2019).

There is a gap between the regulations set by the Financial Services Authority (OJK) at the implementation level. On the one hand, OJK Regulation (POJK) no. 77/POJK.01/2016 concerning Information Technology Based Money Lending and Borrowing Services which requires financial technology business companies to register their companies with the OJK, but on the other hand there are still many

Indonesian people who are not yet bankable so many turn to illegal financial technology businesses which have a more complicated process. complicated. easy and fast. Apart from that, with existing financial technology business regulations, there is still an opportunity for companies to choose not to register with the OJK. This regulation stipulates that fintech companies must apply for permission from the OJK to run their business. The requirements that must be met are the deed of establishment of the legal entity, ownership register, shareholder data, and data on directors and commissioners (Widi, 2019). Even though efforts have been made to block nearly a thousand illegal fintechs, many illegal fintech applications are still found operating. Illegal fintech, a type of online inter-party lending, is aggressively providing loans via short messages, internet advertisements, and offers with the promise of easy credit terms by including the application link address.

Judging from business ethics, seeing the problems that occur in society regarding illegal online lending business practices (P2P Lending) certainly raises concerns in the context of business ethics which prioritize honesty and doing good to others. This research is urgently carried out because there is a need to overcome illegal online lending practices in the business world and illegal online lending practices seen from the perspective of business ethics are important in realizing transparency in the digital-based business world. The theory in business ethics is the theory of honesty which views a person's attitude or morals from the person's honesty in doing something (Turisno, 2011). The problem of non-fulfillment of PJOK provisions is caused by illegal online lending practices which are not in line with honesty theory which emphasizes that online lending activities can be carried out while maintaining mutual trust which has a big influence on the company's reputation so companies must be careful. honest in carrying out online lending business activities (P2P Lending).

Referring to the contractual agreement, there are good intentions that are not fulfilled by the perpetrators of this illegal online loan business. The relevance of online loans cannot be separated from the agreement or contract in

carrying out the contract of course the parties must be based on good faith, because actions when establishing a legal relationship or implementing an agreement are a person's mental attitude. Apart from that, if we look at the Utilitarian theory, the aim of law is to guarantee the greatest happiness for the greatest number of people. Certainty through law for individuals is the main goal of law. Next, a legal sociology study can be carried out on compliance or legal compliance related to illegal online lending businesses (P2P Lending). Obedience to the law is not only seen as a function of legal regulations, but is also a function of humans who are the target of regulations.

The novelty of this research is that it focuses on the existence of illegal financial technology practices from a business ethics perspective, different from previous research from Chrismastianto (2017) which focused on the application of financial technology in banking using SWOT analysis. Budiyantri (2019), focuses on efforts that can be made to overcome illegal fintech. However, this research further sharpens the study of handling illegal online loans from a business ethics perspective. Kodriyah, Haryono, & Ambonningtyas (2018) which focuses on the implementation of loan-based FinTech policies (LPMUBTI) in regulatory, capital and risk management systems. focuses on how business ethics in viewing illegal technological financial practices in Indonesia is linked to honesty theory, utilitarian theory, and legal sociology.

2. METHOD

This type of empirical juridical research, this research was initiated because of the gap between *das sollen* and *das sein*, namely between existing theory and the reality that occurs in the field, so the approach method used in this research is the phenomenological approach and the case approach. Adnyani (2021), considering that the problems researched and studied apart from adhering to the juridical aspect are based on norms, regulations, legal theory which are connected to the practice of implementing these provisions in their operationalization in the field. The specifications used in this research are analytical descriptive because this research is expected to obtain a clear, detailed and

systematic picture, while it is said to be analytical because the data obtained will be analyzed to solve problems in accordance with applicable legal provisions. The research objective uses analytical descriptive specifications. to provide an objective picture of the reality of the object being studied (Zainuddin, 2019). After the legal materials have been collected, analysis is then carried out to obtain final arguments in the form of answers to the problems studied in this article (Pitriyanti & Adnyani, 2023).

3. RESULT AND DISCUSSION

3.1 Data Description

Previous research results show that the legal issue that is a problem in online lending practices is the misuse of consumer borrower data without permission from the platform by accessing data on mobile phone devices as a way to collect debts from debtors.

Violations that occur to consumer borrowers due to misuse of personal data on cellular networks by platform providers include intimidating billing, distribution of personal data to contacts on consumer numbers (Wahyuni & Turisno, 2019). Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services still provides an opportunity for companies to choose not to register with the OJK. Some of the reasons companies do not register with the OJK are because the company does not meet the existing requirements and the company does not want to follow OJK regulations which are considered difficult to fulfill or too strict (Budiyantri, 2019).

3.2 Discussion

Illegal Online Loans in the Business World are Important to Address

The use of online loan services or (P2P Lending) cannot be denied from the development of the digital economy. The use of online loan services or (P2P Lending) is increasingly widespread nowadays. The ease of borrowing funds is one of the advantages of this financial service compared to banking. In a matter of days, loans can be disbursed immediately without the hassle of going to the bank. Utilization of online loan services or (P2P Lending) is required to continue to adapt and make adjustments to

business processes, in line with rapidly changing industry dynamics. If these dynamics and transformations are not managed well, it is feared that it will disrupt the financial and economic systems. The aspect of economic stability remains important and must remain a major concern, including when the role of the use of online loan services or (P2P Lending) and digital financial services becomes increasingly significant in the economy. Therefore, strategies and breakthroughs are absolutely necessary so that these dynamics do not cause unexpected impacts.

Nurhayati, Ifrani & Said (2021), emphasized that society as legal subjects need legal rules to be able to take into account what will happen or what is usually expected. The function of law as dynamic social engineering (law not only regulates existing patterns, but also creates new relationships and/or things). This condition shows that the national legal order in Indonesia has been realized with regulations regarding Information Technology-Based Money Lending and Borrowing Services which are accommodated by OJK Regulation Number 77/POJK.01/2016. This proves that the Indonesian Government is serious about responding to the development of online loans or (P2P Lending) in Indonesia. The existence of accommodative regulations will certainly create legal certainty and a sense of security for investors and fund seekers.

The provisions issued by Bank Indonesia through Bank Indonesia Regulation Number 18/40/PBI/2016 concerning the Implementation of Payment Transaction Processing were created to support the implementation of online loans or (P2P Lending) in Indonesia. This BI regulation regulates several things regarding the accommodation of online loan innovation or (P2P Lending), consumer security and comfort as well as maintaining the equality of online loan players or (P2P Lending) in Indonesia. Rizal, Maulina & Kostini (2018), the results of their research show that apart from regulations, of course there are other aspects that online lending or (P2P Lending) players in Indonesia must pay attention to. In principle, there are 6 (six) Legal Aspects that need to be considered in business development in the field of online loan business or (P2P Lending) in Indonesia, namely Licensing; Company AD/ART;

Agreement/Contract; Proof of Asset Ownership; Legal and Tax Disputes.

Meanwhile, on the other hand, these 6 (six) legal aspects are not given enough attention in business development, even though the existence of illegal online loan business companies or (P2P Lending) certainly has a negative impact, Budiayanti (2019), these impacts include: 1) loan business online or (P2P Lending) can be used illegally as a means to commit criminal acts of money laundering or terrorist financing; 2) Misuse of data and information from service users or consumers, in this case the public. The public does not know that companies operating in the financial technology business sector also record various personal data contained on the smartphone they own when registering; 3) loss of potential tax revenue. Of course, the tax potential for illegal financial technology business actors is very large considering that the number is greater than those registered with the OJK; 4) there are still many people who do not know about the financial technology business, so that when carrying out credit transactions, people as borrowers often do not look in detail at the contents of the terms or credit agreements. This causes people to be trapped with very high interest rates. Commission or interest on illegal online loans averages more than 40% of the principal plus a fine of IDR 50 thousand per day; 5) NPL for online loans in 2018 reached 1.45%. This means that even legal financial technology businesses already have risks, but illegal businesses will certainly be riskier; and 6) many reports from the public as victims of unethical debt collection by financial technology business companies. This happens because of the public's lack of knowledge regarding the legality of financial technology business companies.

In synergy with legal issues that are a problem in online lending practices is the misuse of data belonging to consumer borrowers without permission from the platform by accessing data on mobile phone devices as a way to collect debts from debtors. Rizki (2019), revealed findings of violations that occurred among consumer borrowers due to misuse of personal data on cellular networks by platform provider companies, including intimidation of billing, distribution of personal data and contacts on consumer numbers.

The stigma that has developed in society over time has also supported the rapid development of illegal online businesses. Most people have switched to online lending businesses or (P2P Lending) which is an easier and faster process because people think borrowing money from a bank takes too long. Apart from that, with the existence of online lending regulations or (P2P Lending), namely Financial Services Authority Regulation Number 77/POJK.01/2016 concerning General Information Technology-Based Money Lending and Borrowing Services, it still provides an opportunity for companies to choose not to register with the OJK. Some of the reasons companies do not register with the OJK are because the company does not fulfill existing requirements and the company does not want to follow OJK regulations which are considered difficult to fulfill or too strict (Budiyanti, 2019).

Judging from business ethics, a business is an economic organization that operates within a legal environment, and is established with the aim of providing goods and services. It is the obligation of entrepreneurs to continue to comply with the rules of the game that have been set by the government. Likewise with the online lending business or (P2P Lending) which in carrying out its business activities must comply with government regulations so that it does not become an illegal business that will harm consumers as users of technological financial services.

There are many interests that require comprehensive understanding and agreement in looking at the legal and ethical aspects of business when it comes to online lending fintech business practices (Wijiharjono, 2012). In online lending business activities or (P2P Lending), this is also the case considering that at the start of the online lending activity there was an agreement so that the principle of honesty must be prioritized in terms of business ethics. From a business ethics perspective, this is important because it is a manifestation of moral values. Some business people realize that if they want to be successful in business activities, they must heed ethical principles. Enforcement of business ethics is increasingly important in efforts to uphold a conducive healthy competition climate.

Business people have dared to control certain commodity markets without paying attention to business ethics. This situation is increasingly crucial due to the Government's attitude in providing opportunities for several companies to dominate the industrial sector from upstream to downstream. Therefore, the evaluation of Financial Services Authority Regulation Number 77/POJK.01/2016 concerning General Information Technology-Based Money Lending and Borrowing Services still provides an opportunity for companies to choose not to register with OJK needs to be reviewed to require companies to register with OJK so that standardization operational business feasibility procedures can guarantee consumer protection.

The targets of illegal online lending businesses or (P2P Lending) are people who have minimal financial knowledge, are money hungry and have a consumerist lifestyle. Various methods are used to ensnare potential consumers so that without careful calculations they will be trapped and bear the risks (Kompas, 2019). Referring to the problem of illegal online lending practices which are still detrimental to consumers, Haryono (2018), urges good business behavior not only to seek profits from business activities, but good businesses must also behave in accordance with moral norms. It is considered good if it meets the basic ethical standards of society which serve as guidelines for behavior or action. For this reason, ethical principles are very important for the business world with the hope that in running their business harmony, security in business, public trust in each product and significant progress or development of the company organization will be achieved based on ethical principles. basic principles of business ethics. Online loan business or (P2P Lending) should be able to help buying and selling transactions and payment systems become more efficient and economical but still effective in business law in Indonesia.

Business Ethics Review of illegal online loans

Online lending or (P2P Lending) is an innovation in the field of technology that focuses specifically on innovation in the financial sector based on modern technology in the service sector. Providing online loans or (P2P Lending) is categorized into: payment systems; market support; investment

management and risk management; loans, financing, and capital provision; and other financial services (Yuking, 2018).

Violations of business ethics can occur in every business person or company. In order to produce maximum profits and the products offered to be accepted by the public, business people often use any means possible. Business actors and lower middleclass companies suffer losses due to violations of business ethics due to lack of capability. Good business activities are not only profitable businesses, but good businesses are not only profitable businesses but also morally good businesses. (Sinaulan, 2016).

Now people can easily get funds just by providing their personal data. The convenience provided by financial technology raises the risk of violations which will be even higher if the data under the control of the service provider is managed by a system that is not capable and transparent (with assessments referring to eligibility criteria/standardization and transparency provided by a special commission) (Dewi, 2016).

The attention of the public and regulators, namely the Financial Services Authority (OJK) and Bank Indonesia, is responding to the emergence of financial companies in the field of information technology-based money lending and borrowing services. This is stated in Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending and Borrowing Services. The POJK regulates information technology-based money lending and borrowing services.

The editorial update with the addition of a clause requiring online loan businesses to register their companies with the OJK is an input for improving the PJOK. It is hoped that the existence of this regulation will be useful for regulating information technology-based lending and borrowing services as is the aim of the law in Utilitarian theory, namely ensuring the greatest happiness of society through certainty through the law for individuals, which is the main aim of the law. So you no longer need to worry about online loan activities.

The OJK work program targets controlling the development of financial services platforms with online loan business actors (P2P Lending) for data collection so that registration can be carried out in stages which can guarantee the feasibility of business operations in providing services to consumers by prioritizing business ethics. According to Bertens, business ethics is the application of general ethical principles to specific areas of human behavior, namely economic and business activities. In the Corporate Business Ethics Handbook. Pambudi (2018), emphasized that in order to survive and develop, a company as an entity must recognize interested parties (stakeholders) in its survival, both as a single unit and as part of a business collection. group. Apart from that, companies must also establish healthy and ethical relationships with all stakeholders and the environment in which the company operates.

4. CONCLUSION

Peer to peer (P2P) Lending does have a positive impact in the form of ease in obtaining funds through online loans, but there are also various forms of violations by illegal online loan companies or (P2P Lending), starting from intimidation of billing, socialization of personal data. This is of course not in accordance with business ethics. Overcoming illegal online lending practices in the business world needs to be done considering that good business activities are not only profitable businesses, but good businesses are not only profitable but also morally good businesses. Business ethics in looking at online lending practices Peer to peer (P2P) Illegal loans in Indonesia are linked to the importance of prevention by internalizing honesty theory, utilitarian theory, legal sociology as well as updating the integrated registration system with the OJK for new financial technology for companies to be registered and fit to operate so that they are assessed. operates according to standard operating procedures and can provide consumer protection guarantees. The government is advised to provide convenience and special treatment for domestic online loans (P2P Lending). This is so that online lending (P2P Lending) as a form of FinTech continues to develop and more and more people are officially registered, so that their activities can be monitored more optimally. There also needs

to be clarity in regulations regarding collaboration between banks and other financial institutions, such as banks. Don't forget, there also needs to be tax incentives, especially for online loans (P2P Lending) which are engaged in productive funding which can have a bigger economic impact.

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