



# Recht Studiosum Law Review

Journal homepage: <https://talenta.usu.ac.id/rslr>



## Illegal Online Loan (*Pinjol*) in Indonesia: Ethical and Human Rights Perspectives

Ramalina Ranaivo Mikea Manitra<sup>\*12</sup>

<sup>1</sup>ASTA Research Center, Antananarivo, 101, Madagascar

<sup>2</sup>Universitas Diponegoro, Semarang, 50275, Indonesia

\*Corresponding Author: [manitraramalina@gmail.com](mailto:manitraramalina@gmail.com)

### ARTICLE INFO

#### Article history:

Received 20 April 2024

Revised 18 Mei 2024

Accepted 19 Mei 2024

Available online

<https://talenta.usu.ac.id/rslr>

E-ISSN: 2961-7812

P-ISSN: 2985-9867

#### How to cite:

Ramalina Ranaivo Mikea Manitra. (2024). Illegal Online Loan (*Pinjol*) in Indonesia: Ethical and Human Rights Perspectives. Recht Studiosum Law Rivew. 3(1). 58-76.

### ABSTRACT

The objective of this research is to explore the pervasive issue of illegal online loan (*Pinjol*) in Indonesia, focusing on its implications on human rights and ethical standards. This research uses sociolegal research method combined with statutory, sociological and case study approach, using secondary data which are analysed qualitatively. Through an analysis of factors driving individuals towards illegal *Pinjol*, regulatory frameworks governing *Pinjol* transactions, and the alarming cases of human rights violations related to *Pinjol*, this research highlights the multifaceted nature of the problem. Drawing on insights from government initiatives, regulatory measures, and proposed solutions, this research underscores the importance of comprehensive strategies to address illegal *Pinjol* practices while protecting the rights and dignity of consumers. By advocating for public awareness campaigns, enhanced consumer protection measures, community engagement, and strengthened legal frameworks, Indonesia can achieve a fair and transparent digital economy that prioritizes the well-being of all Indonesian citizens.

**Keyword:** Ethics, Fintech, Human Rights, Indonesia, *Pinjol*

### ABSTRAK

Tujuan dari penelitian ini adalah untuk mengeksplorasi permasalahan pinjaman online ilegal (*Pinjol*) yang tersebar luas di Indonesia, dengan fokus pada implikasinya terhadap hak asasi manusia dan standar etika. Penelitian ini menggunakan metode penelitian sosiolegal yang dipadukan dengan pendekatan perundang-undangan, sosiologis dan studi kasus, dengan menggunakan data sekunder yang dianalisis secara kualitatif. Melalui analisis terhadap faktor-faktor yang mendorong individu untuk menggunakan *Pinjol* ilegal, kerangka peraturan yang mengatur transaksi *Pinjol*, dan kasus-kasus pelanggaran hak asasi manusia terkait *Pinjol* yang mengkhawatirkan, penelitian ini menyroti sifat permasalahan yang beragam. Dengan memanfaatkan wawasan dari inisiatif pemerintah, langkah-langkah regulasi, dan solusi yang diusulkan, penelitian ini menggarisbawahi pentingnya strategi komprehensif untuk mengatasi praktik ilegal *Pinjol* sekaligus melindungi hak dan martabat konsumen. Dengan mengadvokasi kampanye kesadaran masyarakat, peningkatan langkah-langkah perlindungan konsumen, keterlibatan masyarakat, dan penguatan kerangka hukum, Indonesia dapat mencapai ekonomi digital yang adil dan transparan yang memprioritaskan kesejahteraan seluruh warga negara Indonesia.

**Keyword:** Etika, Fintech, Hak Asasi Manusia, Indonesia, *Pinjol*



This work licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International (CC BY-NC-SA 4.0).  
10.32734/rslr.v3i1.16206

### 1. Introduction

Indonesia's financial sector has experienced a significant overhaul with the emergence of Financial Technology (Fintech), marking a transformative shift in the way financial services are accessed and utilized. Fintech innovations, driven by technological advancements and changing consumer preferences, have democratized finance, making it more inclusive and accessible across various demographics. Through digital

platforms and mobile applications, Fintech has streamlined financial transactions, investment opportunities, and lending processes, reshaping Indonesia's financial landscape.<sup>1</sup> This evolution represents a paradigm shift towards a more technologically-driven and consumer-centric financial ecosystem, empowering individuals and businesses with greater financial autonomy and flexibility.

The evolution of online loan, commonly known as “*Pinjol*”, is emblematic of Indonesia's Fintech transformation. *Pinjol* has gained prominence around 2016.<sup>2</sup> Its influence has rapidly increased during Covid-19 Pandemics, in which Indonesian citizens were left no choice but to use technology in compliance with the New Normal. Consequently, *Pinjol* has become a staple of Indonesia's digital economy, offering consumers convenient access to credit without the stringent requirements associated with traditional banks. With user-friendly interfaces and simplified approval processes, *Pinjol* platforms promised quick disbursements and minimal documentation, catering to the urgent financial needs of consumers.<sup>3</sup> As such, *Pinjol* has emerged as a key player in Indonesia's financial ecosystem, facilitating access to credit for a diverse array of individuals and businesses.<sup>4</sup> However, alongside its growth, the *Pinjol* industry has also witnessed the proliferation of illegal operators, raising ethical concerns and underscoring the need for regulatory oversight and consumer protection measures.<sup>5</sup>

Illegal *Pinjol* presents complex legal challenges that encompass both civil and criminal dimensions.<sup>6</sup> *Pinjol* operations have become a daunting menace, victimizing many individuals who seek loans through unlicensed platforms. The Indonesian government, through the Financial Service Authority (OJK) and other institutions, has undertaken various measures to combat this issue, including police crackdowns, closure of numerous illegal lending platforms, and the imposition of a moratorium on *Pinjol* licenses. However, navigating the legal repercussions of *Pinjol* activities remains a daunting task for most individuals, particularly those who find themselves ensnared as borrowers.<sup>7</sup>

From a civil law perspective, violations of *Pinjol* regulations can have profound implications, affecting the validity of *Pinjol* agreements and the rights and obligations of parties involved. The Indonesian Civil Code (KUHPdata) governs civil law matters pertaining to *Pinjol* activities. Under the Indonesian Civil Code, agreements must meet certain conditions to be considered valid (i.e., consent to be bound, capacity to make an agreement, a certain object, and a lawful clause).<sup>8</sup> For instance, the absence of authorization or provision of misleading information can render loan agreements null and void, impacting the obligations of borrowers and lenders alike. Legal recourse through courts is available to enforce agreements or seek redress for breaches.

In addition to civil law implications, *Pinjol* activities may also carry criminal liabilities, particularly for individuals engaged in fraudulent practices. Either Indonesian Criminal Code (KUHPidana),<sup>9</sup> the Information and Electronic Transaction (ITE) Law,<sup>10</sup> or the Consumer Protection Law<sup>11</sup> are relevant regulations in this regard. Deceptive practices during loan offers, threats during debt collection,

<sup>1</sup> Junaidi, A., Wulandari, R., Susilowati, E., Safitri, N., & Ikhsan, M. (2023). A Literature Review on Fintech Innovations: Examining the Evolution, Impact, and Challenges. *SEIKO : Journal of Management & Business*, 6(2), 442.

<sup>2</sup> Kusumaningsih, R., & Yulianingsih, D. (2023). Tantangan Regulasi Dan Perlindungan Hukum Dalam Pinjaman Online. *Jurnal Ilmu Sosial Dan Humaniora*, 2(2), 164.

<sup>3</sup> Poernomo, S. L. (2022). Perlindungan Konsumen Terhadap Praktik Teknologi Finansial Ilegal Dalam Bentuk Pinjaman Online Ilegal. *Mimbar Keadilan*, 15(1), 135–36. <https://doi.org/10.30996/mk.v15i1.6081>

<sup>4</sup> Ramli, M., Apriyanto, M., Azhar, A., Puspitasari, F., & KMS. Novyar Satriawan Fikri. (2023). Dampak Konsumen Terhadap Pinjaman Online (PINJOL). *PaKMas: Jurnal Pengabdian Kepada Masyarakat*, 3(1), 53. <https://doi.org/10.54259/pakmas.v3i1.1638>

<sup>5</sup> Sitepu, R. (2023). The Legal Intricacies of Illegal *Pinjol* and *Pinjol*. *Journal of Social Research*, 2(6), 2047. <https://doi.org/10.55324/josr.v2i6.957>

<sup>6</sup> Ibid., 49–50

<sup>7</sup> Pasaribu, M. P. J. (2021). Tinjauan Yuridis terhadap Kedudukan Fintech Yang Tidak Terdaftar di Otoritas Jasa Keuangan. *Jurnal Ilmiah Penegakan Hukum*, 8(1), 51.

<sup>8</sup> Indonesia, “Indonesian Civil Code (Hereinafter Referred as “KUHPdata),” Article 1320.

<sup>9</sup> Indonesia, “Indonesian Criminal Code (Hereinafter Referred as ‘KUHPidana’)” e.g., Article 310 on public defamation, Article 368 on Intimidation, and Article 369 on Threat.

<sup>10</sup> Indonesia, “Law Number 11 of 2008, as amended by Law Number 19 of 2016, further amended by Law No. 1 of 2024 concerning Information and Electronic Transaction (Hereinafter Referred as ‘ITE Law’)” (2008) Article 46 (1), (2) and (3).

<sup>11</sup> Indonesia, “Law Number 8 of 1999 Concerning Consumer Protection (Hereinafter Referred as ‘Consumer Protection Law’)” (1999) Article 62 paragraph (1).

dissemination of false information, or misuse of personal data can constitute criminal offenses under these laws.

Despite the presence of legal *Pinjol* companies regulated by OJK, an underground economy of illegal *Pinjol* operators has flourished. These unlicensed entities operate outside regulatory frameworks, exploiting vulnerable borrowers and evading accountability. The unchecked growth of illegal *Pinjol* poses significant ethical challenges and threatens the integrity of Indonesia's financial sector, demanding urgent regulatory intervention and ethical scrutiny.<sup>12</sup> Hence, the prevalence of illegal *Pinjol* underscores broader socio-economic issues, including financial insecurity and limited access to formal banking services, driving individuals towards *Pinjol* out of necessity. While *Pinjol* offers immediate financial relief, it often ensnares borrowers in cycles of debt and financial vulnerability, exacerbating existing socio-economic disparities.

The allure of *Pinjol* lies in its accessibility and simplicity, offering individuals a lifeline during times of crisis or unexpected expenses. However, the ease of access to credit often masks the long-term consequences, leading borrowers into precarious financial situations. Many borrowers are unaware of the intricacies of *Pinjol* agreements, including the exorbitant interest rates and hidden fees embedded within them.<sup>13</sup> As such, borrowers may find themselves trapped in a cycle of debt, unable to extricate themselves from the financial quagmire created by *Pinjol*. In fact, OJK has received in total 39.298 complaints from 2022 to 2024, and the majority was about banking and *Pinjol*. 9226 complaints were directed towards *Pinjol*.<sup>14</sup> Those complaints are related to deceptive practices, opaque terms and conditions.

Furthermore, the controversy surrounding *Pinjol* extends beyond lending practices to encompass debt collection methods. In cases of default, borrowers are subjected to aggressive and often unethical debt recovery tactics, including incessant harassment, intimidation, and coercion. Some *Pinjol* operators employ debt collectors who resort to unlawful practices, disregarding ethical standards and violating borrowers' rights. As an illustration, from 2022 to 2024, OJK has received 4298 complaints regarding unethical debt collection method related to *Pinjol*.<sup>15</sup>

The proliferation of illegal *Pinjol* and the associated controversies surrounding debt collection practices pose a grave threat to the well-being and human rights of Indonesian citizens. The exploitative nature of illegal *Pinjol* operations not only exacerbates financial distress but also compromises borrowers' dignity and autonomy. Vulnerable individuals, including those facing economic hardship or limited access to formal financial services, are particularly susceptible to the predatory tactics employed by unscrupulous *Pinjol* operators. Moreover, the coercive debt collection practices perpetuate a climate of fear and insecurity, infringing upon borrowers' rights to dignity, privacy, and fair treatment under the law. As such, the unchecked expansion of illegal *Pinjol* represents a systemic failure to uphold human rights principles and protect the most vulnerable members of society.<sup>16</sup>

Given the multifaceted challenges posed by illegal *Pinjol*, there is an urgent need for a comprehensive examination from ethical and human rights perspectives. The ethical dimensions of *Pinjol* extend beyond regulatory compliance to encompass broader considerations of fairness, transparency, and social responsibility. From a human rights standpoint, the prevalence of illegal *Pinjol* underscores systemic failures in safeguarding fundamental rights. By reframing the discourse surrounding *Pinjol* through ethical and human rights lenses, policymakers, regulators, and stakeholders can foster a more inclusive and sustainable financial ecosystem that prioritizes the well-being and dignity of all individuals. This research endeavours are essential for informing evidence-based policy interventions, promoting ethical business practices, and safeguarding the human rights of all Indonesian citizens in the digital age.

<sup>12</sup> Pasaribu, *Op. Cit.*, 55

<sup>13</sup> Poernomo, *Op. Cit.*, 31

<sup>14</sup> Rika Anggraeni, "OJK Banjir 39.298 Pengaduan, Paling Banyak Soal Bank Dan *Pinjol*," *Bisnis.com*, 2024, <https://finansial.bisnis.com/read/20240203/90/1737926/ojk-banjir-39298-pengaduan-paling-banyak-soal-bank-dan-Pinjol>. Accessed on April 10, 2024.

<sup>15</sup> Rika Anggraeni, "OJK Terima 4.298 Pengaduan Soal Cara Debt Collector *Pinjol* Tagih Utang," *Bisnis.com*, 2024, <https://finansial.bisnis.com/read/20240203/563/1737953/ojk-terima-4298-pengaduan-soal-cara-debt-collector-Pinjol-tagih-utang>. Accessed on April 10, 2024.

<sup>16</sup> Nisrina, N. A., Anggraeni, D., & Adriansyah, M. I. (2023). Terjadinya Pelanggaran Hak Asasi Manusia (HAM) Akibat Pinjaman Online. (*JOUMI*): *Journal Multidisiplin Indonesia*, 1(2), 69–71.

Three studies delve and relate to the present research. The initial study conducted by Sugangga and Sentoso, in 2020 titled “*Perlindungan Hukum Terhadap Pengguna Pinjaman Online (Pinjol) Ilegal*” found that the illegal nature of *Pinjol* does not erase the borrower’s obligation to pay off his debt.<sup>17</sup> The second study titled “Debt Collection Violations in Financial Technology in a Cyber-ethic and Legal Perspective” by Prastiyo and Suartha, in 2021 sheds light on cyber-ethics violation such as stalking, defamation and threat occurring in illegal *Pinjol* practices.<sup>18</sup> The third study titled “*Perlindungan Hak Pengguna Layanan Pinjaman Online Dalam Perspektif Hak Asasi Manusia*” by Pardosi and Primawardani in 2023 shows that *Pinjol* users have fundamental rights that must be protected either human rights or consumer’s rights.<sup>19</sup> Hence, drawing on these three studies, the present research initiative focusing on the ethical and human rights perspectives of illegal *Pinjol* in Indonesia, can provide valuable insights into the systemic challenges and potential solutions to address the adverse impacts of illegal *Pinjol* operations. This research further highlights three main areas of discussion, namely: (i) juridical review of *Pinjol* in Indonesia; (ii) illegal *Pinjol* as a big threat to human rights and ethics in Indonesia; and (iii) need of fast and effective responsiveness against illegal *Pinjol*.

## 2. Method

Legal research is an analytical process that includes certain methods, systematics and thinking which aims to study certain legal phenomena, then try to solve problems that arise.<sup>20</sup> This legal research uses sociolegal method which is legal research that uses a social science methodological approach in a broad sense.<sup>21</sup> This research classifies in the category descriptive analysis. It uses statutory, sociological, and case study approach. The statutory approach is an approach that is done by reviewing all the laws and regulations that are related to the legal issue being addressed.<sup>22</sup> The sociological approach is an approach that studies social structure and social processes, especially social changes.<sup>23</sup> The case study approach is a research approach that is used to generate an in-depth, multi-faceted understanding of a complex issue in its real-life context.<sup>24</sup> This research uses secondary data, which is a collection of information that previously existed and is used to complement research data needs.<sup>25</sup> In this instance, the secondary data are in form of legal materials, either primary (law and regulations), secondary (books and journals), or tertiary (legal dictionary and encyclopedias); as well as cases and statistical data. The data are analysed and elucidated qualitatively in order to draw a deductive analysis.

## 3. Result and Discussion

### 3.1 Juridical Review of Pinjol in Indonesia

#### 3.1.1 Legal Pinjol Vs. Illegal Pinjol

The proliferation of *Pinjol*, or *Pinjol*, constitutes a significant financial phenomenon, offering swift access to much-needed funds with simplified terms for the public. However, to avoid falling prey to unregulated and illegal *Pinjol*, it's crucial to understand the characteristics of legal *Pinjol* that ensure safety and compliance with regulatory standards, which are regulated under the POJK 10/2022 as follows:<sup>26</sup>

1. Possession of OJK License: *Pinjol* providers must obtain a license from the OJK before conducting their operations. Thus, legal *Pinjol* entities are those that have secured operational permits from the OJK. Accessing the OJK's official list of licensed fintech providers helps identify legal *Pinjol* services, ensuring compliance with regulatory standards.<sup>27</sup>
2. Registered as a Limited Liability Company (PT): Legal *Pinjol* entities are required to operate as PT with a minimum paid-up capital of Rp. 25 billion upon establishment. This legal requirement ensures

<sup>17</sup> Sugangga, R., & Sentoso, E. H. (2020). *Perlindungan Hukum Terhadap Pengguna Pinjaman Online (Pinjol) Ilegal*. PAJOU (Pakuan Jusitce Journal of Law), 1(1), 47–61.

<sup>18</sup> Prastiyo, W. E., & Suartha, I. D. M. (2021). Debt Collection Violations in Financial Technology in a Cyber-ethic and Legal Perspective. *Journal Komunikasi Ikatan Sarjana Komunikasi Indonesia*, 6(1), 13–21.

<sup>19</sup> Pardosi, R. O. A. G., & Primawardani, Y. (2020). *Perlindungan Hak Pengguna Layanan Pinjaman Online Dalam Perspektif Hak Asasi Manusia*. Jurnal HAM, 11(3), 353–368.

<sup>20</sup> Solikin, N. (2021). *Pengantar Metodologi Penelitian Hukum* (Tim Qiara Media (ed.)). CV. PENERBIT QUIARA MEDIA, 1.

<sup>21</sup> Nurhayati, Y., Ifrani, I., & Said, M. Y. (2021). Metodologi Normatif dan Empiris Dalam Perspektif Hukum. *Jurnal Penegakan Hukum Indonesia*, 2(1), 1–20. <https://doi.org/10.51749/jphi.v2i1.14>

<sup>22</sup> Ibid., 11

<sup>23</sup> Bachtiar. (2019). *Metode Penelitian Hukum* (O. Yanto (ed.); Issue 1). UNPAM PRESS, 64.

<sup>24</sup> Nurhayati, *Op. Cit.*, 12

<sup>25</sup> Solikin, *Op. Cit.*, 125

<sup>26</sup> Indonesia, “Financial Services Authority Regulation Number 10/POJK.05/2022 Concerning Information Technology Based Joint Funding Services (Hereinafter Referred as ‘POJK 10/2022’)” (2022).

<sup>27</sup> Ibid., Article 8(1)(2).

a structured legal framework and financial transparency within *Pinjol* operations, prohibiting funds from illicit activities and ensuring compliance with legal standards.<sup>28</sup>

3. Debt Collection Regulations: In contrast to the often-unlawful debt collection practices associated with illegal *Pinjol*, legal *Pinjol* entities adhere to debt collection regulations stipulated in POJK 10/2022. Legal debt collection entails issuing warning letters containing information such as the number of days of payment delay, outstanding principal amounts, accrued interest, and applicable penalties. Collaboration with certified debt collection agencies is permissible, provided they operate within the bounds of legal and regulatory frameworks.<sup>29</sup>
4. Maximum Interest Rates: Legal *Pinjol* services are subject to maximum interest rate regulations, ensuring transparency and fairness in lending practices. The Indonesian Fintech Lending Association (AFPI) prohibits predatory lending practices and mandates that interest rates do not exceed 0.8% per day, calculated based on the actual loan amount.<sup>30</sup> Furthermore, recent regulatory initiatives by the OJK have aimed to mitigate the impact of high-interest rates and excessive borrowing costs in the *Pinjol* sector. The issuance of SEOJK 19/2023 on November 8, 2023, establishes maximum interest rates and late payment fines for *Pinjol* services based on productive and consumptive sectors. Beginning January 2024, the maximum interest rate for consumer lending has been reduced from 0.4% to 0.3% per day. This reduction will be implemented gradually over a three-year period, with further reductions planned in subsequent years. Similarly, interest rates for productive lending have also been adjusted to promote greater financial inclusion and support for micro, small, and medium-sized enterprises (MSMEs).<sup>31</sup>
5. Membership in AFPI: Legal *Pinjol* entities are members of AFPI, which is officially designated by the OJK to oversee fintech lending activities. AFPI membership signifies adherence to industry standards and regulatory compliance, distinguishing legal *Pinjol* entities from illegal *Pinjol*. Verification of AFPI membership status provides consumers with assurance regarding the legitimacy and reliability of *Pinjol* services.

In order to make the difference between legal and illegal *Pinjol*, the Table 1 below illustrates their comparison.

Table 1. Comparison between Legal and Illegal *Pinjol*

Aspect	Legal <i>Pinjol</i>	Illegal <i>Pinjol</i>
Licensing Requirement	Must obtain operational license from OJK	Operates without OJK approval
Business Structure	Registered as a limited liability company (PT)	Often operates as unregistered entities
Debt Collection Practices	Adheres to debt collection regulations (POJK 10/2022)	Frequently engages in unlawful debt collection
Interest Rates	Interest rates capped according to AFPI/OJK regulations	Imposes exorbitant interest rates
Association Membership	AFPI member, adhering to industry standards	Not affiliated with recognized industry associations
Transparency	Complies with regulatory and disclosure requirements	Lacks transparency in operations
Consumer Protection	Provides legal recourse and consumer protection	Offers minimal to no consumer protection
Financial Stability	Subject to financial oversight and stability measures	Operates without financial regulation

Source: HukumOnline<sup>32</sup>

<sup>28</sup> Ibid., Article 2(2) and Article 4(1)(3).

<sup>29</sup> Ibid. Article 102(1)(2), Article 103(1)(3), Article 104(1).

<sup>30</sup> Indonesia, “Indonesian Fintech Lending Association Decision Letter Number 002/SK/COC/INT/IV/2020 (Hereinafter Referred as ‘SK AFPI 002/2022’)” (2020).

<sup>31</sup> Indonesia, “Financial Services Authority Circular Number 19/SEOJK.06/2023 Concerning The Implementation Of Information Technology Based Joint Funding Services (Hereinafter Referred as ‘SOEJK 19/2023’)” (2023).

<sup>32</sup> Nafiatul Munawaroh, “5 Ciri *Pinjol* Legal Yang Harus Kamu Tahu,” HukumOnline, 2023, [https://www.hukumonline.com/klinik/a/5-ciri-Pinjol-legal-yang-harus-kamu-tahu-lt64182c962f2c8#\\_ftn5](https://www.hukumonline.com/klinik/a/5-ciri-Pinjol-legal-yang-harus-kamu-tahu-lt64182c962f2c8#_ftn5). Accessed on April 10, 2024.

The Table 1 provides a comprehensive explanation on the difference between legal and illegal *Pinjol*. Understanding the differences between them is imperative for consumers seeking secure and compliant lending solutions. Legal *Pinjol* companies operate within a structured regulatory framework, ensuring transparency, fairness, and consumer protection, while illegal *Pinjol* is the total opposite. By discerning these characteristics, consumers can make informed decisions and mitigate the risks associated with unregulated and illegal *Pinjol* practices.

### 3.1.2. Legal Implications of Defaulting in Pinjol Agreement

In the Indonesian context, defaulting in *Pinjol* agreement presents a multifaceted legal landscape with profound implications for borrowers. Understanding the legal intricacies and ramifications associated with defaulting on *Pinjol* is pivotal for borrowers navigating potential financial strains and legal repercussions adeptly. Defaulting in *Pinjol* in Indonesia entails several significant legal implications.

According to Subekti, he states that default is negligence or fault that can take four forms:<sup>33</sup>

1. Not doing what was agreed upon or supposed to be done;
2. Carrying out what was promised, but not as agreed upon;
3. Performing what was promised, but late;
4. Doing an act that according to the agreement cannot be done.

*Pinjol* agreements are governed by the KUHPerdata. Both parties involved are bound by the terms of the agreement, which is enforceable under Indonesian law. Thus, failure to adhere to the agreed-upon repayment schedule in *Pinjol* agreement constitutes default and can lead to legal consequences. Under Article 1243 of KUHPerdata, the legal consequences of default become enforceable when the debtor, after being declared in default, continues to neglect their obligations or if the obligation can only be fulfilled within a certain period that has passed. Moreover, Article 1244 stipulates penalties for default, where debtors may be required to compensate for costs, losses, and interest unless they can prove that non-performance or delayed performance was due to unforeseen circumstances beyond their control.

In response to default occurrences, *Pinjol* companies are entitled to seek legal recourse to address default situations, which may include pursuing litigation in court to enforce repayment obligations and seek compensation for losses incurred. *Pinjol* companies may also engage in debt collection activities which are mandatorily subject to legal constraints and regulatory oversight. While debt collectors may facilitate repayment, their actions must adhere to established norms and legal provisions. *Pinjol* companies are obligated to collaborate with certified debt collectors, ensuring compliance with prevailing regulations to safeguard borrowers' rights and prevent abusive debt collection practices.

Furthermore, default in *Pinjol* agreement results in borrowers being listed in credit reporting systems like the OJK's Financial Information Services System (SLIK), categorizing them based on their creditworthiness. Negative entries in SLIK can impede borrowers' access to future credit facilities, job opportunities, and other financial transactions, underscoring the enduring consequences of defaulting on *Pinjol*. It is important to mention that one immediate repercussion of defaulting on *Pinjol* is the increase of interest charges and penalties imposed by *Pinjol* company. The permitted interest charge is governed by POJK 10/2022 and SEOJK 19/2023, these rates can reach a maximum of 0.4% per day for short-term loans, exacerbating borrowers' financial burdens as they grapple with defaulted payments.

*Pinjol* agreements may include clauses for dispute resolution through negotiation or legal action. However, regardless of the preferred resolution method, Indonesian law mandates adherence to legal procedures, including the resolution of disputes through the judicial system. Creditors may prefer to avoid lengthy legal processes and attempt to resolve disputes outside formal channels. Still, adherence to legal procedures is essential to ensure fairness, justice, and the protection of the rights of all parties involved as *Pinjol* companies cannot unilaterally declare creditors in default.

While *Pinjol* company are given rights and prerogatives by the law, borrowers are not less treated. Indeed, Indonesian law provides protections for personal data and privacy rights for borrowers, allowing borrowers to seek legal recourse for violations. Violations of privacy rights, including the unauthorized dissemination

<sup>33</sup> Subekti, & Tjitrosudibio. (2007). *Kitab Undang-Undang Hukum Perdata*. PT. Arga Printing, 146.

of personal data, can result in legal consequences for the responsible parties under relevant laws and regulations such as the KUHPidana and ITE Law. That being said, as outlined by Sugangga and Santoso, in the circumstance that the borrower was to use illegal *Pinjol*, it does not wave him from his obligation to pay his debts. Indeed, the borrower would be protected against unethical debt collection practices, but his obligation to do repayment to the *Pinjol* platform still remains.<sup>34</sup>

At its core, defaulting on *Pinjol* signifies a debtor's failure to fulfil their repayment obligations, constituting a breach of contract as outlined in Article 1754 of KUHPidana. This default triggers a cascade of legal and financial consequences, significantly impacting borrowers' financial stability and legal standing. Borrowers must have knowledge of their rights, obligations, and the potential legal implications of defaulting on *Pinjol* to make informed financial decisions and safeguard their financial well-being.

### 3.1.3. New Provisions on *Pinjol* in the Revised ITE Law

The recent enactment of the Law No.1 of 2024, which amends the Law No.11 of 2008 concerning Information and Electronic Transactions (ITE), introduces specific provisions addressing concerns related to *Pinjol*. This legislative revision, officially promulgated on January 4, 2024, aims to protect public interests by addressing various forms of electronic information, document misuse, information technology, and electronic transaction disruptions that compromise public order.

Among the significant amendments are the revisions to Articles 27A and 27B concerning defamation, Article 29 addressing personal threats, Article 16A focusing on child protection, Article 13 regarding foreign electronic certification providers, Article 28 paragraph 3 concerning fake news, Article 40A discussing government intervention mechanisms, Article 43 Letter (i) empowering the police to close social media accounts, and Article 45 providing exceptions for witnesses in cases involving decency and defamation violations.

One notable addition in the revised ITE Law is the specific provision pertaining to *Pinjol*, which is regulated under Article 27B. This provision addresses concerns regarding the practices of *Pinjol* operators and debt collectors in Indonesia.

According to Article 27B, individuals who intentionally and unlawfully distribute or transmit electronic information or documents with the intent to benefit themselves or others, using violence to coerce individuals into providing goods or extending loans, face severe penalties. In particular, debt collectors who frequently disseminate borrowers' personal information and debt details through social media or other electronic means can be sentenced to up to 6 years in prison. The inclusion of Article 27B in the ITE Law underscores the government's efforts to regulate and address issues arising from *Pinjol* practices. The provision aims to curb abusive practices by debt collectors and ensure the protection of borrowers' privacy and rights in the digital realm.

Thus, the incorporation of specific regulations on *Pinjol* in the revised ITE Law, along with regulatory interventions by the OJK, reflects the Indonesian government's commitment to addressing challenges in the digital financial landscape while safeguarding consumer interests and promoting financial inclusivity.

## 3.2. Illegal *Pinjol* as A Big Threat to Human Rights and Ethics in Indonesia

### 3.2.1 Factors Leading Indonesian Citizens to Fall into Illegal *Pinjol*

Several factors contribute to why Indonesian citizens are susceptible to falling into the trap of illegal *Pinjol*. Understanding these factors requires a nuanced examination of socio-economic conditions, consumer behaviour, and financial literacy levels prevalent in Indonesian society.

#### 1. Desire to Fulfil Lifestyle Needs and Debt Repayment

A significant reason cited by Friderica Widyasari Dewi, Executive Head of the Financial Services Authority's (OJK) Consumer Education and Protection Supervisory Executive, is the aspiration to maintain or elevate one's lifestyle. Many people resort to illegal *Pinjol* to meet the demands of their

<sup>34</sup> Sugangga, *Op. Cit.*, 58

lifestyle, often compounded by pre-existing debts. They end up in a cycle of borrowing from one source to pay off another, creating a precarious financial situation.<sup>35</sup>

2. Urgent Financial Needs and Consumerism

Urgent financial needs, consumptive behaviours, economic pressures, and low financial literacy also contribute to the prevalence of illegal *Pinjol*. Individuals facing urgent financial crises or driven by materialistic desires may overlook the risks associated with borrowing from illegal lenders. The phenomenon of the hedonic treadmill, where individuals constantly seek to upgrade their lifestyles, exacerbates the problem, leading to unsustainable debt burdens.<sup>36</sup>

3. Psychological Influences (FOMO, YOLO, FOPO)

Psychological factors play a significant role in driving individuals towards illegal *Pinjol*. The Fear of Missing Out (FOMO), You Only Live Once (YOLO), and Fear of People's Opinions (FOPO) are increasingly influencing the younger generation's spending habits. The pressure to conform to societal standards and keep up with peers' lifestyles can lead to impulsive financial decisions, including borrowing beyond one's means.<sup>37</sup>

4. Low Financial and Digital Literacy

Tulus Abadi, Chairman of the Indonesian Consumers Foundation (YLKI), emphasizes the detrimental impact of low financial and digital literacy levels on individuals' susceptibility to illegal *Pinjol*. Many borrowers lack an understanding of the terms and conditions, interest rates, and repayment mechanisms associated with illegal *Pinjol* platforms. They may inadvertently access illegal *Pinjol* services through misleading advertisements or lack of awareness about legal alternatives.<sup>38</sup>

5. Accessibility and Speed of Disbursement

Illegal *Pinjol* platforms often offer quick and easy access to funds without stringent credit checks or documentation requirements. The allure of immediate cash disbursement appeals to individuals facing urgent financial needs or seeking instant gratification, regardless of the long-term consequences.<sup>39</sup>

6. Social and Economic Pressures

The socio-economic landscape in Indonesia, characterized by income disparities, rising living costs, and limited access to formal financial services, creates fertile ground for the proliferation of illegal lending practices. Many borrowers feel compelled to resort to illegal *Pinjol* due to limited alternative sources of credit and inadequate support mechanisms.<sup>40</sup>

Besides the factors above mentioned, there are others from the result of research conducted by NoLimit Indonesia as illustrated in the [Figure 1](#). This research focused on discussions on social media containing keywords such as '*Pinjol*', '*pinjaman online*', '*pinjaman ilegal*', '*Pinjol ilegal*', and so on. The monitoring was conducted from September 11th to November 15th, 2021, and resulted in a total of 135,681 discussions containing related keywords.

<sup>35</sup> David Karnain, "OJK Sebut Guru Dan Pelajar Paling Sering Terjerat *Pinjol* Ilegal," *radarpalembang.com*, 2023, <https://radarpalembang.disway.id/read/642473/ojk-sebut-guru-dan-pelajar-paling-sering-terjerat-Pinjol-ilegal>. Accessed on February 4, 2024.

<sup>36</sup> Ibid.

<sup>37</sup> Rika Anggraeni, "Duh! Tren YOLO Hingga FOMO Bikin Anak Muda Terjerat Utang *Pinjol* Ilegal," *Bisnis.com*, 2023, <https://finansial.bisnis.com/read/20231031/563/1709520/duh-tren-yolo-hingga-fomo-bikin-anak-muda-terjerat-utang-Pinjol-ilegal..>

<sup>38</sup> Ariyani Yakti Widyastuti, "*Pinjol* Ilegal Kian Meresahkan , YLKI Soroti Literasi Fintech Masih Rendah," *tempo.co*, 2021, <https://bisnis.tempo.co/read/1502212/Pinjol-ilegal-kian-meresahkan-ylki-soroti-literasi-fintech-masih-rendah>. Accessed on April 10, 2024.

<sup>39</sup> Poernomo, "Perlindungan Konsumen Terhadap Praktik Teknologi Finansial Ilegal Dalam Bentuk Pinjaman Online Ilegal," 135–36.

<sup>40</sup> Karnain, "OJK Sebut Guru Dan Pelajar Paling Sering Terjerat *Pinjol* Ilegal."



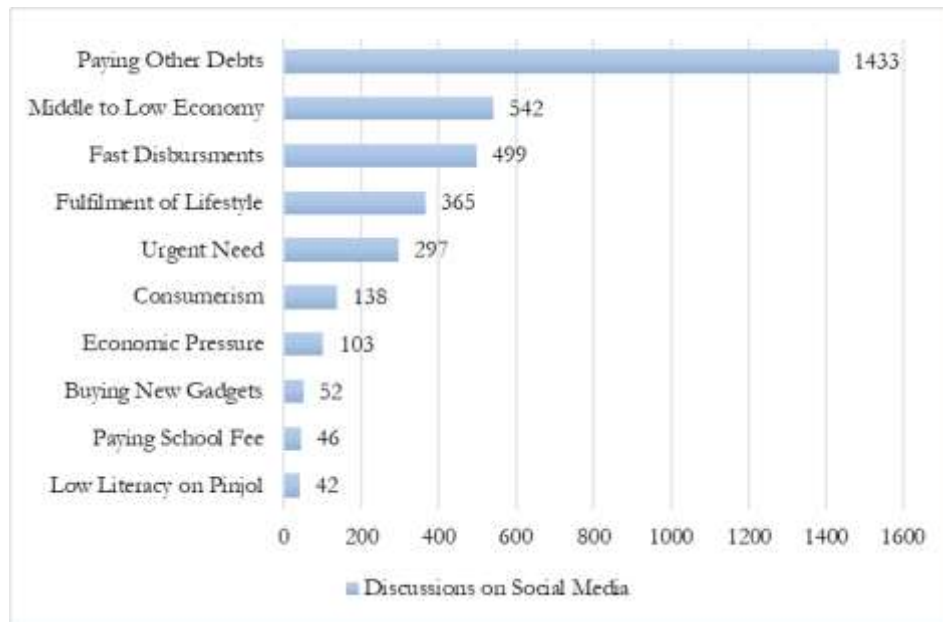


Figure 1. Factors Leading Indonesian People to *Pinjol*

Source: NoLimit Indonesia<sup>41</sup>

Based on research by NoLimit Indonesia, several factors contribute to Indonesian people falling into illegal *Pinjol*. Primarily, the data suggests that many turn to illegal *Pinjol*, with 1433 discussions, as a means to pay off existing debts, reflecting financial strain and the inability to manage current obligations. Moreover, individuals from lower to middle economic backgrounds, comprising 542 discussions, appear to be more inclined towards illegal *Pinjol*, indicating limited access to formal financial resources and the necessity to seek alternative lending options. The allure of quick fund disbursement, with 499 discussions, is also notable, suggesting that immediate financial needs prompt individuals to overlook the potentially high-interest rates associated with these loans. Additionally, the research underscores how illegal *Pinjol* is utilized not only for urgent needs like medical expenses (297 discussions) but also for fulfilling consumptive lifestyles (365 discussions), reflecting a lack of financial discipline and awareness of long-term consequences.

Furthermore, the analysis reveals that economic pressure, though mentioned in 103 discussions, still plays a role in driving individuals towards illegal *Pinjol*, further highlighting the broader socio-economic challenges faced by many Indonesians. Despite being less emphasized, other factors, such as purchasing new gadgets (52 discussions) and covering school fees (46 discussions) also contribute to the prevalence of illegal *Pinjol* usage, indicating diverse financial pressures within Indonesian society. Notably, the data indicates a low level of literacy on *Pinjol*, with only 42 discussions, suggesting that many borrowers may not fully comprehend the risks and terms associated with online borrowing, making them vulnerable to exploitation by illegal *Pinjol* platforms.

Overall, the prevalence of illegal *Pinjol* (online lending) in Indonesia is a result of various intertwined factors related to society, economics, and individual behaviour. People are driven to use these illegal lending platforms due to a multitude of reasons. One primary motive is the desire to maintain their current standard of living and fulfil financial obligations, such as repaying debts. Additionally, urgent financial needs push individuals towards seeking quick solutions, often ignoring the associated risks. Consumptive behaviour plays a significant role as well, with people succumbing to the fear of missing out (FOMO) or adopting a "you only live once" (YOLO) mentality, which encourages them to take risky financial decisions without fully considering the consequences. A lack of financial and digital literacy compounds the issue, leaving many borrowers vulnerable to deceptive advertising and unaware of safer alternatives offered by formal financial institutions. This lack of understanding makes individuals more susceptible to the allure of illegal *Pinjol* platforms, which promise easy accessibility and rapid fund disbursement. The combination of socio-

<sup>41</sup> Viva Budy Kasnandar, "Ini 10 Penyebab Masyarakat Terjerat Pinjaman Online," Databoks, 2021, <https://databoks.katadata.co.id/datapublish/2022/09/27/ini-10-penyebab-masyarakat-terjerat-pinjaman-online>. Accessed on April 10, 2024.

economic pressures and the allure of quick financial relief creates a cycle where individuals turn to illegal *Pinjol* services despite the long-term negative impacts. In essence, the prevalence of illegal *Pinjol* in Indonesia reflects a broader issue encompassing societal, economic, and individual challenges surrounding financial decision-making and literacy.

### 3.2.2 Human Rights and Pinjol

#### 3.2.2.1. Legal Framework of Consumer Protection in Pinjol

Consumer rights in the context of *Pinjol* services are subject to legal frameworks and protections aimed at ensuring fair and transparent transactions while safeguarding individuals from harassment and intimidation. The Indonesian government recognizes the significance of regulating the *Pinjol* sector to prevent abuses and violations of consumer rights. This recognition of consumer protection is evident in various regulations (e.g., POJK 77/2016 and Consumer Protection Law) and enforcement actions designed to address issues such as threats and coercion directed at borrowers who may struggle to repay their loans on time.<sup>42</sup>

One of the fundamental principles underlying the protection of consumer rights in Indonesia is the acknowledgment of human rights principles. The threats and intimidation tactics employed by *Pinjol* companies can instil fear, shame, and discomfort in borrowers, often leading to the dissemination of private information to family, friends, and acquaintances of the online lending service users. The Universal Declaration of Human Rights (UDHR) serves as a guiding framework, emphasizing the rights to privacy, security, and protection from undue interference in personal affairs.<sup>43</sup> Instances of threats and intimidation by *Pinjol* companies against borrowers who face difficulties in meeting their repayment obligations constitute violations of these fundamental rights. The Law No. 39 of 1999 concerning Human Rights (Human Rights Law) emphasises that individuals cannot be imprisoned solely due to their inability to fulfil financial obligations.<sup>44</sup>

The legal landscape governing consumer protection in Indonesia encompasses various statutes and regulations aimed at promoting fairness and transparency in business-consumer relationships. Law No. 8 of 1999 on Consumer Protection (Consumer Protection Law) outline provisions to prevent unfair contractual terms and ensure that consumers are adequately informed about their rights and obligations in transactions with businesses, including *Pinjol* providers. This regulation aims to empower consumers and provide them with legal recourse in cases of unfair treatment or contractual disputes.<sup>45</sup>

Furthermore, specific regulations targeting online transactions, such as POJK 77/2016, set forth clear guidelines for *Pinjol* practices. This regulation emphasises the importance of transparency, fair treatment, data security, and efficient dispute resolution mechanisms.<sup>46</sup> By imposing such requirements on *Pinjol*

<sup>42</sup> Ardianti, T. P., & Apriani, R. (2023). Consumer Personal Data Legal Protection on Illegal Fintech Loans. *Jurnal Meta-Yuridis*, 6(1), 50–62.

<sup>43</sup> “Universal Declaration of Human Rights” (1948), Article 12.

<sup>44</sup> Indonesia, “Law No. 39 of 1999 Concerning Human Rights (Hereinafter Referred as ‘Human Rights Law’)” (1999), Article 19(2).

<sup>45</sup> Indonesia, “Law Number 8 of 1999 Concerning Consumer Protection (Hereinafter Referred as ‘Consumer Protection Law’)” (1999), Article 4. Those rights are: a. The right to comfort, security, and safety in consuming goods and/or services; b. The right to choose goods and/or services and to receive them according to the promised exchange value, conditions, and guarantees; c. The right to accurate, clear, and honest information regarding the conditions and guarantees of goods and/or services; d. The right to express opinions and complaints about the goods and/or services used; e. The right to advocacy, protection, and fair dispute resolution efforts for consumer protection; f. The right to consumer education and training; g. The right to be treated or served correctly, honestly, and non-discriminatively; h. The right to compensation, reimbursement, and/or replacement if the received goods and/or services do not match the agreement or as they should be; i. Rights regulated in other legal provisions.

<sup>46</sup> Indonesia, “Financial Services Authority Regulation Number 77/POJK.01/2016 Concerning Information Technology Based Money Lending And Borrowing Services (Hereinafter Referred as ‘POJK 77/2016’)” (2016), Article 30(1), Article 31(1)(2), Article 32(1)(2), Article 36(1)(2), Article 39. Those rights are: a. The right to up-to-date information regarding Information Technology-Based Money Lending Services; b. The right to information about the acceptance, postponement, or rejection of applications for Information Technology-Based Money Lending Services along with the reasons; c. The right to receive information from electronic documents in easy-to-read and understandable Indonesian language. Indonesian language in documents can also be juxtaposed with other languages if necessary; d. The right to protection from any attempt to transfer responsibility or obligations from the Service Provider to the User; e. The right to protection from the obligation of users to comply with new, additional, continued, and/or unilateral changes made by the Service Provider during the user’s utilization of the service period; f. The right to compensation for user losses arising from errors and/or negligence of directors, and/or service provider employees; g. The right to protection from the provision of user data and/or information to third parties without the user’s consent.

providers, the regulatory framework seeks to mitigate risks associated with *Pinjol* and enhance consumer confidence in digital financial services.

In the event of violations of consumer rights by *Pinjol* companies, legal sanctions may be imposed to ensure accountability and deter future misconduct, which are firstly given by OJK.<sup>47</sup> Both criminal and civil penalties may apply, depending on the severity and nature of the violations. Government agencies, such as Komnas HAM (National Commission on Human Rights) and Satgas PASTI (Task Force for Eradicating Illegal Financial Activities), play a vital role in enforcing consumer protection laws and ensuring compliance by businesses operating in the *Pinjol* sector. Through investigations, sanctions, and legal proceedings, these agencies work to uphold consumer rights and hold accountable those who infringe upon them.

In essence, the legal framework governing consumer rights in Indonesia's *Pinjol* sector underscores the importance of balancing business interests with the protection of individual rights. By promoting transparency, fairness, and accountability, these regulations aim to foster a safe and conducive environment for online financial transactions while upholding fundamental principles of consumer protection and human rights.

### 3.2.3. Violation of Human Rights Related to *Pinjol*

#### 3.2.3.1 Before and During the *Pinjol* Process

The violation of human rights related to *Pinjol* in Indonesia is a pressing concern highlighted by various incidents and observations within the sector. *Pinjol* services often operate outside regulatory frameworks, leading to a plethora of human rights infringements and challenges. The existence of *Pinjol* leads to social disturbances, psychological disorder and precarious economy of Indonesian society. As an illustration, the [Figure 2](#) below shows the list of viral cases related to *Pinjol* in 2023.



Figure 2. Compilation of Viral *Pinjol* Cases in 2023

Source: [inilah.com](https://www.inilah.com)<sup>48</sup>

<sup>47</sup> *Ibid.*, Article 47. For violations of obligations and prohibitions in this OJK Regulation, OJK is authorized to impose administrative sanctions on the organizer in the form of: a. Written warnings; b. A fine, that is, the obligation to pay a certain amount of money; c. Restrictions on business activities; and d. Revocation of permission.

<sup>48</sup> Ajat M Fajar, "INFOGRAFIS: Kasus- Kasus Jeratan *Pinjol* Hingga Berujung Petaka," *inilah.com*, 2023, <https://www.inilah.com/infografis-kasus-kasus-jeratan-Pinjol-hingga-berujung-petaka>. Accessed on April 10, 2024.

The compilation of viral *Pinjol* cases in 2023 in [Figure 2](#) provides insights into various ways individuals engage with *Pinjol*, often resulting in severe financial and personal consequences. Here's an analysis of the correlation between these cases and the violation of human rights:

1. **Youth Entrapment for Lifestyle**  
The case highlights how young individuals, including those below 19 years old, are lured into *Pinjol* to sustain their lifestyles. This phenomenon reflects a violation of human rights, particularly concerning the exploitation of vulnerable populations, including minors, who may not fully comprehend the financial implications and legal ramifications of *Pinjol*.
2. **Promotion through Online Gambling**  
The association of illegal *Pinjol* advertisements with online gambling platforms signifies a disregard for regulatory norms and ethical standards. This correlation underscores the interconnectedness of illicit financial activities and the potential exploitation of individuals engaging in online gambling, leading to heightened risks of financial exploitation and coercion.
3. ***Pinjol* for Crypto Trading Capital**  
The case involving a student's murder due to indebtedness from *Pinjol* for crypto trading capital demonstrates the perilous consequences of unregulated *Pinjol* practices. Such cases not only exacerbate financial vulnerabilities but also underscore the potential for violence and coercion arising from debt bondage, thereby violating individuals' rights to safety and security.
4. **Link with Online Gambling Capital**  
The juxtaposition of illegal *Pinjol* and online gambling as akin to sibling relationships highlights the symbiotic nature of these illicit activities. This connection perpetuates a cycle of financial dependence, vulnerability, and exploitation, leading to profound social and economic repercussions for affected individuals, thereby violating their rights to financial autonomy and well-being.
5. ***Pinjol* for Non-Essential Expenses**  
The surge in *Pinjol* usage to purchase non-essential items such as concert tickets exemplifies the normalization of unsustainable financial behaviours and the prioritization of immediate gratification over long-term financial stability. Such trends perpetuate financial precariousness and exacerbate inequality, disproportionately impacting vulnerable populations and violating their rights to economic security and dignity.
6. **Exploitation in Online Business Cooperation**  
The case involving a large group of IPB students trapped in *Pinjol* schemes underlines the systemic nature of financial exploitation and coercion within *Pinjol* practices. This exploitation not only undermines individuals' financial autonomy and dignity but also perpetuates cycles of debt and vulnerability, thereby violating their rights to fair and just treatment in financial transactions.

In essence, the compilation of *Pinjol* cases in 2023 illustrates a concerning trend of human rights violations intertwined with *Pinjol* practices in Indonesia. From youth ensnared in debt for lifestyle choices to the promotion of loans through online gambling platforms, these cases highlight systemic issues of exploitation, coercion, and financial vulnerability. The association of *Pinjol* with non-essential expenses like concert tickets and the tragic consequences of debt bondage for crypto trading underscore the profound socioeconomic impacts and risks individuals face. Moreover, the exploitation of vulnerable groups, including minors and students, emphasizes the urgent need for robust regulatory measures, consumer protection frameworks, and public awareness campaigns to safeguard individuals' rights to financial autonomy, dignity, and security in the digital lending sphere.

### 3.2.3.2 During Debt Collection Practices in *Pinjol*

The emergence of *Pinjol* platforms introduced new challenges and complexities to debt collection processes, exacerbating issues related to gender-based violence and consumer vulnerability. Female users within the *Pinjol* sphere are disproportionately affected by gender-based violence during debt collection attempts, as highlighted in [Table 2](#). Threats against borrowers' children, coercion into compromising situations, and malicious sharing of personal data underscore the urgent need for regulatory intervention and comprehensive policy reforms to protect vulnerable consumers.

The Table 2 below describes the basic human rights violated during debt collection in *Pinjol* process.

Table 2. Violation of Human Rights in Debt Collection

Debt Collector Violation	Rights Violated	Description
Threats against Borrowers' Children	Right to Security and Privacy	Debt collectors threaten harm to borrowers' children as a coercive tactic during the debt collection process.
Coercion into Compromising Situations	Right to Dignity	Borrowers, particularly women, are coerced into compromising situations, such as engaging in activities against their will, to settle debts.
Dissemination of Loan Information	Right to Privacy	Debt collectors disseminate borrowers' loan information to jeopardize their employment status, leading to potential job loss or discrimination.
Malicious Sharing of Personal Data	Right to Privacy	Personal data, including sensitive information is shared maliciously by debt collectors, leading to humiliation, reputational damage, and even suicidal ideation.
Public Humiliation	Right to Dignity	Debt collectors employ tactics that publicly humiliate borrowers, exacerbating their distress and compromising their dignity.
Unauthorized Physical Contact	Right to Physical Integrity	Debt collectors resort to unauthorized physical contact, including harassment and violence, which violates borrowers' physical integrity.

Source: BBC News Indonesia<sup>49</sup>

The Table 2 delineates a distressing panorama of human rights violations perpetuated by debt collectors operating within Indonesia's *Pinjol* domain, particularly *Pinjol* companies. Each entry represents a distinct transgression against fundamental rights, vividly illustrating the predatory tactics utilized to coerce borrowers into repayment. The threats directed towards borrowers' children and the coercion into compromising situations not only violate the right to security but also instil profound fear and emotional trauma, amplifying the vulnerability of already financially distressed individuals. These egregious actions not only undermine the integrity of debt collection practices but also erode the trust between borrowers and lending institutions, perpetuating cycles of fear and exploitation within the *Pinjol* ecosystem.

Furthermore, the dissemination of loan information and malicious sharing of personal data epitomize grave breaches of privacy rights, compromising borrowers' autonomy and dignity. Such violations extend beyond financial ramifications, inflicting lasting emotional harm and perpetuating systemic inequalities. The data breaches and privacy infringements underscore the urgent need for robust regulatory frameworks and ethical guidelines to safeguard consumer rights and mitigate the rampant abuse within the *Pinjol* sector. Additionally, these violations underscore the importance of enhancing consumer awareness and empowerment to challenge predatory practices and demand accountability from both debt collectors and regulatory bodies.

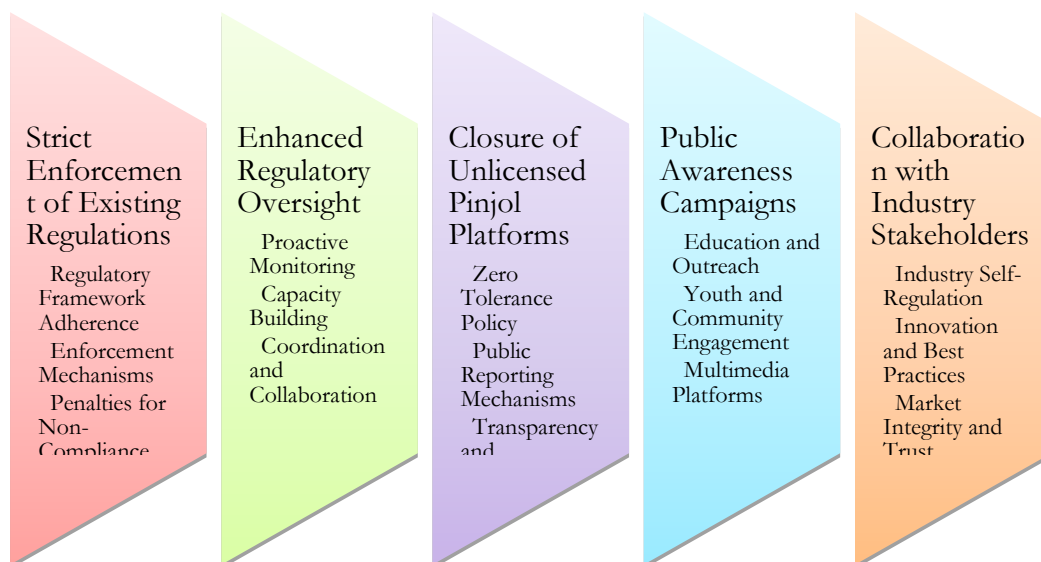
<sup>49</sup> BBC News Indonesia, “*Pinjol* AdaKami Diduga Teror Nasabah Karena Terlambat Bayar Cicilan - ‘Saya Dibilang Anak Haram, Orangtua Dimaki Dengan Kasar,’” 2023, <https://www.bbc.com/indonesia/articles/cz986dygeeyo>. Accessed on April 10, 2024.

### 3.3 Solutions for the Issues Related to Illegal Pinjol

The proliferation of illegal *Pinjol* platforms in Indonesia has sparked widespread concerns regarding regulatory compliance, ethical practices, and consumer protection. With the rapid expansion of the digital financial landscape, illegal *Pinjol* operations have emerged as a significant threat to the financial well-being and rights of Indonesian citizens. In response to this pressing issue, the Indonesian government faces the urgent task of implementing fast and effective measures to combat illegal *Pinjol* practices while safeguarding consumer rights and promoting ethical standards within the financial sector. Through a comprehensive approach that encompasses regulatory enforcement, enhanced oversight, public awareness campaigns, and collaboration with industry stakeholders, Indonesia have to address the multifaceted challenges posed by illegal *Pinjol* and establish a fair and transparent financial ecosystem for all stakeholders involved.

### 3.4 Solutions to Regulatory and Ethical Issues

In Indonesia, the proliferation of illegal *Pinjol* (*Pinjol* platforms) presents significant regulatory and ethical challenges that demand immediate attention and robust solutions from the government. Addressing these issues requires a multifaceted approach that encompasses the implementation of several measures, as shown in [Figure 3](#), namely strict enforcement of existing regulations, enhanced regulatory oversight, closure of unlicensed *Pinjol* platforms, public awareness campaigns, and collaboration with industry stakeholders.



**Figure 3. Solutions to Regulatory and Ethical Issues in Illegal *Pinjol***

*Source: Author*

First and foremost, the Indonesian government must prioritize the strict enforcement of existing regulations governing the *Pinjol* sector. These regulations, established by the Financial Services Authority (OJK), mandate that *Pinjol* operators obtain operational licenses, register as limited liability companies (PT), adhere to debt collection regulations, and comply with maximum interest rate caps. To ensure compliance, regulatory agencies need to conduct regular inspections, audits, and investigations into *Pinjol* operations, identifying violations and taking decisive enforcement actions against offenders. Penalties for non-compliance should be stringent, including fines, license revocation, and legal action to deter illegal operators from flouting the rules.

Enhanced regulatory oversight is essential to effectively monitor and regulate the *Pinjol* sector. Regulatory agencies should adopt proactive monitoring measures, leveraging technology and data analytics to detect and prevent illegal *Pinjol* activities in real-time. Capacity building initiatives, including training and resource allocation, are crucial to equip regulatory personnel with the necessary skills and expertise to oversee the *Pinjol* landscape effectively. Moreover, collaboration and coordination among regulatory agencies, law enforcement authorities, and other stakeholders are paramount to share information, coordinate enforcement efforts, and address emerging challenges collectively.



The closure of unlicensed *Pinjol* platforms is imperative to eliminate illegal operators and protect consumers from predatory lending practices. The Indonesian government should adopt a zero-tolerance policy towards unlicensed *Pinjol* platforms, swiftly identifying and shutting down illegal operators through coordinated enforcement actions and legal proceedings. Establishing transparent and accessible public reporting mechanisms allows whistleblowers and affected individuals to report suspected illegal *Pinjol* activities, ensuring timely intervention and enforcement.

Public awareness campaigns play a pivotal role in educating consumers about the risks associated with illegal *Pinjol* and empowering them to make informed financial decisions. Targeted campaigns should disseminate clear and accessible information about legal *Pinjol* alternatives, consumer rights, and avenues for redress. Engaging with youth organizations, community leaders, and grassroots initiatives amplifies awareness efforts, fostering a culture of financial literacy and resilience within communities across Indonesia. Utilizing diverse media platforms, influencers, and celebrities enhances the reach and impact of awareness campaigns, encouraging widespread adoption of responsible financial behaviour.

Collaboration with industry stakeholders is essential to promote transparency, fairness, and ethical conduct within the *Pinjol* sector. *Pinjol* operators should voluntarily adopt industry best practices and self-regulatory standards to enhance consumer protection and market integrity. Dialogue and collaboration between *Pinjol* companies, industry associations, and regulatory bodies facilitate the establishment of common standards and guidelines, promoting innovation and responsible entrepreneurship. By prioritizing customer satisfaction, data privacy, and corporate social responsibility, *Pinjol* companies can build trust and confidence in the market, fostering a fair and transparent financial ecosystem that benefits all stakeholders.

Hence, addressing regulatory and ethical issues associated with illegal *Pinjol* requires a comprehensive and coordinated effort from the Indonesian government, regulatory agencies, industry stakeholders, and civil society organizations. By implementing the aforementioned strategies, Indonesia can effectively combat illegal *Pinjol* activities, protect consumer rights, and promote financial inclusion and stability across the country.

### 3.5 Solutions to Human Rights Issues

Addressing human rights issues associated with illegal *Pinjol* in Indonesia demands a comprehensive approach that prioritizes the protection and empowerment of affected individuals. To effectively combat the systemic challenges posed by illegal lending practices, the Indonesian government must implement a range of solutions, as shown in [Figure 4](#), aimed at promoting consumer rights, enhancing regulatory oversight, and fostering ethical conduct within the financial sector.

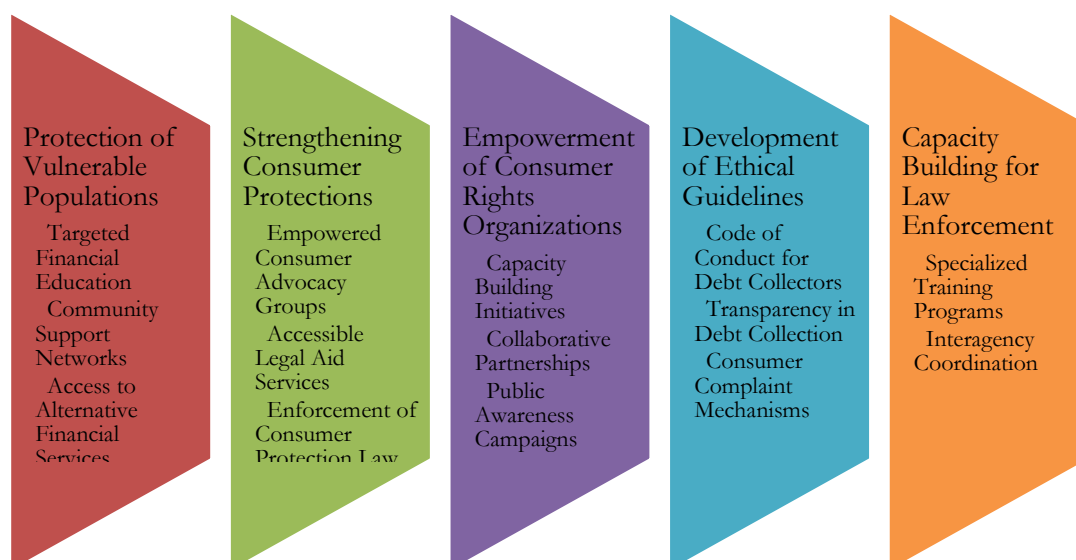


Figure 4. Solutions to Human Rights related to Illegal *Pinjol*

Source: Author

One critical aspect of combating human rights violations linked to illegal *Pinjol* involves the protection of vulnerable populations. Targeted financial education programs tailored to the needs of vulnerable groups, such as minors, low-income individuals, and those with limited financial literacy, can equip them with essential skills and knowledge to navigate the financial landscape responsibly. These programs should emphasize debt avoidance strategies, financial planning techniques, and awareness of the risks associated with illegal lending practices. Additionally, establishing community support networks staffed with trained professionals can provide personalized assistance and referrals to social services for individuals facing financial distress.

Strengthening consumer protections is paramount to safeguarding individuals from abusive debt collection practices and privacy violations perpetrated by illegal *Pinjol* operators. Empowered consumer advocacy groups and legal aid organizations play a crucial role in advocating for the rights of affected individuals and providing them with legal assistance and support. By enhancing enforcement mechanisms for consumer protection laws and regulations, the government can hold perpetrators of human rights violations within the *Pinjol* sector accountable and deter illegal *Pinjol* practices effectively. Accessible and affordable legal aid services should be made available to individuals facing harassment, coercion, or privacy breaches from debt collectors or illegal *Pinjol* companies.

Empowering consumer rights organizations is essential for fostering a culture of transparency, accountability, and ethical conduct within the financial sector. Capacity-building initiatives, collaborative partnerships, and public awareness campaigns can equip consumer rights organizations with the knowledge, skills, and resources needed to advocate for consumer rights effectively. By engaging in dialogue with government agencies, academia, and the private sector, consumer rights organizations can address systemic issues within the *Pinjol* sector and promote responsible lending practices that prioritize the well-being of consumers.

Developing ethical guidelines and codes of conduct for debt collectors and *Pinjol* operators is crucial for promoting fair and transparent debt collection practices. As an illustration of existing effort made by OJK, the POJK 6/2022 regulates about ethical guidelines in debt collection practices.<sup>50</sup> However, given the persistent cases of ethical and human rights violation, Indonesia should establish a more detailed and operational mechanism ethical guidelines for debt collectors. These guidelines should outline ethical standards, professional behaviour, and prohibited practices to ensure that debt collection processes comply with legal and ethical standards. Transparency in debt collection, including clear and accurate information provided to consumers regarding their rights and obligations, is essential for restoring trust and confidence in the financial system. Establishing accessible and user-friendly complaint mechanisms for consumers to report instances of misconduct or abuse can help hold debt collectors and *Pinjol* platforms accountable for their actions.

Capacity building for law enforcement officials is essential for enhancing their understanding of consumer protection laws, human rights principles, and emerging trends in *Pinjol* practices. Specialized training programs, interdisciplinary workshops, and interagency coordination efforts can equip law enforcement officials with the knowledge and skills needed to investigate, prosecute, and adjudicate cases related to illegal *Pinjol* effectively. By fostering collaboration among law enforcement agencies, regulatory bodies, and consumer protection agencies, the government can streamline enforcement efforts and improve the effectiveness of response mechanisms to human rights violations within the *Pinjol* sector.

---

<sup>50</sup> Indonesia, “Financial Services Authority Regulation Number 6/POJK.07/2022 Concerning Protection of Consumer and Community in Service Sector (Hereinafter Referred as ‘POJK 6/2022’)” (2022). Article 7 (1) PUJK (Financial Services Business Actors) must prevent the Board of Directors, Board of Commissioners, Employees, and/or third parties working for or representing the interests of PUJK from behaviors: a. enriching themselves or others; and/or b. abusing authority, opportunities, or means available to them because of their position or status, resulting in harm to Consumers. (2) PUJK must have and implement a code of ethics for Consumer and Community Protection as stipulated by each PUJK. Article 8 (1) PUJK is responsible for losses incurred by Consumers due to errors, negligence, and/or actions contrary to the provisions of laws and regulations in the financial services sector, committed by the Board of Directors, Board of Commissioners, Employees, and/or third parties working for or representing the interests of PUJK. (2) In the event PUJK can prove the involvement, errors, negligence, and/or actions contrary to the provisions of laws and regulations in the financial services sector committed by Consumers, PUJK is not responsible for the resulting Consumer losses. (3) The form of responsibility for Consumer losses as referred to in paragraph (1) may be agreed upon by Consumers and PUJK. (4) Follow-up by the Financial Services Authority in the proofing process as referred to in paragraph (2) shall be carried out in accordance with the Financial Services Authority Regulation regarding the provision of Consumer services.



Therefore, addressing human rights issues associated with illegal *Pinjol* in Indonesia requires a holistic approach that combines regulatory reforms, consumer empowerment strategies, and enhanced enforcement mechanisms. By prioritizing the protection and empowerment of vulnerable populations, strengthening consumer protections, empowering consumer rights organizations, promoting ethical standards, and enhancing the capacity of law enforcement agencies, the Indonesian government can create a more equitable and ethical financial ecosystem that upholds human rights principles and safeguards consumer welfare.

#### 4 Conclusion

In conclusion, the phenomenon of illegal *Pinjol* in Indonesia poses significant threats to both human rights and ethical standards within the financial landscape. Understanding the factors driving individuals into the realm of illegal *Pinjol*, such as socio-economic pressures, consumer behaviours, and psychological influences, underscores the complexity of the issue.

The regulatory framework established by OJK plays a crucial role in mitigating the risks associated with *Pinjol* transactions. Initiatives aimed at educating the public about the dangers of sharing personal data and enforcing compliance with regulations are commendable steps toward protecting consumer interests and maintaining the integrity of the financial system.

However, the alarming cases of human rights violations during the debt collection process highlight the urgent need for more robust intervention measures. The involvement of third-party debt collectors in coercive and inhumane practices necessitates clearer regulations, ethical guidelines, and stronger enforcement mechanisms.

Furthermore, the persistent violation of consumer rights and ethical standards within the *Pinjol* sector necessitates enhanced regulatory enforcement, oversight, and public awareness initiatives. Stricter enforcement of existing regulations, closure of unlicensed *Pinjol* platforms, and collaboration with industry stakeholders are critical to combatting illegal *Pinjol* practices and promoting ethical conduct within the financial ecosystem.

Moreover, the human rights implications of illegal *Pinjol* underscore the urgent need to protect vulnerable populations and empower consumers to make informed financial decisions. Strengthening consumer protections, enhancing regulatory oversight, and fostering ethical guidelines for debt collection practices are essential steps toward safeguarding human rights and promoting dignity and welfare within the financial sector.

Therefore, addressing the challenges posed by illegal *Pinjol* requires collective efforts from government agencies, regulatory bodies, civil society organizations, and the private sector. By working together to uphold human rights principles, promote financial literacy, and foster responsible lending practices, Indonesia can effectively combat illegal lending practices and ensure the well-being of its people in the digital era.

#### 5 Acknowledgement

The Author expresses his acknowledgement to ASTA Research Center and Universitas Diponegoro for the accomplishment of the writing of this article.

#### References

- Anggraeni, R. (2023). *Duh! Tren YOLO hingga FOMO Bikin Anak Muda Terjerat Utang Pinjol Ilegal*. Bisnis.Com. <https://finansial.bisnis.com/read/20231031/563/1709520/duh-tren-yolo-hingga-fomo-bikin-anak-muda-terjerat-utang-pinjol-ilegal>. Accessed on April 10, 2024.
- Anggraeni, R. (2024a). *OJK Banjir 39.298 Pengaduan, Paling Banyak soal Bank dan Pinjol*. Bisnis.Com. <https://finansial.bisnis.com/read/20240203/90/1737926/ojk-banjir-39298-pengaduan-paling-banyak-soal-bank-dan-pinjol>. Accessed on April 10, 2024.
- Anggraeni, R. (2024b). *OJK Terima 4.298 Pengaduan Soal Cara Debt Collector Pinjol Tagih Utang*. Bisnis.Com. <https://finansial.bisnis.com/read/20240203/563/1737953/ojk-terima-4298-pengaduan-soal-cara-debt-collector-pinjol-tagih-utang>. Accessed on April 10, 2024.
- Ardianti, T. P., & Apriani, R. (2023). Consumer Personal Data Legal Protection on Illegal Fintech Loans.

*Jurnal Meta-Yuridis*, 6(1), 50–62.

Bachtiar. (2019). *Metode Penelitian Hukum* (O. Yanto (ed.); Issue 1). UNPAM PRESS.

BBC News Indonesia. (2023). *Pinjol AdaKami diduga teror nasabah karena terlambat bayar cicilan - “Saya dibilang anak haram, orangtua dimaki dengan kasar.”* <https://www.bbc.com/indonesia/articles/cz986dygeeyo>. Accessed on April 10, 2024.

Fajar, A. M. (2023). *INFOGRAFIS: Kasus- kasus Jeratan Pinjol hingga Berujung Petaka*. Inilah.Com. <https://www.inilah.com/infografis-kasus-kasus-jeratan-Pinjol-hingga-berujung-petaka>. Accessed on April 10, 2024.

Indonesian Civil Code (hereinafter referred as "KUHPdata").

Indonesian Criminal Code (hereinafter referred as "KUHPidana").

Law No. 39 of 1999 concerning Human Rights (hereinafter referred as “Human Rights Law”), (1999).

Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred as “Consumer Protection Law”), (1999).

Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred as “Consumer Protection Law”), (1999).

Law Number 11 of 2008 concerning Information and Electronic Transaction (hereinafter referred as “ITE Law”), (2008).

Financial Services Authority Regulation Number 77/POJK.01/2016 Concerning Information Technology Based Money Lending And Borrowing Services (hereinafter referred as “POJK 77/2016”), (2016).

Indonesian Fintech Lending Association Decision Letter Number 002/SK/COC/INT/IV/2020 (hereinafter referred as “SK AFPI 002/2022”), (2020).

Financial Services Authority Regulation Number 10/POJK.05/2022 Concerning Information Technology Based Joint Funding Services (hereinafter referred as “POJK 10/2022”), (2022).

Financial Services Authority Regulation Number 6/POJK.07/2022 Concerning Protection of Consumer and Community in Service Sector (hereinafter referred as “POJK 6/2022”), (2022).

Financial Services Authority Circular Number 19/SEOJK.06/2023 concerning The Implementation Of Information Technology Based Joint Funding Services (hereinafter referred as “SOEJK 19/2023”), (2023).

Junaidi, A., Wulandari, R., Susilowati, E., Safitri, N., & Ikhsan, M. (2023). A Literature Review on Fintech Innovations: Examining the Evolution, Impact, and Challenges. *SEIKO: Journal of Management & Business*, 6(2), 438–448.

Karnain, D. (2023). *OJK Sebut Guru dan Pelajar Paling Sering Terjerat Pinjol Ilegal*. Radarpalembang.Com. <https://radarpalembang.disway.id/read/642473/ojk-sebut-guru-dan-pelajar-paling-sering-terjerat-Pinjol-ilegal>. Accessed on April 10, 2024.

Kasnandar, V. B. (2021). *Ini 10 Penyebab Masyarakat Terjerat Pinjaman Online*. Databoks. <https://databoks.katadata.co.id/datapublish/2022/09/27/ini-10-penyebab-masyarakat-terjerat-pinjaman-online>. Accessed on April 10, 2024.

Kusumaningsih, R., & Yulianingsih, D. (2023). Tantangan Regulasi Dan Perlindungan Hukum Dalam Pinjaman Online. *Jurnal Ilmu Sosial Dan Humaniora*, 2(2), 163–178.

Muhammad Ramli, Mulono Apriyanto, Ali Azhar, Feni Puspitasari, & KMS. Novyar Satriawan Fikri. (2023). Dampak Konsumen Terhadap Pinjaman Online (PINJOL). *PaKMas: Jurnal Pengabdian Kepada Masyarakat*, 3(1), 52–58. <https://doi.org/10.54259/pakmas.v3i1.1638>

Munawaroh, N. (2023). *5 Ciri Pinjol Legal yang Harus Kamu Tahu*. HukumOnline. [https://www.hukumonline.com/klinik/a/5-ciri-Pinjol-legal-yang-harus-kamu-tahu-lt64182c962f2c8#\\_ftn5](https://www.hukumonline.com/klinik/a/5-ciri-Pinjol-legal-yang-harus-kamu-tahu-lt64182c962f2c8#_ftn5). Accessed on April 10, 2024.

Nisrina, N. A., Anggraeni, D., & Adriyansyah, M. I. (2023). Terjadinya Pelanggaran Hak Asasi Manusia (HAM) Akibat Pinjaman Online. *(JOURMI): Journal Multidisiplin Indonesia*, 1(2), 66–74.

Nurhayati, Y., Ifrani, I., & Said, M. Y. (2021). Metodologi Normatif dan Empiris Dalam Perspektif Hukum. *Jurnal Penegakan Hukum Indonesia*, 2(1), 1–20. <https://doi.org/10.51749/jphi.v2i1.14>

Pardosi, R. O. A. G., & Primawardani, Y. (2020). Perlindungan Hak Pengguna Layanan Pinjaman Online Dalam Perspektif Hak Asasi Manusia. *Jurnal HAM*, 11(3), 353–368.

Pasaribu, M. P. J. (2021). Tinjauan Yuridis terhadap Kedudukan Fintech Yang Tidak Terdaftar di Otoritas Jasa Keuangan. *Jurnal Ilmiah Penegakan Hukum*, 8(1), 48–58.

Poernomo, S. L. (2022). Perlindungan Konsumen Terhadap Praktik Teknologi Finansial Ilegal Dalam Bentuk Pinjaman Online Ilegal. *Mimbar Keadilan*, 15(1), 134–148. <https://doi.org/10.30996/mk.v15i1.6081>

- Prastiyo, W. E., & Suartha, I. D. M. (2021). Debt Collection Violations in Financial Technology in a Cyber-ethic and Legal Perspective. *Journal Komunikasi Ikatan Sarjana Komunikasi Indonesia*, 6(1), 13–21.
- Sitepu, R. (2023). The Legal Intricacies of Illegal *Pinjol* and *Pinjol*. *Journal of Social Research*, 2(6), 2045–2054. <https://doi.org/10.55324/josr.v2i6.957>
- Solikin, N. (2021). *Pengantar Metodologi Penelitian Hukum* (Tim Qiara Media (ed.)). CV. PENERBIT QUIARA MEDIA.
- Subekti, & Tjitrosudibio. (2007). *Kitab Undang-Undang Hukum Perdata*. PT. Arga Printing.
- Sugangga, R., & Sentoso, E. H. (2020). Perlindungan Hukum Terhadap Pengguna Pinjaman Online (*Pinjol*) Ilegal. *PAJOUL (Pakuan Jusitce Journal of Law)*, 1(1), 47–61.
- Universal Declaration of Human Rights, (1948).
- Widyastuti, A. Y. (2021). *Pinjol Ilegal Kian Meresahkan , YLKI Soroti Literasi Fintech Masih Rendah*. Tempo.Co. <https://bisnis.tempo.co/read/1502212/Pinjol-ilegal-kian-meresahkan-ylki-soroti-literasi-fintech-masih-rendah>. Accessed on April 10, 2024.