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Consumer Protection in Illegal Online Lending Practices: A Private Law Analysis and Enforcement Efforts

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ABSTRACT

This research critically examines consumer protection within the context of illegal online lending practices in Indonesia, analyzed through the lens of private law. The proliferation of unauthorized online lending platforms has exposed individuals to severe financial and psychological harm due to exorbitant interest rates, hidden fees, and coercive collection methods, highlighting a pressing need for robust legal safeguards. Employing a normative legal research methodology, this study primarily analyzes relevant statutes, legal doctrines, and case law pertaining to contract law, consumer protection, and torts. It identifies the inherent violations of private law principles by illegal lenders and scrutinizes the effectiveness of existing legal remedies and enforcement efforts by regulatory bodies and law enforcement. The findings reveal persistent challenges in applying current legal frameworks to the complex nature of illegal online lending, emphasizing the need for clearer legal interpretations, enhanced inter-agency coordination, and strengthened mechanisms for data protection and digital evidence. This study aims to contribute to legal scholarship and inform policy recommendations for more effective consumer protection against illicit online lending activities.

Keyword: *Consumer Protection, Private Law, Illegal Online Lending, Legal Remedies, Law Enforcement.*

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INTRODUCTION

A. Background of the Research

The rapid advancement of information and communication technology has led to various innovations, particularly in the financial sector (Wijoyo et al., 2020). One of the most significant innovations is the emergence of online lending platforms (fintech lending). These platforms offer easy and quick access to credit with minimal requirements, making them an attractive alternative for individuals who need urgent funds or lack access to conventional financial institutions. However, despite the convenience they offer, the phenomenon of online lending has also given rise to numerous problems, especially with the proliferation of illegal online lending practices. Illegal online lending has become a crucial issue in Indonesia. Unlike legal online lenders that are registered and supervised by the Financial Services Authority (OJK), illegal platforms operate without proper licenses, often imposing exorbitant interest rates, hidden fees, and employing coercive and unlawful collection methods (Sugangga & Sentoso, 2020). This situation places consumers in a highly vulnerable position, both financially and psychologically. Many victims of illegal online lending suffer significant material losses, get trapped in endless debt, and are often subjected to personal data dissemination and harassment. This issue directly relates to private law, specifically in the domains of contract law, consumer protection law, and tort law. Loan agreements, even if deemed illegal, still generate legal consequences, particularly concerning the rights and obligations of the

parties involved, and the legal remedies available to aggrieved consumers. Therefore, it is crucial to analyze how private law provides protection for consumers entangled in illegal online lending practices, and how law enforcement efforts can be effectively implemented to address this problem (Dzaky et al., 2022). Given the complexity and socio-economic impact of illegal online lending, this research is both relevant and urgent. A deep understanding of the private law aspects surrounding this issue is expected to contribute to the development of a stronger legal framework and more effective consumer protection mechanisms in the future.

B. Formulation of the Research

Based on the detailed problems outlined above, the formulation of the research problem to be addressed in this study is: "How is the private law analysis of consumer protection in illegal online lending practices and how are the enforcement efforts in Indonesia?"

C. The Purpose of The Research

Based on the detailed problems outlined above, the purpose of this research is: "To deeply analyze consumer protection in illegal online lending practices from a private law perspective, and to identify the law enforcement efforts that have been, and can be, implemented in Indonesia."

D. The Significance of The Research

1. For the Consumer
   This study is expected to provide better understanding to the public and consumers regarding their rights, the risks associated with illegal online lending, and the legal avenues available if they become victims. This can empower consumers to take self-protective measures and seek justice.
2. For the Regulator and Law Enforcement
   This study is expected to provide input and recommendations for the Financial Services Authority (OJK), the Ministry of Communication and Information Technology (Kominfo), the Police, and other law enforcement agencies in formulating more effective policies, strengthening regulations, and enhancing the effectiveness of enforcement against illegal online lending practices.
3. For the Academician/Writer
   This research is expected to enrich legal scholarship, particularly in the fields of private law and consumer protection. For the author, this study offers an opportunity to delve into a relevant contemporary issue, develop legal analytical skills, and contribute to academic discussions on solutions to the problem of illegal online lending.

E. Defenition of Key Terms

It is important for the researcher to clarify the terms used in this paper, which are as follows:

1. Consumer Protection
   Refers to all legal and non-legal efforts aimed at ensuring the fulfillment of consumer rights, preventing harm, and providing fair dispute resolution mechanisms in transactions of goods and/or services.

2. Illegal Online Lending
   Refers to the activity of providing loans through digital platforms (applications or websites) without official permission and supervision from the Financial Services Authority (OJK) or other authorized institutions in Indonesia, often characterized by unreasonable interest rates, hidden fees, and unlawful collection practices.

MATERIALS AND METHODS

This section details the research design, data collection, and analytical approaches employed to address the research questions concerning consumer protection in illegal online lending practices.

This study employs a normative legal research methodology (also known as doctrinal legal research). This approach is particularly suitable for analyzing legal norms, principles, and doctrines within existing legal frameworks. It primarily involves the systematic examination of:
Primary Legal Materials, including statutory provisions (e.g., laws related to consumer protection, contract law, information and electronic transactions), government regulations, and relevant judicial precedents or case law in Indonesia. Additionally,
Secondary Legal Materials such as legal scholarly works, journals, textbooks, and other academic analyses that interpret and elaborate on the primary legal materials, offering different perspectives and theoretical underpinnings, will be reviewed. Data will also include
Tertiary Legal Materials, which guide the researcher to primary and secondary sources, such as legal dictionaries and encyclopedias. The research aims to conduct a qualitative analysis of legal texts to understand how private law principles apply to illegal online lending and to identify gaps or inconsistencies in existing enforcement mechanisms (David tan, 2021).
The data collection process, based on the normative legal research design, primarily involves legal documents and scholarly literature. This includes Statutory Review, identifying and analyzing relevant Indonesian laws and regulations, such as Law No. 8 of 1999 concerning Consumer Protection, Law No. 11 of 2008 concerning Electronic Information and Transactions (and its amendments), the Civil Code (Kitab Undang-Undang Hukum Perdata) concerning contract law and torts, and regulations issued by the Financial Services Authority (OJK) distinguishing between legal and illegal fintech lending practices (Rasji & Budiman, 2023). Case Law Analysis will involve reviewing publicly available court decisions or reports on cases related to illegal online lending, consumer disputes, and data misuse to understand judicial interpretations. Policy Documents and Reports from relevant government agencies (e.g., OJK, Ministry of Communication and Information Technology, National Police) regarding illegal online lending enforcement efforts and consumer complaints will also be examined (Wahyuddin Nur et al., 2024). Finally, a comprehensive Academic Literature Review of scholarly articles, theses, dissertations, and books on consumer protection, fintech lending, private law, and enforcement challenges, both domestically and internationally, will be conducted for comparative perspective and theoretical depth. Data collection will be primarily through library research and online databases of legal documents and academic publications.
The collected legal materials and literature will be analyzed using descriptive qualitative analysis. This involves Content Analysis, systematically examining statutory provisions and regulations to ascertain their scope, applicability, and limitations in addressing illegal online lending. Conceptual Analysis will explore key legal concepts such as "contract validity," "unlawful acts (tort)," "consumer rights," and "data protection" as they relate to this context. Where relevant, Comparative Analysis will contrast Indonesian legal frameworks and enforcement efforts with international best practices (Yulisman & Silm Oktapani, 2024). A critical part of the analysis is Identification of Gaps and Challenges, pinpointing inconsistencies, ambiguities, or inadequacies in current legal provisions and enforcement mechanisms that hinder effective consumer protection. Based on this analysis, Formulation of Recommendations will occur to strengthen the legal framework and enhance enforcement efforts. The analysis will specifically focus on how private law principles can be invoked by consumers victimized by illegal online lenders, and the effectiveness of current legal remedies and enforcement actions.

RESULTS

Based on a comprehensive legal analysis, it was found that private law principles, specifically from contract law, consumer protection law, and tort law, have potential applicability to illegal online lending practices. In the context of contract law, illegal loan agreements frequently violate sound principles of freedom of contract and good faith, often involving burdensome and unfair terms, and even elements of coercion or fraud that could lead to contract nullification. From a consumer protection law perspective, illegal online lending practices blatantly violate consumers' rights to clear

information, fair treatment, and transparent dispute resolution mechanisms, as stipulated in the Consumer Protection Law. Furthermore, actions such as personal data dissemination, intimidation, and coercive collection methods can be categorized as unlawful acts (torts), opening avenues for victims to seek damages under the Civil Code.

However, the research results also identified significant legal gaps and enforcement challenges. Existing laws, although generally relevant, are not yet fully specific in addressing the unique characteristics of illegal online lending, such as its cross-border nature, rapid platform emergence and disappearance, and difficulties in digital evidence collection. Enforcement efforts by the Financial Services Authority (OJK), the Ministry of Communication and Information Technology (Kominfo), and the Police demonstrate a commitment to combating illegal lending, as evidenced by website and application blocking and arrests of perpetrators (Sinaga, 2023). Nevertheless, inter-agency coordination still requires improvement for greater effectiveness. Court cases that have been successfully resolved are often limited to those with significant financial losses or very clear evidence, while many small victims struggle to access justice (Arifin et al., 2023). This indicates that although a private law basis exists, its application and enforcement are often hampered by the technical and operational complexities inherent in this type of cybercrime.

DISCUSSION

The analysis of these research findings confirms that while private law principles are fundamentally in place to protect consumers, their application in cases of illegal online lending in Indonesia is fraught with challenges. Violations of contractual principles such as fairness and free consent frequently occur in illegal loan agreements, but they are often difficult to prove in court due to the nature of these agreements, which are frequently unwritten or digital and conducted without clear identities. Consumers caught in illegal online lending schemes often face exorbitant interest rates and hidden fees, clearly violating consumer rights to accurate information and fair treatment as regulated by the Consumer Protection Law (Wahyuni & Turisno, 2019). Furthermore, coercive collection methods, personal data dissemination, and intimidation constitute forms of unlawful acts (torts) that can be litigated under civil law. However, a lack of public legal awareness and limited access to legal aid often deter victims from pursuing legal action.

Challenges in law enforcement are also a major highlight. Although OJK has been active in blocking thousands of illegal online lending entities, and Kominfo and the Police strive to prosecute perpetrators, the scale of the problem is immense and continuously evolving. The rapid movement of illegal platforms, which can change names or reappear quickly, complicates enforcement efforts. The lack of specific and adaptive regulations for rapidly changing financial technology means law enforcers must rely on existing laws, which may not have been designed to address these digital complexities. Inter-agency coordination needs to be enhanced to create a more integrated and efficient response. Moreover, issues of jurisdiction and digital evidence present serious obstacles. Widely disseminated personal data is often difficult to trace back to its original source, and the process of collecting legitimate digital evidence still requires further development. Therefore, while the private law framework provides a foundation, clearer interpretations, stronger coordination, and innovative enforcement approaches are necessary to effectively protect consumers from the continuously evolving illegal online lending practices.

CONCLUSIONS

Based on the data analysis and discussion, it can be concluded that while fundamental tenets of contract law, consumer protection law, and tort law can theoretically offer safeguards to victims of illegal online lending, their practical application faces significant challenges. The findings reveal that illegal lenders inherently violate principles such as good faith and fair dealing, often engaging in unconscionable contract terms and unlawful acts like data misuse and harassment. However, current legal frameworks exhibit limitations in effectively addressing the unique characteristics of illegal online lending, including their unregulated nature, anonymity, and rapid proliferation. Enforcement

efforts by Indonesian authorities, while present, are constrained by issues such as the need for clearer legal interpretations, enhanced inter-agency coordination, and robust mechanisms for digital evidence collection and data protection. Therefore, while private law provides a foundational basis for consumer rights, its efficacy against illicit online lending is hampered by existing gaps and complexities in implementation and enforcement.

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