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## Legal Protection and the Role of the State in Online Lending and Online Arisan

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**Abstract:** In the contemporary world, economic activities have increasingly transformed into electronic transactions. The use of electronic technology in money-lending activities and arisan has shifted practices that were previously conducted face to face into more practical online formats. Electronic technology has significantly accelerated and simplified these processes. Online lending and online arisan have emerged as two phenomena that are becoming increasingly prevalent, particularly as the intensive use of digital devices has led to a high level of dependency within society. Technological developments have facilitated rapid access to cash through online platforms, while online arisan arrangements have made the organization of arisan activities considerably easier. Both phenomena generate substantial social and economic impacts; however, they also give rise to various challenges related to security and regulation. Further research is therefore required to understand the legal relationships and the resolution of legal consequences arising from the implementation of online lending and online arisan, as, in practice, online lending has frequently resulted in debtors becoming financially distressed and unable to meet their repayment obligations, while many arisan participants have been trapped in fraudulent arisan schemes. The issues examined in this study concern how online lending (pinjol) and online arisan (arisol) operate as economic activities within society, how they are regulated, and how state protection is provided in practice in relation to these activities. These issues are examined through normative legal research employing a statutory approach and a case approach, grounded in theories of obligations and legal protection. Ultimately, this study concludes that there is a need to provide guarantees for debtors and arisan participants, which may take the form of a dedicated protection institution or a mandatory insurance mechanism.

**Keyword:** Electronic Transactions, Online Lending, Online Arisan, Legal Protection.

### INTRODUCTION

In everyday social life, individuals cannot be separated from the practice of making mutual promises, such as agreeing to meet at a certain time and place, or promising to deliver an item or perform a particular action. Such promises may be made with or without the involvement of money. Promises that involve money commonly arise in activities such as

buying and selling, lending and borrowing money, or arisan activities, all of which are prevalent within Indonesian society.

In lending and borrowing activities, transactions were initially conducted through direct, face-to-face interactions. Along with the advancement of time and the development of technology in the digital era, money-lending activities have become faster and more convenient through online transaction-based services. The ease of access enabled by information technology has accelerated the completion of transactions. At present, numerous online lending services are available, including, among others, BCA Personal Loan (BCA, n.d.) and Dana Cita. Borrowing money online from BRI can also be conducted through the BRImo application (Widiyarti & Faizar, 2024).

Under conventional practices, mutual promises were typically made through face-to-face communication. Over time, however, with the utilization of technology, communication no longer requires physical presence. This shift has been further intensified by society's growing dependence on digital devices, such as smartphones, computers, and other communication tools, which has rendered daily life inseparable from internet connectivity. The presence of the internet has become almost as essential as the availability of oxygen in everyday life, while simultaneously fostering excessive dependence on digital devices. In 2020 alone, the average daily use of digital devices among Indonesians reached 5.63 hours per day. This figure increased to 5.99 hours per day in 2021 and further rose to 6.14 hours per day in 2022. These figures place Indonesia as the country with more than six hours of daily device usage, followed by Thailand with 5.64 hours per day. Beyond Southeast Asia, Argentina ranks third with 5.33 hours per day, Saudi Arabia fourth with 5.28 hours per day, and Brazil fifth with 5.02 hours per day (CNN Indonesia, 2024).

Such patterns have caused the utilization of information technology to become increasingly pervasive and deeply embedded in social life. Fundamentally, information technology has been developed to enhance human dignity by simplifying and accelerating processes in everyday activities, including economic activities. It is now common to encounter lending and borrowing conducted electronically, known as online lending (*pinjol*). Similarly, arisan activities are increasingly conducted through electronic means and are commonly referred to as online arisan (*arisol*). At its core, these activities involve parties who entrust their money and other parties who are trusted to manage those funds. Within this relationship, lenders (creditors) emerge as the owners of the entrusted funds, while borrowers (debtors) are those entrusted with managing and utilizing the funds.

In online lending arrangements, the creditor provides loan funds to the debtor in accordance with a predetermined agreement concerning the amount to be repaid, including interest, whether through a lump-sum payment or installments. In online arisan, participants contribute their funds as creditors to those participants who receive the arisan allocation as debtors, even when the funds are channeled through an organizer who manages the contributions and schedules the arisan draw based on agreements among participants. Participants who receive the arisan allocation in a given period remain obligated to continue paying their contributions in subsequent periods.

Information technology has made online lending easier for creditors to market and extremely accessible for debtors, to the extent that online lending often functions as an emergency gateway that can be utilized quickly and conveniently to meet urgent needs. Similarly, information technology has enabled online arisan activities to be conducted without spatial limitations. Meetings to determine arisan recipients can be held through applications such as Zoom, Google Meeting, and other similar platforms.

The convenience of transactions facilitated by information technology requires administrative regulation so that the government is able to realize legal protection. According to L. J. van Apeldoorn, state administrative law constitutes the entirety of rules that must be

observed by those entrusted with governmental authority, with an emphasis on norms governing the exercise of state power itself (Hadjon et al., 2005). The involvement of state administration in the private sphere of citizens serves to fulfill governmental functions, which require instruments that provide a legal basis for state action. These instruments function as justifications for state activities aimed at regulating matters that are inherently private in nature. Within the system of state administrative law, this substance may generally be described as the body of regulations governing state life that structure the relationship between the state and its citizens (Utama, n.d.).

### Research Questions

Based on the background outlined above, this study formulates the following specific research questions:

1. How do online lending (pinjol) and online arisan (arisol) operate as economic activities within society, and how are they regulated?
2. How is state protection provided in practice in relation to online lending and online arisan activities within society?

### Research Objectives

This study aims to examine the operation of online lending and online arisan as contemporary economic activities, to analyze their legal regulation within Indonesian law, and to assess the role of the state in providing legal protection for debtors and arisan participants.

### Novelty and Positioning of the Study

This study examines online lending (pinjol) and online arisan from an administrative law perspective, focusing on the legal protections provided to the public. Compared to previous studies, this research offers a unique contribution by emphasizing the role of the state in regulating these activities to ensure legal certainty and protection for participants. While earlier research primarily investigates criminal liability, civil law aspects, or socio-economic impacts, this study shifts the focus to state regulatory frameworks and their capacity to protect vulnerable individuals engaging in these online financial activities.

Several studies have addressed related topics; however, they differ in focus and methodology, as shown in the matrix below:

No.	Author(s)	Title and Publication	Topic	Differences
1.	Fadil Aksa	Penegakan Hukum Terhadap Pelaku Tindak Pidana Penipuan Yang Berkedok Arisan Online (Studi Kasus Polisi Daerah Jambi), SKRIPSI, Fakultas Hukum, Universitas Batanghari, Jambi, 2022.	The study focuses on law enforcement against crimes related to online arisan in Jambi. Findings indicate preventive and repressive efforts by the Jambi police.	This thesis employs a normative legal approach and does not explore empirical legal case studies as this study does.
2.	Catherine Sukutania & Abdul Salam	Aspek Keperdataan Terhadap Arisan Online: Studi Kasus Putusan Nomor 1/PDT.G.S/2021/PN. Trt, JURNAL, Fakultas Hukum, Universitas Indonesia, 2023.	Discusses the incapacity of arisan organizers to properly enforce contracts with participants, leading to disputes.	Focuses on the criminal actions of perpetrators and not the civil contractual violations between the organizer and participants.

3.	Yogi Pranata	Pertanggungjawaban Pidana Terhadap Arisan Online (Studi Kasus Putusan Nomor 2272/PID.B/2020/PN MDN), SKRIPSI, Fakultas Hukum, Universitas Medan Area, Medan, 2021.	Focuses on the criminal liability of perpetrators in online arisan in Medan.	Does not address the accountability mechanisms beyond financial restitution or criminal penalties.
4.	Debby Cyntia Asmah	Analisis Perkembangan Pinjaman Online dan Pendapat GEN Z di Indonesia Pada Era Revolusi Industri 4.0	Analyzes the rise of legal and illegal online lending institutions and their socio-economic impact, particularly among Generation Z.	This study provides normative analysis but does not propose legal frameworks to regulate online lending as this study does.
5.	Muhammad Amin	Dampak Pinjaman Online Ilegal di Kota Palangka Raya	Examines the mechanisms and impacts of illegal online lending in Palangka Raya, focusing on interest rates and data misuse.	Focuses more on the socio-legal consequences and does not explore state involvement or regulation.
6.	Ummie Tsabita Ananda Afiudin	Pelindungan Hukum Terhadap Penyalahgunaan Data Pribadi Dalam Pinjaman Online	Discusses legal protection against the misuse of personal data in online lending.	Focuses on litigation and regulatory solutions for data misuse, without proposing comprehensive state regulation frameworks for online lending.

## Theoretical Framework and Conceptual Basis

### Theory of Obligations

According to Subekti, the theory of obligations refers to a legal relationship between two or more parties, in which one party has the right to demand performance from another party (the creditor), while the party against whom the demand is made is obliged to fulfill that performance (the debtor). This legal relationship is governed by law and is therefore referred to as a legal relationship, with the rights of the creditor protected by statutory provisions. If the creditor’s rights are not voluntarily fulfilled, the creditor may seek enforcement through judicial proceedings.

The term “obligation” in Indonesian legal doctrine is derived from the Dutch term *verbintenis*. The term *verbintenis* is sometimes interpreted as indebtedness, which in English is referred to as an “obligation,” a concept that emphasizes only the existence of duties. In essence, however, an obligation encompasses two dimensions: the fulfillment of rights on one side and the performance of duties on the other (Salim & Sh, 2021). The term *perikatan* is therefore equivalent to *verbintenis*, because:(Subekti & Tjitrosudibio, 1999)

1. An obligation signifies a binding relationship between one person and another; and
2. The law of obligations encompasses all provisions contained in Book Three of the Indonesian Civil Code, with obligations arising either from agreements or directly from statutory law.

Within the Indonesian Civil Code, obligations are regulated in Book Three concerning Obligations, particularly Article 1234, which provides that an obligation may consist of giving

something, doing something, or refraining from doing something. Obligations are often also referred to as contracts or agreements. In Black's Law Dictionary, a contract is defined as "an agreement between two or more persons which creates an obligation to do or not to do a particular thing." (Black & Garner, 1999)

Several fundamental principles apply in contract law. This study specifically focuses on the application of the following principles: (Muru, n.d.)

- a. The principle of Freedom of Contract
- b. The principle of Equality Before the Law
- c. The principle of Consensualism
- d. The principle of Good Faith (*goede trouw*)
- e. The principle of Trust
- f. The principle of the Binding Force of Contracts (*pacta sunt servanda*)

### **Concept of Legal Protection**

Every legal subject is entitled to the recognition of fundamental human rights and to the protection of human dignity as provided by law. Legal provisions constitute a system of rules and norms that function to protect individuals and provide legal safeguards. Law may be utilized not merely as an adaptive and flexible instrument, but also as a predictive and anticipatory mechanism. Legal protection is particularly necessary for individuals and groups who are socially, economically, and politically vulnerable in order to achieve social justice. Legal protection thus refers to the provision of safeguards for human rights that have been violated by others and the assurance that members of society are able to enjoy the rights granted to them under the law (Rahardjo, 1991).

Legal protection encompasses all efforts to fulfill rights and provide assistance in order to ensure a sense of security for witnesses and/or victims. As a component of societal protection, legal protection for victims of crime may be realized through various mechanisms, including restitution, compensation, medical services, legal aid, damages, and restorative justice approaches (Soekanto, 2006). Legal protection also includes the range of legal measures undertaken by law enforcement authorities to safeguard individuals, both psychologically and physically, from disturbances and threats originating from any party (Kansil, 1979). Ultimately, legal protection constitutes actions or measures aimed at protecting society from arbitrary acts by authorities that are inconsistent with the rule of law, thereby ensuring public order and tranquility and enabling individuals to enjoy their inherent human dignity (Kansil, 1979).

### **METHOD**

To address the research questions set out above, this study employs normative legal research, utilizing a statutory approach and a case approach.

#### **Statutory Approach**

The statutory approach focuses on legal products, particularly statutory regulations, with the objective of identifying gaps or deficiencies within existing legal norms and preventing the continuation of deviations in legal practice. This approach also involves examining relevant legislation to assess consistency and coherence among different regulatory instruments (Anam, 2017). In this study, the statutory approach is applied to various laws and regulations related to online arisan and online lending activities, including the Indonesian Civil Code (KUHPerdata), the Criminal Code (KUHP), the Electronic Information and Transactions Law (UU ITE) (Peraturan Perundang-undangan, 2016, 2024) and regulations issued by the Financial Services Authority (OJK).

## Case Approach

The case approach seeks to construct legal arguments by examining legal events as reflected in judicial decisions. Its purpose is to identify legal truths and determine the most appropriate resolutions to legal issues by analyzing cases that have obtained final and binding legal force, particularly through an examination of judges' legal reasoning. In this study, the data analyzed consist of the following court decisions:

Online Lending Cases:

- Decision of the Jakarta High Court No. 300/PID.SUS/2021/PT DKI;
- Decision of the Jakarta High Court No. 300/PID.SUS/2021/PT DKI;
- Decision of the North Jakarta District Court No. 524/PID.SUS/2020/PN JKT.UTR (to be further summarized).

Online Arisan Cases:

- Decision No. 788 of the Banjarmasin District Court;
- Decision No. 941 of the Banjarmasin District Court.

## RESULTS AND DISCUSSION

### Online Lending and Online Arisan

#### 1. Lending and Borrowing Money and Arisan as Common Everyday Economic Activities

As part of the economic activities of society, lending and borrowing have long been common in everyday life. Initially, lending and borrowing typically took place among people living in close proximity, and the amounts involved were not substantial—for example, a certain sum of money that could be repaid within a relatively short period rather than over many years. In many instances, the borrower and the lender were family members or neighbors, reflecting a principle of mutual assistance within a kinship-oriented social environment.

Conventional arisan is also widely found in Indonesian society as a family- and community-oriented activity. The primary purpose of arisan is to foster togetherness and serve as a forum for silaturahmi among members and organizers so that participants can become more familiar with one another. Members are typically grouped based on certain shared characteristics—for instance, fellow PKK members from the same village or housing complex, parents of students from the same cohort at the same school, and similar groupings intended to strengthen social bonds among participants. Conventional arisan may also operate on the basis of trust among its members.

Under this system, participants in a conventional arisan contribute money to one or more persons appointed as the arisan organizer. Contributions are usually made in person or through bank transfers. Conventional arisan effectively requires both members and organizers to meet in person throughout the duration of the arisan. The activity typically involves a drawing on a specified date each month, based on the agreement of the participants. When members gather on that date, the organizer conducts a draw so that one member's name is selected as the recipient for that month. The draw-based arisan model is the most common and easiest to implement because it aligns with long-established practice. There are also arisan arrangements that use a priority system, in which the recipient may be the person who genuinely needs funds to settle or cover pressing expenses.

In lending-and-borrowing activities and arisan activities in society, as described above, the relationships arise due to the existence of legal obligations. In the context of lending and borrowing, the obligation exists between the creditor and the debtor. In arisan activities, the obligation exists between the arisan organizer (often also referred to as a "bandar arisan") and the arisan participants. These obligations arise in accordance with the theory of obligations, at minimum through the application of the principles of freedom of

contract, equality before the law, consensualism, good faith, trust, and the binding force of contracts (*pacta sunt servanda*).

With respect to the principle of freedom of contract, this principle guarantees an individual's freedom in matters relating to agreements, including (Miru, n.d.): the freedom to decide whether to enter into an agreement; the freedom to decide with whom to enter into an agreement; the freedom to determine the content or clauses of an agreement; the freedom to determine the form of an agreement; and other freedoms that do not conflict with statutory regulations.

In lending and borrowing activities, debtors are free to decide with whom they wish to form a contract and agreement and are free to choose who will act as their creditor. Likewise, in arisan activities, participants are free to choose with whom they will jointly establish an arisan. Conventional lending and borrowing as well as conventional arisan may be carried out spontaneously; therefore, the freedom to engage in such transactions is closely connected to the parties' ability to flexibly determine the content of the agreement—particularly in online arisan arrangements, where the “contract” may be formed through an oral agreement. The implementation of lending and arisan activities does not violate legal provisions so long as the object involved in the economic activity does not constitute an illegal item.

Second, the principle of equality before the law signifies that legal subjects who enter into agreements possess equal legal standing, rights, and obligations. They may not be discriminated against, even if they differ in skin color, religion, gender, or race (Syarifah & Perdana, 2025). In arisan, neither the creditor nor the debtor is regarded as superior to the other; both are considered equal parties to the agreement.

Third, the principle of consensualism is commonly understood to mean that the formation of an obligation requires consent (Miru, n.d.). This concept implies that once consent exists, a contract is formed, giving rise to rights and obligations for the parties. The principle of consensualism is reflected in Article 1320 paragraph (1) of the Indonesian Civil Code, which provides (Potabuga, 2013): “For the validity of agreements, four conditions are required: the consent of those who bind themselves; the legal capacity to enter into an obligation; a certain subject matter; and a lawful cause.” (Subekti & Tjitrosudibio, 1999).

According to Prof. Subekti, S.H., consent is the conformity of understanding and will between the two parties (Syarifah & Perdana, 2025). In lending arrangements, the borrower must fulfill the obligation to repay the loan principal and interest at maturity, while the lender must be clear in providing the loan and may not neglect responsibilities arbitrarily.

Fourth, the principle of good faith functions as a limitation on the principle of *pacta sunt servanda*. It implies that an agreement made without good faith may be annulled and is not binding upon the parties. This principle must be observed in forming agreements so as not to harm the parties or third parties (Syarifah & Perdana, 2025). The application of good faith, as provided in Article 1338 paragraph (1) of the Indonesian Civil Code, must be carried out by the parties at the pre-contractual stage, the contractual stage, and the post-contractual stage (Yuanitasari & Kusmayanti, 2020).

The pre-contractual stage (*precontractuele fase*) refers to the period before an agreement is signed. At this stage, the parties may undertake preparatory actions prior to entering into an agreement, such as conducting negotiations, carrying out a legal audit, preparing a memorandum of understanding, seeking legal opinions from advocates, and conducting business, social, and technical assessments, among others (Yuanitasari & Kusmayanti, 2020). The contractual stage (*contractuele fase*) refers to the stage following the alignment of the parties' intentions. This stage includes: incorporating agreed points into a draft contract, analyzing the draft contract, finalizing the draft contract—whether as a private deed or an authentic instrument—and executing the contract through signing. The

general structure of a contract consists of: the title, the opening, the comparative (identification of the parties), the premises (contractual background), the substance (clauses/articles), the closing, and attachments (if necessary) (Anggraeny et al., 2020).

Meanwhile, the post-contractual stage (postcontractual) occurs during the performance of the agreement and dispute resolution (if a dispute arises). Performance constitutes a legal consequence of an agreement that has been consented to and satisfies the legal validity requirements set out in Article 1320 of the Indonesian Civil Code (Anggraeny et al., 2020). In lending and arisan arrangements, the application of good faith is reflected in the requirement that neither the creditor nor the debtor may intend to benefit themselves beyond what has been agreed; good faith must serve as the foundation once the agreement has been formed.

Fifth, the principle of trust conveys the understanding that any person who enters into an agreement will fulfill the performance agreed upon at a later time (Syarifah & Perdana, 2025). Trust refers to a psychological state in which a person regards something as true (Lubis, 2019). Without trust, an agreement would not be formed by the parties; through trust, both parties bind themselves, and for both, the agreement has binding force equivalent to law (Lubis, 2019). In arisan, participants place trust in the organizer to act faithfully in carrying out obligations—namely, to run the arisan and not abscond with participants' funds. The organizer must also trust that participants will comply with the rules that have been determined, even where the arrangement relies on oral agreements rather than written contracts.

Finally, the principle of the binding force of contracts, or the principle of *pacta sunt servanda*, means that agreements lawfully made bind the parties and apply as law. Similar to statutory law, if an agreement is breached, legal enforcement may be required, even though individuals are free to form agreements of any form and content so long as they do not conflict with statutory law, public order, or morality (Yunanto, 2019). In lending and arisan, one party may bring the other to court if that party violates the agreement that was previously consented to by both parties.

This principle is also referred to as the principle of legal certainty, which relates to the legal consequences of agreements under Article 1338 paragraph (1) of the Indonesian Civil Code, which provides: "Agreements lawfully made shall apply as law to those who make them." Initially, this principle was recognized within church law, where an agreement became binding when both parties consented and reinforced the agreement with an oath, rendering the agreement sacred and containing a religious element. However, over time, the principle of *pacta sunt servanda* developed such that *pactum* came to mean that consent no longer needed to be reinforced by an oath or other formalities, while *nudus pactum* required only consent (Yunanto, 2019). Accordingly, in lending-and-borrowing obligations and arisan obligations, as described above, once the other principles within the theory of obligations are satisfied, any breach may be regarded as equivalent to a violation of law.

## 2. The Transformation of Conventional Lending and Conventional Arisan into Online Lending and Online Arisan

Lending and borrowing constitute transactional activities involving the borrowing of money between the borrower (debtor) and the lender (creditor). Such lending generally aims to fulfill the debtor's needs through funds borrowed from the creditor. In conventional lending, an agreement between the creditor and the debtor is required and is typically conducted face to face. The agreement specifies the amount to be repaid and the repayment deadline.

In practice, online lending frequently offers various attractive conveniences. Conducted online, loans become easily accessible to virtually anyone, further amplified by

advertising campaigns from loan providers seeking to attract as many customers as possible. One example is an online lending application called Easy Cash. The application promotes fintech lending as low risk, time-efficient, procedurally simple, and offering low interest rates—features that become key considerations for users. However, such advertising may also mislead users, as it can reinforce the perception that fintech lending is an easy, quick, and low-risk solution—an emergency option for urgent needs—while potentially trapping individuals in harmful debt.

Information technology, by eliminating distance barriers, enables creditors to register lending services through applications. Typically, if an application is not officially registered, the relevant company will distribute a link for downloading the application. However, both unregistered and OJK-registered applications require users to download the application and complete personal information forms, which usually include name, residential address, workplace address, salary slips, and even sensitive personal data such as family cards, NPWP, and photographs holding an ID card for identity verification. After completing the personal information form, users may submit loan applications within the maximum limit set for new users. This limit commonly depends on the borrower's income, which explains why salary slips are required at the initial registration stage.

After submitting a loan application, the borrower must wait for some time before the funds are transferred to the bank account provided. However, the requested amount may not necessarily match the approved and disbursed amount. For example, a borrower may apply for Rp1,500,000, but only Rp1,050,000 may be approved. The amount disbursed depends on the creditor's assessment of the borrower's repayment capacity based on the salary slip previously provided. Thereafter, an agreement will appear specifying the applicable interest and the repayment due date. Repayment is usually arranged according to the borrower's ability—either through installments or a lump-sum repayment inclusive of interest. Penalties may also be imposed if the borrower fails to repay within the specified deadline. Online lending applications may also offer repayment options based on tenors in 12-month increments.

Legal and illegal online lending differ significantly, yet the distinction may be difficult to identify unless users exercise careful scrutiny prior to applying (OJK, 2021). If a loan is legal, the application process, loan amount, penalties, and repayment timeline will be clear, and it will be difficult to apply for an amount that exceeds one's repayment capacity. In contrast, illegal online lending applications may facilitate borrowing more easily, but their collection practices may involve threats, terror, intimidation, and even harassment against those unable to repay, and their collectors may lack collection certification issued by the Indonesian Joint Funding Fintech Association (AFPBI). While some loans involve large sums and require longer procedures through banking institutions, the loans referred to in this article are limited loans intended to address urgent needs.

In online arisan, all systems are transformed into online arrangements, making meetings easier to hold because participants no longer need to meet in person. Interaction does not have to disrupt daily routines because participation can be conducted via mobile phones. Through digitalization, participants may even be recruited and assembled through social media, and they do not need to know one another, provided they share the same objective (Ahsahlia, n.d.). Although online arisan may be oriented toward money and even promoted as offering profit opportunities, it is important to recall that arisan is not a platform for investment—and if it is framed as such, the investment is necessarily illegal (Rachmawati, 2022).

In online arisan, organizers generally promote their arisan through social media platforms such as Instagram to reach as many participants as possible, and they may also invite acquaintances virtually to join. Participants who are tempted—particularly by

promises of a certain percentage of profit—will join and be invited into a WhatsApp group. Once inside the group, the organizer introduces themselves and explains the rules of the game and the agreements governing the online arisan.

After the permanent members of the arisan have been agreed upon, important dates are set for depositing contributions and for conducting the draw. Debtors are required to contribute a specific amount based on the agreed contribution level. For example, each month, members may be required to pay five million rupiah on the 13th, and the draw may be conducted on the 20th of each month. Because the medium is virtual, the draw may be conducted through Zoom, Google Meeting, WhatsApp video calls, or other similar applications. During the draw, the organizer should be accompanied by members to ensure transparency regarding who is entitled to receive the allocation for that month, as fraud is a potential risk. The participant whose turn arises in that month will receive the funds through transfer, and the system continues until all participants have received their respective allocations. There are also arisan arrangements that are not based on monthly draws but instead on each member's urgency or other agreed mechanisms.

Online lending and online arisan, as products of the development of electronic transactions, also fall within the scope of Indonesia's dynamic legal framework. Before addressing online lending and online arisan, it is necessary to clarify the meaning of "transaction." An online transaction is a legal act carried out using a computer, a computer network, or other electronic media. Based on this concept and its characteristics, online lending and online arisan may be categorized as online transactions (Peraturan Perundang-undangan, 2016).

### 3. Regulation of Lending and Arisan

Conventional economic activities such as buying and selling, lending and borrowing, and even arisan are regulated under Indonesia's positive law, particularly the Indonesian Civil Code (KUHPerdata) or Burgerlijk Wetboek. Through this regulatory framework, such economic activities are legally governed in order to maintain justice and legal certainty in transactions.

With the development of information technology—which has transformed transaction methods into predominantly online forms—legal rules are likewise required to regulate these activities so that justice and legal certainty can be achieved in online transactions. Regulations concerning online buying and selling and online lending are clearly set out in written legal instruments. However, online arisan is not expressly regulated; accordingly, online arisan is considered legal but remains unregulated, partly because it is rooted in Indonesian cultural practice. This situation, in turn, creates opportunities for criminal conduct in the implementation of online arisan.

Indonesian positive law has also evolved to address these digital transformations. As provided in Article 1 point 17 of Law No. 19 of 2016, an Electronic Contract is an agreement between parties made through an Electronic System. This provision specifically affirms that contracts made electronically through electronic systems are legally valid. This is further reinforced by Article 18 paragraph (1) of the UU ITE, which states that Electronic Transactions embodied in Electronic Contracts bind the parties. Such electronic contracts therefore bind the parties and may be regarded as equivalent to contracts or agreements in general.

## **Legal Protection for Customers in Online Lending and Participants in Online Arisan**

### 1. Cases Related to Online Lending and Online Arisan

With respect to online lending and online arisan activities, a review of court decisions that have obtained final and binding legal force reveals several cases. The following cases

are presented because they merit closer discussion. Ultimately, based on the factual circumstances drawn from these judicial decisions, this article identifies key legal issues requiring appropriate solutions.

First, a case in Jayapura involved a woman named Triatika, who became a defendant after borrowing Rp40 million online from Sumiati, the plaintiff (Papuaterkini.com, 2023). This case was brought before the Jayapura District Court in early December. In her claim, Sumiati stated that Triatika had borrowed an amount totaling Rp1,615,235,000 after interest was calculated, arising from online loan debts incurred from 30 October 2022 to 26 November 2022. Triatika had already repaid Rp1,517,400,000. Sumiati then requested that the panel of judges declare that Triatika had committed breach of contract (*wanprestasi*).

The panel of judges granted part of Sumiati's exception, and the claims filed by the defendant and the plaintiff in reconvention were declared inadmissible. In the case, Triatika (Defendant) asserted that she had not committed breach of contract and argued that Sumiati (Plaintiff) had imposed an unreasonable interest calculation. Further investigation revealed that Sumiati did not hold a license to establish a savings and loan business and was proven not to have paid income tax. The public has been urged to exercise greater caution in conducting online transactions or activities, as the number of cases involving illegal investments and illegal online lending increased sharply from 2022 to 2023. Reports indicate that public losses resulting from fraudulent investments and illegal online lending from 2017 to 2023 amounted to Rp139.03 trillion.

Meanwhile, Dede Supardi (27 years old), a man from Lebak, was arrested by the police on 21 December 2019 on allegations of intentionally and unlawfully disseminating electronic information containing threats of violence, extortion, and murder against Mahdi Ibrahim, the victim (Direktori Putusan Mahkamah Agung Republik Indonesia, 2020). Dede, as the defendant, was prosecuted for violating Article 45 paragraph (4) in conjunction with Article 27 paragraph (4) of Law of the Republic of Indonesia No. 19 of 2016 and faced a sentence of one year and six months' imprisonment and a fine of Rp100,000,000, with a substitute sentence of three months' imprisonment if the fine could not be paid. The defendant was apprehended by investigators on 21 December 2019 and detained starting 22 December 2019, with detention extended until 16 June 2020 by the Chair of the North Jakarta District Court.

The incident began in August 2019, when Mahdi Ibrahim, as the victim, received an SMS from an unknown number offering an online loan through an application called Dompot Kartu, along with a link to download the application under PT Barracuda Fintech Indonesia. Mahdi, who at the time needed money, clicked and downloaded the application. When the application was opened, users were required to provide various personal details, as is generally the case with online lending applications. The victim was asked to provide name, residential address, workplace address, telephone number, salary slips, NPWP, and a family card; the victim was also required to take a photograph holding an ID card to verify identity. The victim then applied for a loan of Rp1,500,000 and the application was approved by Dompot Kartu. However, only Rp1,050,000 was transferred to the victim, with a repayment period of 14 days. One day before the due date, the victim was contacted by Dede as a reminder that repayment was due the next day. On 8 November 2019, the defendant called the victim to ask when the loan would be repaid and stated that the penalty to be paid was Rp7,960,000, an unreasonable amount. Approximately one month later, on 3 December 2019, the victim received another WhatsApp message from an unknown number ordering repayment either in cash or by transfer. Dede then threatened that he would notify the victim's family and friends, whose contact numbers had been listed as references when Mahdi completed the loan application requirements, that Mahdi had borrowed money and had not paid the debt. Dede then carried out the threat by contacting Mahdi's wife, family

members, and friends. On 5 December 2019, the victim contacted Dede via WhatsApp to ask why he had contacted the victim's acquaintances, but Mahdi received a harsh response. The situation culminated on 16 December 2019, when the defendant again contacted the victim through messages containing abusive language and threats to kill and dismember the victim. The defendant stated that he would bring a bladed weapon and told the victim to bring a bladed weapon as well to engage in mutual killing.

Ephraim J. K. Caraen, a consumer expert, stated that PT Vega Data Indonesia or PT Barracuda Fintech Indonesia had deceived the public by claiming and representing that its online lending business met OJK requirements, whereas in reality it lacked an operational license. PT Barracuda Fintech Indonesia was also not registered as an Operator of Information Technology-Based Money Lending Services (LPMUBTI) in Indonesia as regulated under POJK 77/2016. In addition to these violations, PT Barracuda Fintech Indonesia violated the Fintech Regulation, Licensing, and Supervision Letter No. S-72/NB.213/2019 dated 12-2-2019 concerning restrictions on access to personal data on fintech lending users' smartphones, because in practice Dede, as the perpetrator, accessed all personal data and even terrorized the victim's family and friends. On the basis of these actions, the defendant was found to have intentionally and unlawfully disseminated electronic information containing threats of violence, extortion, and murder and was therefore subject to criminal penalties pursuant to Article 45 paragraph (3) in conjunction with Article 27 paragraph (3) of Law of the Republic of Indonesia No. 19 of 2016, with evidence submitted by the public prosecutor, namely: one unit of Redmi mobile phone, one unit of Realme mobile phone, and one bundle of curriculum vitae documents. The prosecution sought a sentence of one year and six months' imprisonment and a fine of Rp100,000,000, with a substitute sentence of three months' imprisonment if the fine could not be paid. Aggravating circumstances included that the defendant's actions disturbed the public and caused psychological trauma. However, mitigating circumstances included that Dede had no prior convictions, behaved politely, and had family dependents. Accordingly, on 9 June 2020, the panel of judges sentenced the defendant to one year's imprisonment and a fine of Rp70,000,000, with a substitute sentence of two months' imprisonment if the fine could not be paid.

Another case concerns online arisan, in which a person named Rizky Amalia acted as the perpetrator of a fraudulent arisan scheme carried out since 2020, with increasing numbers of victims from 2021 to 2022 (Direktori Putusan Mahkamah Agung Republik Indonesia, 2023). She ran a fictitious arisan and gradually ensnared many victims recruited online to participate in her fictitious online arisan. The modus operandi involved offering an online arisan model through Instagram status updates and promising returns ranging from 20% to 30% starting in November 2020—returns that are irrational on their face.

More specifically, Rizky Amalia (the perpetrator) operated her scheme in a manner different from conventional arisan. Typically, arisan recipients are determined through a draw and rotate to receive allocations. However, the perpetrator's online arisan was conducted by "selling" the arisan, whereby purchasers would receive certain profits. This mechanism attracted many people to join the fraudulent scheme. Through her social media activity alone, three individuals trusted the perpetrator using the same modus to purchase the arisan, enticed by promises of substantial profits to be obtained quickly. In addition to recruiting participants online, Rizky Amalia also persuaded her friend, Asni Arbela, to join the fictitious arisan. Asni Arbela and many other victims trusted Rizky Amalia not only because of promised high profits within a short period but also because of Rizky Amalia's glamorous lifestyle displayed on social media. Observed more closely, perpetrators of fictitious arisan schemes often employ the same recurring pattern to facilitate and sustain their fraudulent conduct.

For her wrongdoing—namely, enriching herself through improper arisan practices and committing fraud against the victims of her fictitious arisan—the defendant was found to have violated Article 378 of the Indonesian Criminal Code. She was initially sentenced to two years' imprisonment. The sentence was further supported by aggravating circumstances, including that her conduct not only harmed victims but also disturbed the broader community of Banjarmasin due to the presence of fictitious online arisan schemes. Her actions caused material losses to victims, and she used the proceeds of crime for personal interests. However, mitigating circumstances included that the defendant behaved politely and courteously during trial and promised not to repeat her conduct. In addition, she had recently given birth, and her child required her care. Ultimately, based on Decision No. 941 of 2022, the Banjarmasin District Court imposed a sentence of one year and four months' imprisonment, with four items of evidence, including screenshots of WhatsApp conversations between the defendant and victims, nine bank statements, one bank transaction receipt, and one written statement regarding payment of the remaining arisan obligations.

Syahlina, as a perpetrator, carried out her scheme by obtaining victims' telephone numbers and then inviting them to join an online arisan group that she created, where members introduced themselves to one another (Direktori Putusan Mahkamah Agung Republik Indonesia, 2022). The group consisted not only of new members but also of "old" members, purportedly to maintain silaturahmi and to demonstrate that the arisan had operated smoothly since 2018. The online arisan system was conducted through video calls, and the first person to receive an allocation was Syahlina as the bandar, after which the drawing proceeded according to the schedule provided. The arisan began in November 2021 under the name ARISAN SHOPAHOLIC PART 4, with an initial contribution of Rp25,000,000 and 15 participants. Another arisan operated under the name ARISAN SHOLEHAH PART 4, with an initial contribution of Rp10,000,000 and 12 participants. Because the scheme operated online, the drawings were conducted from the respective homes or locations of the perpetrator and the victims. Thus, during the drawings, no victims were physically present near the perpetrator.

Suspicion arose because, in each drawing, fictitious names appeared as recipients of the arisan funds, even though such names did not correspond to real members. As a result, funds that should have been received by arisan participants were redirected back to Syahlina, who controlled these fictitious recipient identities. Due to her actions, victims suffered losses amounting to Rp1,425,000,000, and she was sentenced to three years and six months' imprisonment for violating Article 378 of the Indonesian Criminal Code, supported by 23 categories of evidence that aggravated the sentence.

From the cases described above, key issues can be identified in relation to online lending and online arisan activities. It may therefore be concluded that in online lending, the use of information technology—which facilitates the process of borrowing money online—should not result in debtors becoming trapped in an inability to repay, which may ultimately motivate them to commit crimes in order to obtain funds to repay their loans. Similarly, in online arisan, participants must be afforded protection in conducting transactions so that they do not easily become victims and become trapped in fictitious arisan schemes.

## 2. The Role of Government and Legal Protection

Every legal subject is entitled to the recognition of fundamental human rights and to the protection of human dignity under the law. Legal provisions constitute a system of rules and norms that function to safeguard individuals and provide protection. Law may be utilized not merely in an adaptive and flexible manner, but also as a predictive and anticipatory instrument. Law is particularly necessary for those who are socially,

economically, and politically vulnerable in order to achieve social justice. Legal protection thus refers to providing safeguards for human rights harmed by others and ensuring that society can enjoy all rights conferred by law. Law may function not only adaptively and flexibly, but also predictively and anticipatorily. Law is required for those who are not yet socially, economically, and politically strong in order to obtain social justice (Rahardjo, 1991).

According to Phillipus M. Hadjon, legal protection is divided into two forms (Hadjon et al., 2005): (a) Preventive Legal Protection, namely a form of legal protection in which members of the public are given an opportunity to submit objections and opinions before a governmental decision takes definitive form; and (b) Repressive Legal Protection, namely a form of legal protection primarily directed toward dispute resolution.

Legal protection encompasses all efforts to fulfill rights and provide assistance to ensure a sense of security for witnesses and/or victims. Legal protection for victims of crime, as part of the protection of society, may be realized in various forms, including restitution, compensation, medical services, legal aid, damages, and restorative justice approaches (Soekanto, 2006). Legal protection also includes various legal measures undertaken by law enforcement authorities to provide security, both psychologically and physically, from disturbances and threats originating from any party (Kansil, 1979). Legal protection constitutes actions or efforts to protect society from arbitrary acts by authorities that are inconsistent with legal rules, thereby ensuring order and tranquility so that individuals are able to enjoy their dignity as human beings (Setiono, 2004).

In relation to legal protection, the state is likened to a night watchman whose role is limited to maintaining order and security. The state is prohibited from intervening in the private affairs of citizens. For that reason, this type of state is also referred to as a “night-watchman state.” This model later developed into the concept of a “formal rule-of-law state.” According to F. J. Stahl, there are four elements of a formal rule-of-law state: recognition of fundamental human rights; separation of powers among the legislative, executive, and judiciary branches in accordance with the theory of *trias politica*; governance based on the principle of legality or on statutory law; and the existence of an “Administrative Court” that adjudicates administrative disputes between authorities and citizens, such as disputes concerning civil service matters, administrative disputes, state administrative disputes, agrarian or land disputes, or licensing disputes related to the issuance of “decisions” (*beschikking*) made by administrative bodies and/or officials.

State-provided legal protection in the administration of online lending and online arisan activities is necessary to ensure the debtor’s capacity. Capacity is commonly used in banking assessments of a prospective debtor’s ability in conducting business or managing operations, so that the bank is confident that the business to be financed through credit is managed by appropriate and competent persons (Eprianti, 2019). Capacity constitutes one of the “C” elements within the so-called “5C Principles.” In credit provision to customers, the application of the 5C Principles is carried out from the outset, prior to credit approval, to minimize credit risk. Banks are required to act prudently and conduct thorough assessments of the prospective debtor’s character, capacity, capital, collateral, and business prospects in accordance with the prudential principle under Law No. 10 of 1998 on Banking, as well as applying credit guidelines based on Sharia principles as determined by Bank Indonesia (Guntara & Griadhi, 2019). According to Kasmir, before extending a credit facility, a bank must be convinced that the credit will in fact be repaid (Kasmir, 2016). Such conviction is obtained from credit assessments conducted prior to disbursement. Typically, the commonly applied assessment criteria in banking involve a 5C analysis as follows: (a) Character; (b) Capacity; (c) Capital; (d) Condition; and (e) Collateral (Djuarni & Ratnasari, 2022).

The 5C Principles were initially designed to ensure that financial institutions or banks do not lose the funds lent to debtors, and thus primarily serve to protect creditors' interests. However, in the implementation of online lending, debtors often become victims because they become trapped in an inability to repay loans obtained easily and quickly through the use of information technology. If regulations were to impose an obligation to rigorously assess a debtor's capacity, the use of information technology—while simplifying and accelerating the lending process—would not result in the approval of debtors who are highly vulnerable to financial collapse and unable to repay their debts.

At present, OJK has implemented several regulations related to online lending, such as Regulation No. \_\_\_ concerning \_\_\_ and Regulation No. \_\_\_ concerning \_\_\_. These regulations and other related instruments have not yet established rules requiring verification of a debtor's capacity before a loan processed online is approved and disbursed. To reduce the growing incidence of payment defaults and prevent society from becoming trapped in debt, it would be appropriate for the government to adopt the relevant regulatory requirements (for example, through OJK regulations).

On the other hand, the use of information technology that facilitates the organization of online arisan also requires regulation concerning protection for participants, so that participants' funds do not disappear due to being ensnared as victims of fictitious arisan schemes. As a form of legal protection, the state may enact administrative regulations, such as rules providing protection for arisan participants, provided that arisan activities are registered and insured in accordance with procedures established by the government. Because arisan is familial in nature, coercive state intervention cannot be applied absolutely; the state's presence is required to maintain order and security, but the state cannot interfere in citizens' private affairs. Nevertheless, in the context of online arisan, state involvement is necessary to address the increasing prevalence of fictitious online arisan schemes as part of the administration of government functions.

Such regulatory measures are enabled under the Law on Government Administration. Under Article 1 point 1, government administration is defined as the procedure for decision-making by governmental bodies and/or officials. Under the same provision, point 2 states that its function is to provide public needs, including protection. This is further affirmed in Article 3 letter (e), which states that one objective of the law is to provide legal protection to members of the public and government officials. In its elucidation, the tasks of government in realizing the objectives of the state as formulated in the Preamble to the 1945 Constitution are described as extensive. Given the broad scope of government administrative duties, regulations are required to guide governance so that it becomes more aligned with public expectations and needs (citizen friendly), thereby providing foundations and guidance for governmental bodies and/or officials in carrying out governmental functions.

These provisions governing governance are regulated in a statute known as the Law on Government Administration. The Law on Government Administration guarantees basic rights and provides protection to members of the public, while also ensuring the implementation of state functions as required by a rule-of-law state in accordance with Article 27 paragraph (1), Article 28D paragraph (3), Article 28F, and Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Based on these provisions, members of the public are not treated as objects, but rather as subjects who are actively involved in the administration of government.

In order to guarantee protection for every member of the public, this Law enables members of the public to submit objections and appeals against Decisions and/or Actions to governmental bodies and/or officials, or to the superior of the relevant official. Members of the public may also file lawsuits against Decisions and/or Actions of governmental bodies

and/or officials before the State Administrative Court, because this Law constitutes the substantive law of the State Administrative Court system.

## CONCLUSION

In the context of online lending, its implementation has formally been regulated through the application of the 5C principles, particularly the element of capacity, which is intended to assess a borrower's ability to repay outstanding obligations. However, in practice, the application of the 5C principles—which should function as a safeguard—has not been properly implemented to prevent undesirable consequences. Existing regulations issued by the Financial Services Authority (OJK) and other related regulatory instruments have also not been sufficient to significantly reduce the likelihood of criminal practices occurring in the operation of online lending activities.

Similarly, in online arisan, the original purpose of arisan as a social mechanism to foster familiarity and mutual trust among participants has increasingly been neglected, as the practice has shifted toward a primary focus on generating financial profit. The nature of arisan, which traditionally was exclusive and limited to groups sharing certain commonalities, has transformed into a more inclusive practice that is open to a broader and often anonymous public, thereby increasing the risk of abuse and fraudulent conduct.

## Recommendations

The author recommends that the state play a more active role in providing legal protection for customers involved in online lending activities. This includes expanding the authority of the Financial Services Authority (OJK) to regulate online arisan, so that its regulatory scope is not limited solely to transactions conducted by formal financial institutions but may also extend to individual-based financial activities such as online arisan.

Online arisan should be restored to its original character as an exclusive social activity, with technological developments utilized solely as a means of communication rather than as a promotional medium for financial gain. Furthermore, the utilization of the Deposit Insurance Corporation (Lembaga Penjamin Simpanan) may be considered as a mechanism to provide insurance protection for arisan members, thereby enhancing preventive legal protection and minimizing the potential losses suffered by participants.

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