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The Role of Law in Improving Financial Literacy in Online Lending in the Context of Development Economic Law

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ABSTRACT

Law is believed to be able to provide changes towards improving the nation's economy, and can also be a tool to engineer people's behavior in achieving their welfare. One of them is by increasing financial literacy in the field of online loans in the context of development economic law. In recent years since the mushrooming of information technology-based lending and borrowing service providers (LPB2TI) in Indonesia, there have been many legal events related to this online lending and borrowing transaction. Starting from the imposition of loan interest that exceeds the upper limit as determined by the strategic partner of the Financial Services Authority in this case appointed is the Indonesian Fintech Joint Funding Association (APFI), to the low public knowledge about their rights and obligations in the legal relationship of creditors or investors, information technology-based lending and borrowing service providers, and debtors or online loan customers. This is what makes writing this topic very important to pay attention to. In order to elaborate the role of law in increasing inclusive financial literacy in online loans in the context of Economic Development Law.

Keyword: *Development Economics Law, Financial Literacy, Online Lending, The Role of Law*

ABSTRAK

Hukum dipercaya mampu memberikan perubahan ke arah perbaikan perekonomian bangsa, dan dapat pula sebagai alat merekayasa perilaku masyarakat dalam meraih kesejahteraannya. Salah satunya dengan upaya meningkatkan literasi keuangan di bidang pinjaman online dalam konteks hukum ekonomi pembangunan. Beberapa tahun terakhir ini sejak menjamurnya penyelenggara layanan pinjam meminjam uang berbasis teknologi informasi (LPB2TI) di Indonesia, terjadi banyak peristiwa hukum terkait transaksi pinjam meminjam uang secara online ini. Mulai dari pengenaan bunga pinjaman yang melebihi batas atas sebagaimana ditetapkan mitra strategis Otoritas Jasa Keuangan dalam hal ini yang ditunjuk adalah Asosiasi Pendanaan bersama Fintech Indonesia (APFI), hingga rendahnya pengetahuan masyarakat mengenai hak dan kewajibannya di dalam hubungan hukum kreditur atau investor, penyelenggara layanan pinjam meminjam uang berbasis teknologi informasi, dan debitur atau nasabah pinjaman online. Hal inilah yang membuat penulisan topik ini menjadi sangat penting untuk diperhatikan. Dalam rangka mengelaborasi peranan hukum meningkatkan literasi keuangan inklusif pada pinjaman online dalam konteks Hukum Ekonomi Pembangunan.

Keyword: Peranan Hukum, Literasi Keuangan, Pinjaman Online, Hukum Ekonomi Pembangunan



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1. Introduction

This article discusses the role of law in improving inclusive financial literacy in online lending in the context of development economics law. In the field of providing information technology-based lending services, it is worth exploring the legal aspects of imposing interest. The aim is to analyze the role of law in improving people's economic welfare, *best practices* on online loans, which in the future are expected to contribute constructively to the development of national law in the field of financial technology (*financial technology*) *peer-to-peer lending*. Only 12% of UMKM have access to credit due to lack of formal financial statements, credit history, or collateral. (Bank Indonesia, 2019). With a good understanding of regulation, collaboration, and financial literacy, parties especially entrepreneurs can optimize the value of their business. Literacy that must be improved is the ability to read and criticize every information served, especially online loan advertisements. So as to avoid the seduction and traps of illegal online loans and plunge into the abyss of endless interest-bearing interest debt.

The public's need for *cash loans* is no longer solely expecting a surge of funds from banks. Along with the development of the era of globalization and the digital economy and information technology, *fintech* or financial technology *or more widely known to the public as an online loan platform* was born. *At the end of 2016* the Financial Services Authority (OJK) issued a regulation regarding *this online loan* through OJK Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services. Which has been amended by the issuance of the latest Financial Services Authority Regulation regarding online loans, namely the Financial Services Authority Regulation of the Republic of Indonesia Number 10 / POJK.05 / 2022 concerning Information Technology-Based Joint Funding Services.

Based on the *Code of Conduct (CoC)* of the Indonesian Fintech Joint Funding Association (AFPI), an association officially appointed by the Financial Services Authority, the amount of loan interest given to debtors is 0.8% per day (maximum limit). Plus there is a provision that the total amount of fees, late fees, and all other costs is a maximum of 100% of the principal value of the loan. (Finance, 2019). Unfortunately, at the implementation level, not a few online loans apply loan interest rates above the provisions set by AFPI, plus other costs. (Nugroho, 2020). This is what causes problems for people who use online loan services in Indonesia.

The Financial Services Authority (OJK) as an institution that is independent and free from interference from other parties, has the functions, duties, and authorities of regulation, supervision, examination, and investigation as referred to in Law Number 21 of 2011 concerning OJK. In today's modern economic era, the development of the nonbank financial industry is experiencing rapid progress, which is marked by the emergence of Information Technology-Based Money Lending and Borrowing Services or abbreviated as LPB2TI or commonly referred to by the public as *fintech peer-to-peer lending (fintech lending)*. The problem is, OJK with its authority regulated in Articles 7, 8, 9 of the OJK Law does not accommodate restrictions on loan interest and other costs. Arrangements regarding this matter are handed over to the Indonesian Joint Funding Fintech Association (AFPI). The absence of this restriction provides an opportunity for LPB2TI to apply loan interest and other fees optimally and not transparently, thus contradicting the basic principles of user protection, especially transparency and fair treatment as stipulated in the Financial Services Authority Regulation Number 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services. (Nurhilmayah, 2021)

In 2021, online loan interest decreased by 50%, from 0.8% to 0.4% according to AFPI Chairman Adrian Gunadi, based on the agreement, AFPI lowered the maximum upper limit on interest loans by approximately 50%. So one of the efforts on how *fintech lending* is affordable with cheaper economies of scale and of course so that it can distinguish legal from illegal, in his press conference. (Bestari, 2021). To discuss this issue from the perspective of legal science, conducting a philosophical study is very important. Legal science should be integrative, so from the aspect of ontology, legal science will essentially answer what is the starting point for substantial study of legal science. Meanwhile, from the aspect of epistemology, legal science will answer how to get the truth through the method of law and axiology will finally answer the usefulness of the science of law itself. So with such a background and the correlation between ontology, epistemology and axiology, this paper will examine more intensely, in detail and in detail how legal science is studied from the aspect of ontology of science, epistemology of science and studied from the aspect of axiology of science. Axiology is related to the

usefulness of a science, the nature of science as a collection of knowledge obtained and useful for us in explaining, predicting, and analyzing natural phenomena, so it can be said that axiology is a science that studies the true nature and benefits of knowledge.(Farida & Nasichin, 2018)

The issue of justice has been highlighted in various previous studies in the field of legal issues. Talking about justice is inseparable from equality. Aristotle argued that justice is not equality, but the division of rights, which does not necessarily mean equality. Reviewing this topic from its ontological aspect, it contains what objects are studied by science? What is the essential existence of the object? How is the relationship between the object and human perception (such as thinking, feeling and sensing) that produces knowledge. How is the existence of the principle of fairness actually in the agreement between the operator and the user of the service or *online loan platform*? According to Bellefroid, the principle of common law is the basic norm that is elaborated from positive law and which legal science does not ascribe to more general rules called the deposition of positive law in society. According to John Rawls that the conception of justice cannot be determined by one group of people alone, whether it is the ruler, law enforcement agencies, representatives of the people, the majority of certain tribes and religions, and so on. Rawls argues that justice is the main virtue of the presence of social *institutions*. However, according to him, the good for the whole society cannot override or interfere with the sense of justice of everyone who has obtained a sense of justice, especially the weak.(Tzafestas, 2022)

Examining the existence of the principle of transparency and the principle of fair treatment in the agreement between the operator and the user of this online loan will essentially answer the question of whether the point of departure for a substantial study of the search for the values of transparency and fair treatment along with legal rules related to values and behavior. Seeing the existence or absence of the principle of justice can also be done using the Pancasila Legal Theory, which is a legal theory that bases on the values of Pancasila as its ontological, epistemological, and even axiological foundation.(Farida & Nasichin, 2018) From the aspect of epistemology, discussing the systematic knowledge of something to be studied. The problem will be answered by the method of legal science. The principle of transparency and the principle of fair treatment in the agreement between the operator and user of the online loan service if judging from the epistemological optics can use the logic-hypothetico-verification method. Science is knowledge that has a scientific character, called *science* or *episteme*. So that in raising the topic of this research will later explore the principle of justice with a scientific and systematic character.(Tutik, 2013)

Value is a derivative of ideas and behavior is a derivative of reality/fact. If we aspire to a science of a topic like in this article, the determination of the method of law used must be determined by intergralistic principles or the interweaving of unity between rules, values and behavior. In the rule of law is implied between values and behavior so that the central or fundamental focus of the method of legal science is the analysis of rules. While value and behavior analysis is only a side study material of rule analysis. Legal science is dynamic in the sense that it has a distinctive influence and function compared to other fields of law.

2. Method

This article is produced from *library* research by collecting literature, reading, and analyzing to answer research problems. Secondary data are obtained by conducting a literature study. The scope of the research is limited only to the issue of the role of law in increasing inclusive financial literacy in its relevance to the imposition of interest on online loans, in the context of development economics law. On the one hand, the implementation of fintech LPB2TI can be seen as one of the solutions to increase the financial inclusion index. Increasing the financial inclusion index is expected to contribute to improving the level of welfare. (Deborah, 2023) However, on the other hand, the implementation of LP2BTI fintech is still faced with various challenges. These challenges include; legal protection for lenders, data security, competition between the LP2BTI fintech industry and banks and low public understanding.(Inda Rahadiyan, n.d.). The role of law in increasing inclusive financial literacy in online loans is urgently needed. Especially in the context of Indonesia's economic development law. The characteristics of state economic law play a role as a regulator of various economic activities of the community, the aim is to avoid the arbitrariness of business actors in the distribution / development of the economy fairly for the community. The role of economic law in supporting economic development regulates the economy, especially setting limits on the strong and providing opportunities for the weak, so that economic development runs fairly. The obstacles to economic development are excessive bureaucracy, unfair competition and unclear laws, multi-interpretation, asynchronous, and others.

3. Result and Discussion

The lack of provisions governing the imposition of online loan interest is exacerbated by the lack of public access to information technology-based lending and borrowing services. So that ignorance about the imposition of loan interest along with other costs and lack of knowledge about the rights and obligations of the parties in an online loan legal relationship, causes losses and eventually entangled in endless interest-bearing interest debt. This is what is important to find a solution, so that the general public in this case the parties who transact in online loans are aware of their rights and obligations. Understand the amount of interest and administrative costs, as well as matters related to financial inclusion.

Financial inclusion is defined as a condition when every member of society has access to various quality formal financial services in a timely, smooth, and safe manner at affordable costs in accordance with their needs and abilities in order to improve community welfare. (Widjanarko, 2019) In order to improve the economic capacity of the community that can pave the way to get out of poverty and reduce economic inequality, the Government has a vision to encourage economic growth, create financial system stability, support poverty reduction programs, and reduce inequalities between individuals and between regions through increasing access of all people to financial services. Increasing access to financial services is carried out through improvements in the demand and supply sides. On the demand side, the Government seeks to increase economic and financial capabilities as well as public awareness of the importance of the financial system. On the supply side, the Government is increasing the availability of financial services that can be accessed by all levels of society.

In relation to online lending, adequate financial literacy is required so that access to formal financial institutions can be more widely open to people in need. The Financial Services Authority plays a role and is authorized to be part of this inclusive financial literacy solution. For this reason, the Financial Services Authority of the Republic of Indonesia Regulation Number 3 of 2023 was born concerning Increasing Financial Literacy and Inclusion in the Financial Services Sector for Consumers and the Public. The authority of the Financial Services Authority in limiting the amount of loan interest and other costs on Information Technology-Based Joint Funding Services (LPB2TI) is very large as mandated by Law Number 21 of 2011 concerning the Financial Services Authority. Especially the authority directly related to consumer protection in this case LPB2TI users. A very strategic authority of OJK in establishing regulations regarding supervision in the financial services sector, and conducting supervision, examination, investigation, consumer protection, and other actions against financial service institutions, actors, and/or supporting financial services activities as referred to in laws and regulations in the financial services sector, especially regulations on limiting the amount of loan interest along with other fees on LPB2TI.

Development economics law is included in the field of economic law studies, which according to Sunaryati Hartono, is the elaboration of development economics and social economic law so that the law has the following two aspects, (1). aspects of regulating economic development efforts; (2). Aspects of regulating efforts to develop results and economic development evenly at all levels of society. So that the economic law of development is which includes legal arrangements and thoughts on ways to improve and develop Indonesia's economic life nationally. (Nuryadi, 2016) The imposition of loan interest on online loan platforms for the Indonesian state itself is only based on the amount of loan interest set by APFI (Indonesian Fintech Joint Funding Association). AFPI is a strategic partner of OJK in carrying out the regulatory and supervisory functions of fintech *P2P lending providers* in accordance with the OJK designation No. S-5 / D.05 / IKNB / 2019. The existence of AFPI is also in accordance with the Financial Services Authority Regulation No.10/POJK.5/2022 concerning Information Technology-Based Joint Funding Institutions.

The amount of loan interest according to the State Gazette of 1848 Number 22 is 6%. According to the application of the basic banking interest rate is per year, it means that the amount of loan interest is assumed to be around 6% per year. When compared to the loan interest rate set by AFPI, which is 0.8% per day plus other fees of a maximum of 100%, and the non-inclusion of the loan interest amount at the beginning of the user signing LMPUBTI, this is contrary to the basic principles of user protection regulated by OJK in Article 29 of OJK Regulation Number 77 / POJK.01 / 2016, namely the principles of transparency and fair treatment. OJK's authority in Article 9 of Law Number 21 of 2011 is to carry out supervisory duties as referred to in Article 6. The authority is, establishing operational policies for supervision of financial services activities, supervising the implementation of supervisory duties carried out by the chief executive, conducting

supervision, inspection, investigation, consumer protection, and other actions against financial service institutions, actors, and/or supporting financial services activities as referred to in laws and regulations in the financial services sector; give written orders to financial service institutions and/or certain parties; appoint a statute manager; establish the use of statute management; establish administrative sanctions against parties who violate laws and regulations in the financial services sector; and grant and/or revoke: business licenses, individual licenses, effective registration statements, registration certificates, approval to carry out business activities, ratification, approval or determination of dissolution, and other stipulations as referred to in laws and regulations in the financial services sector.

The authority of OJK in Article 9 has been accommodative to the supervisory tasks of financial service institutions in the financial services sector, including LPB2TI. Such as the authority to determine operational policies for supervision of financial services activities, ideally it can regulate the amount of loan interest and other costs at LPB2BI. To exercise its authority to prevent and reduce losses to consumers, the public, and the financial services sector, as well as the eradication of financial crimes committed by certain parties in the financial services sector, OJK is authorized to appoint managers and use statutes in exercising its authority to protect users. According to researchers, the statute manager carries out its duties related to the implementation of policies to save the business continuity of financial service institutions, it has nothing to do with protecting LPB2TI users.

The imposition of 0.4% loan interest is set by the Indonesian Fintech Joint Funding Association (AFPI), based on the *Code of Conduct* (CoC) of the AFPI fintech association organization. According to Satya Arinanto, in conducting comparative law, there are several fields of science that are very related, such as private international law, international public law, legal history, legal anthropology, and sociology of law. (Chrisjanto & Tajsgoani, 2020) Regarding *the Code of Conduct (CoC), another form of regulation that is internationally binding is through the creation of Codes of Conduct by international organizations. The term « code » has been used for a long time, used to denote a written instrument that contains a codification of written principles and rules. The application of the upper limit on loan interest on this financial technology platform has an influence on online loan entrepreneurs. With the decrease in borrowing costs, it is hoped that online loans can be more affordable, as well as an effort to deal with illegal online loans.*

On the other hand, online loan platform business actors appreciate the steps taken by the Indonesian Fintech Joint Funding Association (APFI) to immediately review the implementation of the loan cost limit, because the decrease is considered burdensome for players. For example, one of the *financial technology peer-to-peer lending (fintech P2P lending)* players DanaRupiah who claimed to really appreciate if the Indonesian Fintech Joint Funding Association (APFI) could review the loan interest limit of 0.4%. Because the 0.4% interest limit is considered very burdensome *for peer-to-peer lending companies*. The cost for processing and acquisition is high so the profit is very thin. It is hoped that business actors, with the re-examination of the loan interest limit of the Indonesian Fintech Joint Funding Association (APFI), can consider the loan interest rate to be increased. Currently, the average interest rate on corporate loans after the interest cut is 0.35%. The interest charged to customers (debitur.si borrowers) is the interest that will be given to *lenders* (creditors/investors) as a return on lending and borrowing transactions through the DanaRupiah platform. For information, currently the maximum funds that can be borrowed from the DanaRupiah online loan platform is IDR 8,000,000 (eight million rupiah). So far, the impact of this decrease in loan interest on the company's performance, namely *risk scoring* for new customers, will be tightened, to reduce the default rate. In addition, the products offered will also be more diverse on the tenor side to accommodate customer needs. The decrease in interest is indeed very influential on the attractiveness of *lenders* to place funds on the Technology-Based Lending and Borrowing Service platform and this will have an impact on a significant decrease in *disbursements*.

The legal measures to achieve economic efficiency are: 1). Reduction or removal of juridical barriers in economic transactions; 2). Reduction of transaction costs with standard rules; 3). Strict application of sanctions against any violation of rules in the economic field, and 4). Improving the dispute resolution process effectively and efficiently in a non-litigation manner. According to the author, this can also be applied to the problems faced related to the imposition of online loan interest in Indonesia. As is known that in addition to the amount of interest, debtors who have loans on online loan provider platforms are also faced with other costs in the form of provision, administration, and others beyond the principal and loan interest.

These other costs in fact consist of administrative fees and late fees. Late fees have no limit on one day of delay, AFPI determined "... The total amount of fees, late fees, and all other costs is a maximum of 100% of the principal value of the loan." So it is not surprising that the refund of loan funds that must be paid by users is very large and is often called detrimental to users. Administration costs here can be equated with provision fees in the process of applying for loans with collateral in banks. However, it is unfortunate that these other costs have no regulation by OJK or AFPI. Using Article 1320 of the Civil Code (KUHPer), the determination of the amount of interest loans and other costs is left to the agreement of the parties.

Based on the element of legal substance, namely the laws and regulations on online loans in Indonesia, in this case the Financial Services Authority Regulation (P.OJK). Number 10 of 2022 concerning Information Technology-Based Joint Funding Services (LPB2TI). If it is said that this regulation explicitly does not explicitly provide a limit on the amount of interest, and gives the authority to set interest to *financial technology (fintech)* associations officially appointed for it, then the problem may not be in making regulations. Not being included in the National Legislation Program (Prolegnas) shows that the country's *political will* does not pay attention to the imposition of interest on this loan. So in the future it seems that there will be no new arrangements regarding the imposition of online loan interest more firmly than what is currently applied.

The role of law in the administration of investment, in general, is to regulate the dilemma of investment implementation and create a conducive investment climate. The law provides for the benefits of the presence of capital to be increased without eliminating political and economic difficulties. The law of predictability, the law creates predictability for investment activities, certainty, and business security. Reducing transaction costs, the law is used to reduce non-productive costs so that the investment climate is more conducive. Ease of doing business, the law plays a role in providing ease of doing business for citizens and investors so that the benefits of their presence can be optimized for national development. Globalization affects legal changes in a country, including in Indonesia. This situation must be faced (not avoided) by building a strong national legal system and always directed at the realization of welfare and social justice for all Indonesian people. (L. Hanim, 2014). The development of this legal system is not only aimed at changing the substance of the law and improving the legal structure, but also important is the continuous effort to realize a good legal culture. Indonesia can emulate constructive examples from the implementation of online loans in the United States and China. Similarly, it can reject it if it is not in accordance with the needs and sociological conditions of the Indonesian people. Regulation and supervision regarding bank soundness including liquidity, profitability, solvency, asset quality, minimum capital adequacy ratio; maximum lending limits, loan-to-deposit ratios, and bank reserves; bank statements related to the health and performance of the bank; debtor information system; credit testing, and bank accounting standards. Regulation and supervision regarding prudential aspects of banks, including: risk management, bank governance, know your customer principles and anti-money laundering, prevention of terrorism financing and banking crime and bank inspection. The authority in Article 7 is not related to the authority in the Non-Bank Financial Industry (IKBN) as regulated by OJK. So Article 7 of OJK's authority is specific to the banking sector.

4. Conclusion and Recommendation

The Role of Law in Improving Financial Literacy in Online Lending in the Context of Development Economic Law, in general to regulate investment dilemmas and create a conducive investment climate. The law provides for the benefits of the presence of capital to be increased without eliminating political and economic difficulties. Strong synergy and cooperation are needed in developing *financial technology (fintech)* systems to improve the digital economy system for MSMEs. This suggestion is to improve financial literacy so that local and remote communities know more through financial technology so that people can be more productive in improving their regional economy.(Alfian, 2021) Because actors in economic development are the government, national private sector, foreign parties, and the community. This is where it is important to increase financial literacy in order to carry out its role and cooperate among regional and national economic development actors. In addition, to fulfill the principles among the many principles in the economic law of development, namely the principle of balance, harmony, and harmony in life, the principle of togetherness, kinship, balance, and continuity in the prosperity of the people.

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