



THE URGENCY OF FORMING LEGISLATION REGARDING ONLINE LOANS IN INDONESIA: LEGAL PROTECTION SOLUTIONS FOR THE COMMUNITY

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ABSTRACT

Technological developments have an impact on the financial sector. One of the innovations that has occurred in the financial industry is regarding online loans. The regulations that apply in Indonesia relating to online loans are only regulated by financial services authority regulations and Bank Indonesia regulations. Meanwhile, online lending practices give rise to various legal issues that can no longer be resolved solely through these regulations. The research aims to analyze the urgency of establishing legislation regarding online loans. The research method used in this research is normative juridical in answering the problem formulation; a juridical and theoretical basis was used, namely the Legal Protection Theory. The research results show that the formation of a special law regarding online loans is very critical because of the widespread practice of online loans carried out by illegal institutions, which causes the rights and obligations between loan givers and recipients to be unbalanced, such as determining very high loan interest with short repayment periods, as well as personal data leaks and various other cases and other cases. Therefore, it is hoped that the establishment of this unique law can provide external legal protection.

A. INTRODUCTION

The development of the business world today is very rapid, so every company will continue to develop and provide the best innovations to compete. Every company must be able to show the uniqueness of the products and/or services it offers.¹ Current technological developments greatly influence the development of the business world and significantly impact various business sectors, including the financial industry. In recent years, the development of digital technology has brought significant changes in various sectors, including the financial industry. One of the innovations that emerged from this development is online loan services, or what is often called fintech (financial technology) lending; the basic form of fintech includes payments (digital wallets, P2P payments), investment (equity crowdfunding, peer-to-peer lending), financing (crowdfunding, microloans, credit facilities), insurance (risk management), cross-process (big data analytics, predictive modelling), infrastructure (security).²

Technology that develops in the financial aspect refers to all innovations in the economy. Technological developments in the economic element have changed the usually conventional financial system into a digital one, helping transform the finance service industry.³ Technological developments in the financial aspect also provide many conveniences for the community. One example is the many developments in digital applications that make it easier for the community to invest funds as working capital, Peer to Peer Lending / P2PL (Fintech), commonly known as online lending institution applications. Currently, many are present in the community, both licensed and unlicensed, through the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK) Institution.⁴

This can happen because the public perceives the ease of making loans online as very quick and easy.⁵ In the context of online loans, the ease of

¹ Firdha Amalia Nareswari and Yanda Bara Kusuma, "Analysis of Promotion Strategies by Utilizing Tiktok Social Media in Increasing Sales Volume," *International Journal of Economics Development Research* 5, no. 2 (2024): 2024–1381.

² Bagas Pratama Sigalingging, Anggya Nurmala Putri, and Umami Yusnita, "Obstacles in the Implementation of Online Loans in Indonesia (Based on Protection Law Consumer)," *Justice Voice* 2, no. 2 (September 4, 2023): 89–99, <https://doi.org/10.37893/JV.V2I2.825>.

³ Wiyono Wiyono and Achmad Nurmandi, "Public Finance Policy on Online Loans in Indonesia," *Indonesian Treasury Review Jurnal Perbendaharaan Keuangan Negara Dan Kebijakan Publik* 8, no. 4 (December 31, 2023): 291–306, <https://doi.org/10.33105/itrev.v8i4.649>.

⁴ Enny Istanti, Bramastyo Kusumo Negoro, and R. Adityo, "Online Loan Grouping Analysis of Financial Technology (Fintech) Platform-Based for MSMEs in Industry 4.0 with Naïve Bayes Statistical Method," 2020, <https://doi.org/10.29040/IJEBAR.V4I4.1642>.

⁵ Debi Eka Putri et al., "Analysis of the Effect of Perceived Ease of Use, Perceived Usefulness, Trust, and Cashback Promotion on Intention to Use E-Wallet," *International Journal of Economics, Business and Management Research* 06, no. 11 (2022): 63–75, <https://doi.org/10.51505/ijebmr.2022.61105>.

getting loans online is the main factor influencing people's use of this service.⁶ Apart from these factors, there are also several other factors, namely the perception of rewards from online loans. Various studies show that there are perceived benefits from the existence of online loans, such as in the development of small businesses.

This online loan transaction is widely misused by various illegal institutions that do not follow the regulations that have been made by the OJK. Based on OJK data, there are many complaints from the public regarding online lending activities carried out by illegal institutions. The OJK recorded 3,903 public complaints regarding online loans, aka legal loans, from January 1 to May 29 2023 (Financial Services Authority, 2021). Based on the complaint, in the 2018-2021 period, OJK has revoked 3,516 online loan permits (OJK infographic). OJK Deputy Commissioner for Supervision of Financial Services Behavior and Consumer Protection, Sarjito, said that his party continues to strive to reduce the number of illegal loans that are disturbing the public.⁷

Investment Alert Task Force (*Satgas Waspada Investasi*/SWI) OJK has succeeded in resolving 3,365 online loans out of 7,128 public complaints regarding online loans. Based on this figure, there are still many public complaints regarding illegal online loans that have not been resolved.⁸

Apart from the existence of loans given by illegal institutions, it is also necessary to pay attention to the various risks that impact borrowers, such as the high interest rates on online loans, which are usually very high. Borrowers typically have to pay a service fee of 3% to 5%. The loan repayment period is generally relatively short, as is the risk of mobile data leakage when applying for an online loan.⁹

Many people think that online loans are an easy and fast solution to get money. However, it turns out that behind this convenience, of course, there are consequences and risks that customers will accept if they violate their obligations. The development of the fintech industry is also associated with negative stigma from society, especially in terms of collection methods. The problem of online loans or financial technology peer-to-peer lending (Fintech

⁶ Adipura Danang Maulana, "Pengaruh Persepsi Manfaat Dan Persepsi Harga Terhadap Minat Pembelian Layanan Tambahan Penerbangan (Ancillary Service) Pada Maskapai Low Cost Carrier," *Jurnal Manajemen Dirgantara* 15, no. 2 (December 15, 2022): 360–68, <https://doi.org/10.56521/manajemen-dirgantara.v15i2.783>.

⁷ Enjat Sudrajat et al., "The Effect of Financial Literacy on Online Loans and Its Impact on Poverty," *IJAFIBS*, vol. 11, September 14, 2023, <https://doi.org/10.35335/IJAFIBS.V11I2.109>.

⁸ Puteri Hikmawati, "Penerapan Hukum Pidana Dalam Penanganan Kasus Pinjaman Online Ilegal," *Pusat Penelitian BIDANG HUKUM Badan Keahlian DPR RI VIII*, no. 17 (2021), https://berkas.dpr.go.id/puslit/files/info_singkat/Info_Singkat-XIII-17-I-P3DI-September-2021-188.pdf.

⁹ Guang Xin Gao et al., "Optimal Stackelberg Strategies for Financing a Supply Chain through Online Peer-to-Peer Lending," *European Journal of Operational Research* 267, no. 2 (June 1, 2018): 585–97, <https://doi.org/10.1016/j.ejor.2017.12.006>.

P2P) continues to be in the public spotlight day by day. Various cases of violations by Fintech companies are starting to appear in the mass media. There are also different types of violations committed by Fintech Companies. Starting from intimidating collection (Article 368 of the Criminal Code and Article 29 in conjunction with 45 of the ITE Law), dissemination of personal data (Article 32 in conjunction with Article 48 of the ITE Law), fraud (Article 378 of the Criminal Code) to sexual understanding through electronic media (Article 27 Paragraph 1 in conjunction with Paragraph 45 1 of the ITE Law) which is suspected to have occurred in this matter. One of the various alleged violations stems from the results of public complaint reports received by various Legal Aid Institutions (*Lembaga Bantuan Hukum/LBH*) since last year. Lastly, this fintech problem even claimed the life of a customer who chose to commit suicide due to depression due to collecting the loan. Unfortunately, the resolution of this legal problem is still minimal, so similar cases continue to emerge. As stated in Article 7 POJK 77/2016, Organizers are required to submit applications for registration and licensing to the OJK. Based on civil law studies on financial technology, legal actions that arise between debtors and creditors are based on an agreement.¹⁰ Based on the background, this research aims to analyze the urgency of forming legal regulations regarding online loans and Legal Protection for the Community Regarding Online Loans in Indonesia.

B. RESEARCH METHODS

The research method used in this research is normative juridical. The research approach used is through legislation and literature approaches. The type of data used is secondary data sourced from primary legal materials, namely consisting of the Civil Code, Criminal Code, Law Number 8 of 1999 concerning Consumer Protection, Law Number 11 of 2008 concerning Electronic Information and Transactions, and Government Regulations in Lieu of Law (*Peraturan Pemerintah Pengganti Undang-Undang/Perpu*) Number 3 of 2008 concerning Amendments to Law Number 24 of 2004 concerning Deposit Insurance Corporation, Bank Indonesia Regulation Number 19/12/PBI/2017 concerning Application of Financial Technology, Application of Fintech, Financial Services Authority Regulation Number 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services (*Penyelenggaraan Layanan Pendanaan Bersama Berbasis Teknologi Informasi/LPBBTI*).

¹⁰ Rizka Noor Hasela, "Lemahnya Perlindungan Hukum Bagi Nasabah Pinjaman Online," *Pelaihari*, 2020, https://jdih.tanahlautkab.go.id/artikel_hukum/detail/lemahnya-perlindungan-hukum-bagi-nasabah-pinjaman-online.

C. DISCUSSION

1. The Urgency of Forming Legislative Regulations Concerning Online Loans in Indonesia

The concept of a legal state originates from ancient times Greeks (between 500 and 300 BC) who participated in the independent definition of the City's political community.¹¹ But along with the emergence of democratic politics, the law began to develop. Namely, the law started to find a new idea that could best protect against acts of discrimination and arbitrary attitudes from those in power.¹²

The rule of law is the same as the law of gravity. Law enforcement is capable of providing order amidst the chaos that occurs in society. This shows that the law offers values that bring goodness to society. But the law cannot appear suddenly like the law of gravity. Laws must be made and enforced by those who have the authority to make them.¹³

Laws made by those in authority must have noble goals for society. According to Utrecht, law has goals to be achieved: to regulate order in society, create peace and justice, provide benefits to society, give a sense of certainty to society, and maintain public order.¹⁴

An independent and sovereign country has definite laws, whether those laws are written or unwritten. Indonesia is a country of law, as stated in the 1945 Constitution. Law is really needed by society. Along with the development of a very dynamic society, the need for law protects all the needs of society that may arise from this dynamism.¹⁵

One of the developments occurring in society is the development of technology, which has brought many changes to aspects of people's lives. Globalization provides significant technological developments. Technological advances have a big influence. This certainly has a good impact because it benefits society, especially efficiency and effectiveness in work, especially in the financial aspect. Specifically in Indonesia, the influence of technology on financial aspects has experienced significant growth in recent years.

¹¹ Kieran McGroarty, *Law and the Courts in Ancient Greece*, *Law and the Courts in Ancient Greece* (Duckworth, 2004), <https://doi.org/10.5040/9781472540966>.

¹² Matthieu Burnay, *Chinese Perspectives on the International Rule of Law: Law and Politics in the One-Party State*, *Chinese Perspectives on the International Rule of Law: Law and Politics in the One-Party State* (Edward Elgar Publishing, 2018), <https://doi.org/10.4337/9781788112390>.

¹³ Robert McCorquodale, "defining the international rule of law: Defying Gravity?," *International and Comparative Law Quarterly* 65, no. 2 (April 1, 2016): 277–304, <https://doi.org/10.1017/S0020589316000026>.

¹⁴ Fernando Morganda Manullang, "The Purpose Of Law, Pancasila And Legality According To Ernst Utrecht: A Critical Reflection," *Indonesia Law Review* 5, no. 2 (August 31, 2015): 5, <https://doi.org/10.15742/ilrev.v5n2.141>.

¹⁵ Yolla Veronica Sembiring et al., "Criminal Law and Scope of Criminal Law," *International Journal of Law and Society* 1, no. 3 (May 8, 2024): 37–44, <https://doi.org/10.62951/ijls.v1i3.55>.

Considering that society's need for financial transactions is increasing, technological developments in the financial sector continue to be accelerated. Realizing the difficulties faced by people in carrying out non-cash financial transactions, several financial service providers are offering new products as the right solution to overcome these problems.¹⁶

Since 2016, this P2PL service has been improving in Indonesian society. Online loans were more commonly employed at the time to assist local Micro, Small, and Medium Enterprises (MSMEs). P2PL cash lending service bridges the financing (loan) demand gap in Indonesia, providing access to people who are unbanked but creditworthy. Credit card penetration was relatively low at the time. According to statistics collected from eighteen credit card companies, Indonesia has only 9 million unique cardholders, which is considered very low (less than 6%). So, at least more than 90% of the adult population could benefit from the facility, but they didn't have one. In the midst of that circumstance, we, at last, see that the P2PL loaning benefit is displayed to be put through the moneylenders and the borrowers. As the industry develops altogether, there's too potential hazard to be mindful of, which is the event of ruthless loan specialists.¹⁷

Online lending activities in Indonesia experience ups and downs. Based on reports from the Finance Department of the Financial Services Authority (OJK), online loans or fintech will experience a decline in early 2024. The recorded loan value for the January 2024 distribution reached IDR 22.07 trillion, down 2.22% from the previous month (month-on-month/mom), amounting to IDR 22.57 trillion. However, when compared to a year ago, national loan distribution in January 2024 increased by 17.84% (year-on-year/yoy).

Loan distribution in January 2024 reached 9.94 million loan recipient accounts. This means the number of borrowers decreased by 1.2% every month. Borrowers from Java Island still dominate, with 7.63 million accounts or the equivalent of 76.77% of total national borrowers. Of the total loan value in January 2024, IDR 6.48 trillion or 29.4%, was distributed to the productive people sector. The productive industries that receive the most extensive loan distribution are wholesale and retail trade, amounting to IDR 3 trillion. Then IDR 295.67 billion was distributed to the agriculture, forestry, and fisheries sectors; IDR 85.74 billion to the processing industry sector; and IDR 851.57

¹⁶ Poppy Amanda Putri and Kasmento Rinaldi, "The Problems of Illegal Online Loans Based on the Victim's Perspective: A Case Study," *International Journal of Advances in Social and Economics* 4, no. 3 (January 13, 2023): 102–6, <https://doi.org/10.33122/ijase.v4i3.215>.

¹⁷ Yuli Kurniawati and Nindya Kartika Kusmayati, "The Influence of Online Cash Loan Service, Collection Ethics, and Service Integrity towards the Emotional Condition of User," *IJEBD (International Journal of Entrepreneurship and Business Development)* 6, no. 5 (2023): 978–88, <https://doi.org/10.29138/ijebd.v6i5.2378>.

billion to accommodation and food and beverage provision sectors. Disbursement cooperation by institutional lenders (super lenders) in January 2024 came from 99 conventional finance service institutions with a value of IDR 8.11 trillion.¹⁸

In another view, it tends to be a form of cybercrime. Cybercrime does not only discuss online data theft or acts of harassment but also the scope of crimes regarding online cash loan services. The increasing number of online loan crimes is due to government regulations and policies that often get weak. The government has already formulated legal regulations about online cash loans that are expected to protect victims of cash online loan crimes.¹⁹

Regulation of financial matters is the task of the OJK. This OJK was formed based on Law No. 21 of 2011 concerning the Financial Services Authority. OJK has a set of duties, namely supervising every financial transaction and regulating, examining, and conducting investigations of activities carried out by financial services institutions and financing institutions. As an independent and free institution, OJK has the authority to grant/revoke business permits, individual permits, endorsements, and other determinations, as stated in Article 9 of Law Number 21 of 2011, which reflects efforts to protect consumers.

Some of the financial transactions under OJK supervision involve lending and borrowing. The Financial Services Authority issued Regulation Number 77/POJK.01/2016 regulating Lending and borrowing. The definition of online loans is usually also referred to as fintech. This regulation explicitly discusses information Technology Money Lending Services.

The definition of fintech based on these regulations is the provision of financial services that enable interaction between lenders and borrowers, with the aim of facilitating loan agreements in the Indonesian currency Rupiah currency. This facilitation occurs directly through an electronic system that utilizes an Internet Network.

Based on Article 19 paragraphs (1) and (2) Financial Services Authority Regulation Number 77 of 2016 concerning Information Technology-Based Money Lending and Borrowing Services regulate the contents of online lending and borrowing agreements, namely as follows:²⁰

¹⁸ Aryono Aryono, Sabrina Difa Amalia, and Adelina Damayanti Anggarini, "Handling The Crime Of Threats And Misuse Of Personal Data In Illegal Online Loan Cases," *International Journal of Law and Legal Ethics (Ijlle)* 3, no. 2 (2022): 15–23, <https://doi.org/10.47701/ijlle.v5i2.4024>.

¹⁹ Fitriah Maghfirah and Fathayatul Husna, "Cyber Crime And Privacy Right Violation Cases Of Online Loans In Indonesia," *Proceedings: Dirundeng International Conference on Islamic Studies*, May 31, 2022, 1–18, <https://doi.org/10.47498/dicis.v1i1.1009>.

²⁰ Allyssa Farisa Yasmine et al., "Dampak Pengancaman Tindak Pidana Desk Collector Terhadap Debitur Pinjaman Online Menurut Lifestyle Routine Activity Theory," *Jurnal Hukum Ius Publicum* 4, no. 2 (2023): 183–211, <https://paperity.org/p/340156239/dampak-pengancaman-tindak-pidana-desk-collector-terhadap-debitur-pinjaman-online-menurut>.

1. Agreement for providing technology-based money lending and borrowing services information between the organizer and the lender is stated in electronic documents.
2. Electronic documents as intended in paragraph (1) must be at least contain: a) agreement number, b) agreement date, c) identity of the parties, d) provisions regarding the rights and obligations of the parties, e) loan amount, f) tribe interest, g) amount of commission, h) term, i) details of related costs, j) conditions regarding fines if any, k) dispute resolution mechanisms, and l) mechanisms settlement in the event that the organizer is unable to continue the activity operational.

The requirements as regulated in Article 19, paragraph (1) and paragraph (2) are not fulfilled by illegal online loans. This ultimately causes loan recipients to experience many cases, such as high interest rates and very short loan repayment terms. Then, not many people commit suicide as a result of being involved in online loans. This is very different from legal online lending institutions, which meet the requirements as regulated in Article 19 paragraphs (1) and (2), namely having clear, structured and profitable procedures for lenders and loan recipients.

Bank Indonesia regulations also regulate fintech because Fintech companies that focus on lending money are subjects regulated by Bank Indonesia regulations.²¹ Fintech is also regulated in Bank Indonesia Regulation No.19/12/PBI/2017 concerning the Application of Financial Technology (Fintech). This regulation explicitly elaborates on the concept of fintech. According to Bank Indonesia regulations, fintech is the use of technology in the financial system that produces new products, services, technology, or business models in the financial sector system. This can have an impact on the stability of the economic system, monetary stability, security, efficiency, smoothness, and reliability of the payment system.²²

Based on Bank Indonesia regulations, Fintech is classified into several categories, namely as follows:

1. Peer-to-Peer (P2P) Lending and Crowdfunding (Online Loans). P2P Lending is a business model that brings borrowers and lenders together with loans on one platform. P2P Lending is operated digitally via a platform, and the investment committee evaluates requests before the investment is made. P2P Lending receives attention in risk control,

²¹ Diva Salasa Anastasia, "Urgensi Pembentukan Hukum Fintech Untuk Memberi Perlindungan Hukum Kepada Konsumen Dalam Pinjaman Online," *Jurnal Hukum Dan HAM Wara Sains 2*, no. 02 (February 28, 2023): 136–51, <https://doi.org/10.58812/jhhws.v2i02.227>.

²² Armita Latif et al., "Legal Protection for Online Loan Borrowers," *Indonesian Journal of Law and Islamic Law (IJLIL)* 5, no. 1 (July 7, 2023): 1–15, <https://doi.org/10.35719/IJLIL.V5I1.279>.

including the ability to accurately assess and screen borrowers in controlling credit risk.²³

2. Risk and Investment Management. Bank Indonesia has recognized this type of fintech. Its function is to organize financial plans for various short-term and long-term needs. Therefore, if you can arrange Effective risk management, you can make wise financial decisions.²⁴
3. Market Aggregator. Fintech Aggregator is a service created by fintech companies that provides users with information about financial products. This fintech service works very simply: users select all products online. In general, these fintech services are similar to services in supermarkets because users can compare financial products from different service providers.²⁵

So, it is concluded that the legal regulation of online loans is not only regulated in OJK regulations but also regulated in Bank Indonesia regulations as regulated in BI Regulation Number 19/12/PBI/2017, which governs transaction procedures between consumers. Suppose one of the parties in fintech violates the regulations as regulated in BI Regulation No. 19/12/PBI/2017. In that case, sanctions have also been regulated for those who violate these provisions as stipulated in Article 20 of the Bank Indonesia regulations, namely in the form of a written warning, termination of business activities, or providing a recommendation to the competent authority to revoke the business permit. Has been issued if the fintech operator does not register with Bank Indonesia and does not provide information about the products, services, technology and/or business models being implemented.

The Draft Financial Technology Law (*Rancangan Undang-Undang Financial Technology*/RUU Fintech) is still in the review stage. Until now, fintech business activities still fall under the legal umbrella of OJK Regulation Number 13/POJK.02/2018 concerning Digital Financial Innovation in the Financial Services Sector. Currently, we are only able to provide education and introduction to the public regarding fintech lending that has been registered with the OJK. This is done so that people can understand and borrow from fintech lending registered with the OJK.

²³ Yudlil Firdaus, "Perlindungan Hukum Terhadap Pengguna Pinjaman Online Ilegal," *De Cive: Jurnal Penelitian Pendidikan Pancasila Dan Kewarganegaraan* 2, no. 3 (May 27, 2022): 102–8, <https://doi.org/10.56393/decive.v2i3.1501>.

²⁴ Loso Judijanto et al., "Modern Approaches To Risk Management in Investment Portfolios: Strategies in Market Volatility," *International Journal of Economic Literature (INJOLE)* 2, no. 2 (January 23, 2024): 362–72, <https://injole.joln.org/index.php/ijle/article/view/71>.

²⁵ Yossi Artika Puti, "Business Model Fintech Aggregator In Indonesia (Cermati.Com Case Study)," *International Journal of Science, Technology & Management* 5, no. 3 (May 28, 2024): 632–49, <https://doi.org/10.46729/ijstm.v5i3.1104>.

Apart from that, the proliferation of illegal financial institutions continues to operate and is very difficult to eradicate. The existence of a law that regulates fintech in full and in detail will be able to minimize and overcome violations that will occur directly. Therefore, the presence of fintech in Indonesia has had a positive effect on the ease of financial services during the current pandemic. However, suppose you ignore the balance between convenience and flexibility of the services offered by fintech accompanied by aspects of monitoring and consumer protection. In that case, it will have a bad influence, namely that fintech has the potential to disrupt the stability of the financial system in Indonesia. Thus, the existence of a complete law can become a legal force and also provide responsibility for law enforcers to carry out legal guidelines that apply to society.

To ensure adequate protection, several regulations have been implemented, including Financial Services Authority Regulation Number 77/POJK.01/2016, the Information and Electronic Transactions (ITE) Law, the Personal Data Protection Law, and the Consumer Protection Law. These regulations address the importance of protecting personal data in the digital realm, recognizing it as an integral part of an individual's identity as a legal subject. Misuse of personal data by irresponsible parties can infringe upon an individual's rights and legal standing. Therefore, it is crucial to establish safeguards and regulations to protect personal data and uphold the rights of individuals in the digital era.²⁶

The formation of a special law regarding online loans also provides an answer to achieving legal ideals, namely providing a sense of certainty, justice and legal benefit, as stated by Gustav Radburch. The theory of legal ideals, according to Gustav Radburch, classifies legal ideals into 3 (three) things that must be achieved by law, namely:²⁷

1. Achieving certainty: Legal certainty is interpreted as a situation where it is a particular law because there is concrete strength for the law in question. The existence of legal certainty is a hope for justice seekers against arbitrary actions from law enforcement officials who are sometimes always arrogant in carrying out their duties as law enforcers. Because with certainty, the legal community will know the clarity of their rights and obligations according to the law. According to

²⁶ Ninne Zahara Silviani and Jeslyn Teo, "Enhancing Consumer Protection In Indonesia's Fintech Industry: Safeguarding The Rights Of Fintech Service Users," *Ganesha Law Review* 5, no. 1 (May 1, 2023): 58–68, <https://ejournal2.undiksha.ac.id/index.php/GLR/article/view/2238>.

²⁷ Ekberth Vallen Noya and Ade Walakutty, "Hukum Berparadigma Cita Hukum Indonesia Demi Tercapainya Keadilan," *Sanisa Jurnal Kreativitas Mahasiswa Hukum* 2, no. 2 (November 13, 2022): 69–80, <https://fhukum.unpatti.ac.id/jurnal/sanisa/article/view/1207>.

Gustav Radbruch, 4 essential things have meaning with certainty law:²⁸ (1) Law is a positive thing which means that positive law is legislation invitation; (2) The law is based on a fact, meaning that the law is made based on fact; (3) The facts contained or stated in the law must be formulated in a manner clear so that it will avoid mistakes in terms of meaning and interpretation and can be easily implemented; (4) Positive law must not be easily changed. Based on this theory, the establishment of a special regulation regarding online loans in the form of law is able to provide legal certainty; this is because the current rules only apply to regulations made by financial institutions such as the OJK and Bank Indonesia, where the legal rules made by this institution have little impact. After all, hierarchically, the regulations made by the OJK and BI are not in the legal hierarchy. However, it needs to be acknowledged that the formation of OJK and BI institutions was based on law. However, the issue of online loans has given rise to so many communities need that need to be protected that it is no longer adequate to only regulate them by regulations made by the OJK and BI institutions. For example, issues related to the distribution of personal data from online loans have no rules or sanctions in OJK and BI regulations. The increasingly complex issues related to online loans have become an urgency for the establishment of special laws to provide a sense of certainty for the public.

2. Achieving justice: Justice is an expectation that must be fulfilled within law enforcement. Based on its characteristics, justice is subjective, individualistic and does not generalize.²⁹ Based on the aspect of justice, it is hoped that the establishment of a special law that regulates online loans will also be able to provide justice for lenders and loan recipients. This is important because what is happening now is that loan recipients often experience injustice, especially at illegal online lending institutions, namely being charged very high loan interest. The online loan agreement only burdens the loan recipient.
3. Achieving benefit for society: Benefits, in this case, refer to positive results. Resulting from the application of law for the benefit of society.³⁰ In terms of forming a special law regarding online loans, it is

²⁸ Dino Rizka Afdhali and Taufiqurrohman Syahuri, "Idealitas Penegakkan Hukum Ditinjau Dari Perspektif Teori Tujuan Hukum," *Collegium Studiosum Journal* 6, no. 2 (December 11, 2023): 555–61, <https://doi.org/10.56301/csj.v6i2.1078>.

²⁹ Hasaziduhu Moho, "Penegakan Hukum Di Indonesia Menurut Aspek Kepastian Hukum, Keadilan, Dan Hasaziduhu Moho. 'Penegakan Hukum Di Indonesia Menurut Aspek Kepastian Hukum, Keadilan, Dan Kemanfaatan.' *Jurnal Warta* 13, No. 1 (2019): 138–49. Kemanfaatan," *Jurnal Warta* 13, no. 1 (March 14, 2019): 138–49, <https://doi.org/10.46576/WDW.V0I59.349>.

³⁰ Sekar Balqis Safitra Rizki Wahyudia Putri, "Analisis Teori Tujuan Hukum Gustav Radbruch Dalam Kedudukan Majelis Penyelesaian Perselisihan Medis Dalam Undang - Undang Nomor 17 Tahun

also hoped that it will be able to provide benefits to the community, especially the benefits of creating illegal online loans; the rights of the community as loan recipients are also taken into account, such as the existence of provisions for online lending and borrowing agreements which have balanced rights and obligations between lenders and recipients of loans, as well as the existence of laws that specifically regulate online loans, also provide a strong and definite legal umbrella. However, the urgency of establishing a special law regarding online loans also indirectly provides internal legal protection because the special law is expected to regulate procedures, terms and conditions in online loan agreements that take into account the rights and obligations of borrowers, providers, and online loan recipients so that the needs of online loan givers and recipients can be appropriately accommodated in the agreement.³¹

2. Legal Protection for the Community Regarding Online Loans in Indonesia

Legal protection is an effort made by law to provide and fulfill citizens' rights in all aspects of life, such as protection against discrimination, protection from arbitrary actions and so on. Various issues of legal protection from multiple aspects of human life with technological problems have been discussed in various previous studies, such as legal protection for women as victims of violence on social media.³², and Previous research discusses legal protection for consumers in electronic transactions in society.³³

In terms of measuring the depth of legal protection, the theory of legal protection is used. The theory of legal protection is a theory whose study is somewhat focused on the legal protection provided to society, namely society, which is in a weak position, both in terms of juridical and economic aspects. Legal protection is a term that comes from English and is called legal protection

2023 Tentang Kesehatan," *Sangaji: Jurnal Pemikiran Syariah Dan Hukum* 8, no. 2 (October 31, 2024): 315–26, <https://doi.org/10.52266/SANGAJI.V8I2.3463>.

³¹ Hari Sutra Disemadi, "Fenomena Predatory Lending: Suatu Kajian Penyelenggaraan Bisnis Fintech P2P Lending Selama Pandemi COVID-19 Di Indonesia," *Pandecta Research Law Journal* 16, no. 1 (June 6, 2021): 55–67, <https://doi.org/10.15294/PANDECTA.V16I1.26860>.

³² Derry Angling Kesuma, "Legal Protection for Women Victims of Domestic Violence Due to Social-Media," *International Journal of Artificial Intelligence Research* 6, no. 1.2 (October 8, 2024): 2022, <https://doi.org/10.29099/ijair.v6i1.2.412>.

³³ Gusti Ayu Dwi Dhyana Amrita, Ni Luh Made Mahendrawati, and Ni Made Puspasutari Ujianti, "Perlindungan Hukum Bagi Konsumen Dalam Transaksi Jual Beli Melalui Media Elektronik Dengan Sistem "Dropship"," *Jurnal Konstruksi Hukum* 1, no. 1 (August 27, 2020): 135–39, <https://doi.org/10.22225/jkh.1.1.2146.135-139>.

theory; apart from that, in Dutch, it is theory van the wettelijke bescherming, and in German, it is theory de rechtliche Schutz.³⁴

Legal protection is a means of upholding justice, including enforcing justice in the field of business agreements. The contract legal system provides freedom to the parties to enter into agreements, both in content and form. However, the content must meet the requirements for the agreement's validity and must not conflict with legislation, morality, or public order.³⁵

In terms of analyzing legal protection for society in the issue of online loans, the Legal Protection Theory by Isnaeni is used because the Legal Protection Theory by Mochammad Isnaeni is a theory that looks at legal protection from civil aspects. Mochammad Isnaeni argue that based on the source, legal protection can be divided into two types, namely:³⁶

1. Internal legal protection, which has meaning, is a legal protection that is created or arises from an agreement that has been agreed upon by all parties to the contract. The deal in question is designed by the parties themselves so that it creates a legal protection effort because if the parties actively participate in making the contents of the agreement, it can accommodate their needs. Legal protection through this agreement will be realized if the positions of the parties bound by the agreement are equal.
2. External legal protection that has meaning, namely legal protection, arises because they are made by the authorities, which is manifested in a regulation aimed at the interests of the weak. In accordance with its essence, a regulation should be made in a balanced and balanced manner that is proportional without discrimination or favouring certain parties. External legal protection is established to prevent injustice, arbitrariness towards the interests of other parties, and loss for the weak party

Based on Isnaeni's theory of legal protection, if it is related to the issue of the urgency of forming a law regarding online loans, then this is an external legal protection, namely legal protection provided by the authorized party, namely the government, to the weak party, namely the community, so that

³⁴ Jonathan Elkana Soritua Aruan, "Perlindungan Data Pribadi Ditinjau Dari Teori Perlindungan Hukum Dan Teori Perlindungan Hak Atas Privasi," *Jurnal Globalisasi Hukum* 1, no. 1 (2024): 1–22, <https://doi.org/10.25105/jgh.v1i1.19499>.

³⁵ Rikky Nelson Manurung and I Made Kantikha, "Perlindungan Hukum Terhadap Konsumen Dalam Kontrak Bisnis Properti," *Federalisme: Jurnal Kajian Hukum Dan Ilmu Komunikasi* 1, no. 3 (August 20, 2024): 138–45, <https://doi.org/10.62383/federalisme.v1i3.65>.

³⁶ Muhammad Rifaldi Setiawan, Muhammad Fakhry, and Mahardika Apriano, "Perlindungan Hukum Kreditor Dalam Warisan Atas Harta Peninggalan Tak Terurus Menurut Sistem Waris Barat," *Jurnal Komunikasi Hukum (JKH)* 7, no. 1 (2021): 419, <https://doi.org/10.23887/jkh.v7i1.31767>.

they are protected from the action: discrimination and arbitrary actions. In the case of online loans, which are related to actions regarding leaks of personal data, people become victims of illegal lending institutions where online loan agreements tend only to burden the recipient of the loan. Then, the hope is that through the formation of a special law regarding online loans, this illegal financial institution practice can also be eradicated. However, the urgency of establishing a special law relating to online loans also indirectly provides internal legal protection because, in the special law, it is hoped that procedures, terms and conditions in online loan agreements will be regulated, which will consider the rights and obligations of the provider. The recipient of the online loan must be included so that the needs of the giver and recipient of the online loan can be appropriately accommodated in the agreement.

D. CONCLUSION

Technological developments have various impacts on all aspects of human life, one of which is the financial aspect. The financial sector is experiencing various rapid transformations and innovations. One of them is a loan that can be done online. Currently, Indonesia has several regulations governing online loans, namely the OJK regulations. This institution was formed based on law. This online loan is also regulated by Bank Indonesia regulations, where Bank Indonesia was also formed based on law. In practice, the development of online loans is growing very rapidly and has given rise to various cases that must be considered, such as the emergence of illegal financial institutions that provide online loan services that do not comply with procedures determined by the OJK regulations so that the rights and obligations between loan givers and recipients unbalanced, as well as the spread of personal data. Therefore, it is time for Indonesia to have a law that explicitly regulates online loans to provide legal protection for the public. If we refer to Isnaeni's Theory of Legal Protection, then the existence of this unique law will provide external legal protection for society.

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