

# 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)

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**Abstract.** The terror of data dissemination when customers default on online loans is indeed very troubling. Law Number 11 of 2008 concerning Electronic Information and Transactions considers that this act violates the law. However, in its implementation in the field, the ITE Law is not very satisfactory in protecting defaulted customers from the terror of spreading data. In this study using empirical juridical methods with a statutory approach and a case approach. The results of this study prove that the terror of spreading data for defaulted customers is usually done by calling emergency numbers first to hijacking galleries and distributing photos of ID cards at the time of submission and also selfies when filing. This terror is also carried out on the numbers of companies where customers work so that it is not uncommon for customers to be fired because of the terror of spreading the data. The factor of indebted customers on online loan platforms in Medan City is due to the ease of selecting loans themselves, due to urgent economic needs, and very minimal financial literacy makes loan customers always trapped in the trap of borrowers who sometimes want to leak data and threaten when billing. In its implementation in the field, Law Number 11 of 2008 concerning Electronic Information and Transactions is not carried out optimally considering the high terror of data distribution carried out by online loans currently in Indonesian technology findusia. That is, the ITE Law is indeed protecting the public from the spread of data, but in its implementation in the field the ITE Law itself is not so strong in protecting the public from the terror of spreading data. This is also because there are rubber articles that have ambiguous explanations and articles whose implementation in the field can be compromised.

**Keywords:** financial planning; management; mosque; welfare

## I. INTRODUCTION

Technology today has a major influence on human life, especially information technology which is growing very rapidly. The development of information technology offers various conveniences and advantages in carrying out various activities. Currently in Indonesia Financial Technology or Fintech type peer-to-peer lending is on the rise, especially online loans because it is proven to be in great demand [1]. The industrial revolution has brought changes in terms of technological developments and production processes in economic activity. Changes in the way of life and work processes have changed humans in interacting with the work environment and the community environment. [2] The industrial revolution has changed the shift in the paradima that was originally centered that human as a vital element of the economy shifted slowly replaced by digitalization of technology as a driver of the economy. Technology is developing rapidly, not only in Indonesia but the world also feels the development of technology which changes significantly every time. This can happen because technology is growing rapidly every day and has entered various sectors, one of which is in the financial sector. An example is [2];[3] fintech (financial technology) which is a technology to

support financial services. The development of fintech has given rise to many application innovations in financial services, such as payment instruments, loan instruments and others that are gaining popularity in this digital era. [4].

The development of fintech in Indonesia, which is the country with the largest population in Southeast Asia and fourth in the world, is the largest market for fintech. According to the Indonesian Fintech Association (IFA), the number of fintech players in Indonesia grew 78% in 2016 IFA recorded around 135-140 start-up companies recorded. This shows that Indonesia welcomes the presence of [5] fintech to meet financial needs. In general, [6] fintech in Indonesia has enormous potential because it can provide solutions to urgent needs that cannot be provided by traditional financial institutions. [7]. Among them is the convenience in the financial sector through online loans. The rise of online lending practices (pinjol) or peer to peer lending both legal and legal due to difficult economic conditions due to the Covid-19 pandemic and also the behavior of the digital community that is consumptive and weak regulations both from the supervision system to law enforcement against fraudulent companies. With the lure of easy terms, many people are tempted by this online loan. No doubt many cases have sprung up along with the outbreak of users of this online

loan service. The problem arises after they cannot pay bills from online loan organizers. Various terrors attacked them, even to the point that some committed suicide because they could not bear the shame [8].

Various violations of the law occur including the most essential violations, namely violations of human rights (Human Rights). Currently, the Regulations issued by the Government, namely the Regulation on Peer-to-Peer Lending, the Financial Services Authority Regulation Number 77 / POJK.01 / 2016 concerning Information Technology-Based Lending and Borrowing and SEOJK Number 18 / SEJOK.01 / 2017 concerning Information Technology Governance and Risk Management in Information Technology-Based Lending and Borrowing Services, have not been able to reach the interests of legal protection for users of this service. In addition, the Financial Services Sector Consumer Protection regulation regulated in POJK Number 1 / POJK.07 / 2013 has not been able to reach the peer-to-peer lending market because there is no regulation stating that peer to peer lending is included in the consumer protection regulations of the financial services sector. Second, Legal protection of personal data has been regulated in Article 26 of the ITE Law. In particular, the protection of borrowers' personal data in online loan services is regulated in POJK No. 77 / POJK.01 / 2016 concerning Information Technology-Based Money Lending and Borrowing Services. [1]

## II. RESEARCH METHODS

This research uses the type of legal research conducted by the author is empirical juridical legal research, The empirical legal research method or empirical juridical research method is a legal research method that examines applicable legal provisions and what happens in society or research that is carried out on the actual conditions that occur in society, with the aim of finding facts that are used as research data. Then the data is analyzed to identify problems which ultimately lead to problem solving. Relevant topics or themes to be researched using empirical legal research methods are research on legal identification, and research on legal effectiveness. Legal research is focused on testing community compliance with a legal norm with the aim of measuring the effectiveness or not of an applicable legal arrangement/material. The primary data used in this research method is data obtained directly from the researched place based on respondents and sources. Data collection in the researched place is carried out by researchers by means of interviews. Related to the starting point for the analysis of Law Number 11 of 2008 concerning Electronic Information and Transactions in its application in the line of society which this time focuses on people who are customers of online loans that default. Then analyze Law Number 11 of 2008 concerning Electronic Information and Transactions which is considered to protect the rights of defaulting customers, especially protection against the dissemination of data. This research uses a statutory approach and a case approach to find out fintechs that disseminate customer data and violate the

provisions of Law Number 11 of 2008 concerning Electronic Information and Transactions.

## III. RESULTS AND DISCUSSION

### *Terror Spreads Data Carried Out By Fintek Parties To Customers Who Default On Online Loan Applications*

At this time many people who struggling to meet their needs, in a situation like this many consumers are entangled with online loans, especially online loans because they offer very easy terms, they do not think about the impact caused by these online loans. Problems arise when the due consumer cannot pay the bill, then the collection will be transferred to a third party, namely [9] the debt collector. Debt collectors often collect by coming directly to the house / office by forcing and cursing so that consumers pay their debts. Ironically, debt collectors gain access to data contained in consumers' cellphones including personal photos in galleries, social media, transportation applications and online shopping, email, even so that loans are quickly approved and disbursed by consumers by being forced to provide IMEI numbers. Even worse, consumers experience unnatural terror (called in the middle of the night), threatened, both by phone and text message, verbal sexual harassment and cyber bullying by intimidating by spreading consumer data and photos to people in the consumer's contact list accompanied by discrediting words. Billing is also done to family, friends, co-workers, and relatives so that it interferes with family relationships and social relationships. This causes trauma, stress, depression, anxiety, not focused on work, and loss of confidence even to suicide. Even worse, there are consumers who lose their jobs due to billing made to their superiors at their place of work.

The description of the working of the legal function to realize the objectives of law, namely justice, expediency, and also legal certainty is the meaning of legal protection. Legal protection for consumers by conducting a fintech-based company supervision system is closely related to consumer protection legal issues regulated in Law Number 8 of 1999 concerning Consumer Protection. Because one of the keys so that consumers can be protected their rights comes from the extent of supervisory regulations and systems carried out by the government (in this case OJK) in relation to fintech itself. The steps taken by the government in its implementation must be guided by the Financial Services Authority Regulation No. 77 / POJK.01 / 2016 concerning Information Technology Lending and Borrowing Services. [1].

Consumer protection in the financial services sector aims to create a reliable consumer protection system, increase consumer empowerment, and raise awareness of Financial Service Institutions regarding the importance of consumer protection. This is done to be able to increase public confidence in the financial services sector. This is not the first time Ramadhana Hutasuhut, 28 years old, borrowed money in one of the online loan applications called Kredit Pintar. However, his loan of IDR 1.8 million at the end of September 2020, which was supposed to be due in 30 days, has not been able to be paid. Despite borrowing Rp1.8 million, the money

he received - with various administrative deductions - was only Rp1.7 million, and he later had to return Rp1.9 million.

One week ago, Ram's friend Adhana started wondering. From there he later learned that the collection party had spread information about their loan to people on the contact list on his friend's phone. One consequence of the spread was that Ramadan had to be fired from being removed from his place of work. When the data was disseminated, Ramadhana then tried several times to call the number that carried out the dissemination, and he was replied with harsh words. He said that he had requested that his money be taken at home and that his good name be returned. But now the Ramadan number is blocked by the debt collector. Not only Ramadhana, researchers found 14 customers who were victims of spreading data who did not want to be named entangled in several legal online loans such as Borrow Money, Fast Rupiah to Ada Modal. Of the 14 people, 10 of them are students. That is, online loan enthusiasts are dominated even by students. Not only that, the distribution of data begins with terror using harsh words and yelling. Not only that from the 14 customers. 12 of them have felt their data being spread, especially on emergency contacts and also contacts in their cellphone storage.

#### *Factors Of Customers Making Debts On Online Loan Platforms In Medan City*

In an era that is all sophisticated like today, there are many conveniences that can be obtained by many people, one of which is the ease of getting online loans. However, with this convenience, many people are trapped in loans or legal online loans. Where, they make loans from unofficial lending platforms or applications. Below are some factors and solutions to avoid borrowing.

There is an urgent need. Some people may have financial limitations that make it difficult to make a living. On average, low-income people have urgent needs that they need to meet to meet basic needs such as buying groceries, children's school fees, and so on. If the relevance is drawn, then the cause of the people of Medan City making online loans in illegal applications to make it easier to pass the application because of urgent needs. Even so, there are also people who make online loans to fulfill their lifestyle. Where, they force themselves to have various items for the sake of looking luxurious, and so on. In fact, the salary or income they have is not large. Of course, for the first case, you have to start racking your brain to get extra income by starting a small business or taking a side job. Meanwhile, for the second case, you can start by reducing an improper lifestyle, and start with a lifestyle according to your ability. Do not let your lifestyle make you involved in borrowing which is very high risk.

**Easily Accessible Applications & Easy Submissions.** The second factor that makes many people trapped in borrowing is the easy access to the loan and the easy application process. Moreover, legal online loans often offer many conveniences such as the absence of collateral, only requiring ID cards and selfies, fast disbursement, and so on. In order not to get stuck, you can try to check the application first, make sure the loan application you want to use has been

registered with the OJK or the Financial Services Authority. Then, you should be suspicious when there is a loan application that offers convenience. Check the review of the application through Google and also check the interest or fines that may be charged. Don't easily believe in loans that provide easy requirements, because usually there will be provisions behind them that make you have to be vigilant. Such as large fines, large administrative costs, to the high interest charged. Don't let you not check just because you need fast money. With the ease of submission and disbursement, the people of Medan City are interested in applying for loans in online loan applications. This is based on the behavior of the people of Medan City who prefer to choose shortcuts and also fast.

**Low Financial & Digital Literacy.** Indonesian people do not have good financial literacy. Few people understand financial and digital literacy. This is according to what was conveyed by OJK in 2019, where the financial inclusion index was 76.18% but not balanced with financial literacy which was only 38.03%. In addition, based on the 2020 National Digital Literacy Survey, the digital literacy index has not achieved a good score of 4.00. But only slightly above the medium category of 3.00. This is what causes many people to only think about the convenience provided by borrowing, without thinking about the dangers of borrowing at loan services. Moreover, currently there are many fintech landings that are not licensed by the OJK. There have been more than 3600 unlicensed illegal loans that have been closed by the Investment Alert Task Force (WSI), and only 104 applications or companies are licensed. Those are some of the reasons why the people of Medan City are still often trapped in pinjol. Usually they are trapped in loans because they need emergency funds and cannot borrow with financial institutions such as banks or other institutions because they do not meet the requirements given.

#### *The Terror Of Data Dissemination Due To Online Loan Defaults Perspective Of Law Number 11 Of 2008 Concerning Electronic Information And Transactions*

The collection of personal data carried out is also, according to him, not limited to what is permitted, but also to what is 'illegally' taken, such as photographs and videos from the media, as well as billing carried out not only on borrowers. According to Jeanny Silvia Sari Sirait, the online loan application is a loan shark practice that uses digital technology, which takes the practice further. In practice, conservative loan sharks do not collect other than borrowers, even if they are billed home, meet their wives and children, 'Say yes to your father or your husband'," he said [10]. In this digital loan sharking practice is spread to everyone: this you know, this guy has debts, you know, it is spread to his superiors, office friends, in-laws. Finally, there are many people who are expelled from their offices, because of course the office does not want to hire people who have financial problems [10]. There is a mechanism for collecting, retrieving and disseminating personal data carried out by online loan applications, which is actually not allowed. It violates the Law, Article 27, Article 29 of the ITE Law, it is a criminal offense,

the sanctions are regulated in Article 45 (Law) of the ITE. Not only about data dissemination, in his initial findings, he also found that there were practices of threatening, slander, and sexual harassment due to online loan collection. Ministerial Regulation Number 20 of 2016 concerning Personal Data Protection in Electronic Systems does regulate that every electronic system operator is obliged to manage personal data of its customers and users properly, starting from acquisition, processing, storage and even deletion. In the practice of online loan applications, indeed the process of collecting personal data has been included in the terms and conditions at the beginning of using the application, which then often without the user realizing it, they have agreed. For this matter, when users have agreed or accepted the terms and conditions of the application, "based on the ministerial regulation means they have consented. Even so, for the practice of disseminating personal data in online loan collection, but the general view, this is too much, if it is true, and has the potential to violate personal data protection provisions.

Law Number 11 of 2008 concerning Electronic Information and Transactions does regulate the protection of personal data. As stated in Article 27 of the ITE Law, it prohibits anyone intentionally and without the right to distribute, transmit, and/or make accessible content (electronic information and/or electronic documents) that has content that violates decency and gambling. Article 28 of the ITE Law prohibits anyone intentionally and without the right to spread false and misleading news that harms consumers in electronic transactions and disseminate information aimed at causing hatred or hostility based on SARA. Article 29 of the ITE Law prohibits anyone intentionally and without the right to send content (electronic information and/or electronic documents) containing threats of violence or intimidation aimed at personally<sup>2</sup>. If someone violates Article 27, Article 28, or Article 29 of the ITE Law, they can be charged with a crime as stipulated in Article 45, Article 45A, and Article 45B of Law 19/2016. In Article 45 of the ITE Law, legal protection for online loan consumers is given criminal sanctions for personal data violations which include defamation. In addition to these criminal sanctions, Article 47 paragraph (1) of POJK No. 77 / POJK.01 / 2016 specifically also regulates administrative sanctions, namely in the form of written warnings, fines, restrictions on business activities, and license revocation, especially for legal online loan business actors. It is expected that OJK has a commitment and is consistent in providing protection to consumers so that everything can run well because consumer conditions are weak and much harmed, requiring increased efforts to protect, so that consumer rights can be upheld. Coaching to business actors also needs to be done so as not to violate ethics and legal rules and the public can take advantage of online loans quickly, cheaply, and on target.

However, in its implementation in the field, the ITE Law is not carried out optimally, considering the high terror of data distribution carried out by online loans that currently exist in Indonesian technology findusia. That is, the ITE Law is indeed protecting the public from the spread of data, but in its implementation in the field the ITE Law itself is not so

strong in protecting the public from the terror of spreading data. This is also because there are rubber articles that have ambiguous explanations and articles whose implementation in the field can be compromised.

#### IV. CONCLUSION

The terror of spreading data for defaulted customers is usually done by contacting emergency numbers first to hijacking galleries and distributing photos of ID cards at the time of submission and also selfies during submission. This terror is also carried out on the numbers of companies where customers work so that it is not uncommon for customers to be fired because of the terror of spreading the data. The factor of indebted customers on online loan platforms in Medan City is due to the ease of selecting loans themselves, due to urgent economic needs, and very minimal financial literacy makes loan customers always trapped in the trap of borrowers who sometimes want to leak data and threaten when billing. In its implementation in the field, Law Number 11 of 2008 concerning Electronic Information and Transactions is not carried out optimally considering the high terror of data distribution carried out by online loans currently in Indonesian technology findusia. That is, the ITE Law is indeed protecting the public from the spread of data, but in its implementation in the field the ITE Law itself is not so strong in protecting the public from the terror of spreading data. This is also because there are rubber articles that have ambiguous explanations and articles whose implementation in the field can be compromised.

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