

Online Lending From an Islamic Business Perspective

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Abstract

Online loans themselves are a loan that can be spent in a faster time compared to ordinary loans. This analysis desires to explain and analyse how online loans are according to Islamic law. In Islam, loans are permitted following surah Al-Hadid verse 11, one of several statements that function as the basis for holding, borrowing and lending. In this case, online loans initially had various controversies. This analysis will define the management of online lending using an Islamic viewpoint. This analysis utilises a publications study approach to accumulate data by reading and examining different phenomena. This analysis also uses descriptive analysis by reading fatwas and thoughts of scholars. The development of this research is that online loans are not allowed following the MUI (Indonesian Ulema Council) fatwa in 2021 with certain rules founded on the principles and fatwas of the relevant scholars.

Keywords : Loans, Business, Online.

Abstrak

Pinjaman online sendiri merupakan jenis pinjaman yang dapat dicairkan dalam waktu yang relatif lebih cepat dibandingkan dengan pinjaman biasa. Penelitian ini bertujuan untuk mendeskripsikan dan menganalisis bagaimana pinjaman online menurut hukum Islam. Dalam Islam, pinjaman yang diperbolehkan mengikuti surah Al-Hadid ayat 11, yang merupakan salah satu dari beberapa dalil yang menjadi dasar pengaturan pinjam meminjam. Dalam hal ini, pinjaman online awalnya memiliki berbagai kontroversi. Kajian ini akan menjelaskan kaidah-kaidah pinjaman online dengan menggunakan perspektif Islam. Penelitian ini menggunakan metode studi literatur untuk mengumpulkan data dengan membaca dan mengkaji berbagai fenomena. Penelitian ini juga menggunakan analisis deskriptif dengan membaca fatwa dan pendapat para ulama. Hasil dari penelitian ini adalah pinjaman online tidak diperbolehkan mengikuti fatwa MUI (Majelis Ulama Indonesia) tahun 2021 dengan aturan tertentu dan berdasarkan peraturan dan fatwa ulama yang berlaku.

Kata Kunci : Pinjaman, Bisnis, Online

INTRODUCTION

Indeed, humans are social creatures who cannot live alone. Humans need help from others to survive. Humans are destined to live in society. Of course, humans always interact between individuals with other individuals. Activities between someone and someone are

called *muamalah* (Hasan et al, 2021), human relations are a manifestation of the relationship with the creator. If the relationship with other humans is good, then the relationship with the creator is also good (Sholikhin et al, 2019).

Every individual or group has rights and obligations to consider others and himself in

social life. At the same time, they also have responsibilities, which must consider what is not disputed. To avoid disputes, restrictions on these provisions are set out in statutory provisions. The rules governing relationships and obligations are known as the rules of *muamalah* (Amir Sahidin, 2021), human participation in commercial activities is not only a physiological need but also a place of free communication. Suppose it is not following the noble order outlined by religion. No matter how smooth the economy is on a high economic path if high values do not accompany it. It will always cause a disastrous situation at some point; a fatal condition will be created if it is not accompanied by noble values (Sajidin, 2021).

Islamic law (shari'ah) can evolve and develop in dealing with the problems of the contemporary Islamic world. The spirit and general principles of Islamic law apply in the past and present and will continue to use in the wider community (Yanikkaya & Pabuçcu, 2017).

Islam is a perfect religion. In Islam, borrowing and lending something is called *al-'ariyah*; in its understanding, 'ariyah is lending an object to another person to take advantage of the object. The object must be intact following the initial loan if it is used after use by the owner and at the time of return (Schoon Natalie, 2016). Allah's Word about lending and borrowing or 'ariyah Q.S. al-Maidah (4): 2

"And help each other in (doing) righteousness and piety, and do not help each other in sin and enmity".

Lending and borrowing activities that used to be identified with goods. Now it has switched to borrowing money. With time, this money lending activity has become a rapidly growing business (Amjid Ali, 2010).

Islamic business economics is about economic activities covered by Islamic rules and teachings about the financial system. At the same time, Islamic economic law is the law that regulates all matters relating to the economic system based on the Quran, hadith and ijtiha of the scholars (Aldeen et al, 2020). According to the development of the era, Islamic economic law can also be adapted to the

current period. However, still based on the Qur'an, hadith and hadith, the scholars agreed on the applicable fiqh method. Law and economics are two things that cannot be studied separately because these two things complement each other like two sides of a coin (Herindar & Rusydiana, 2021).

Islamic Economic Law adheres to the principle that we must prioritise justice, honesty and mutual benefit in all economic activities. So it not only prioritises the interests of one party but also thinks about the interests of many people so that there is no injustice and even eliminates the benefit in social life. In addition, in Islam, it has also been explained that we as fellow Muslims must help each other in all matters, not to burden or even make it difficult for others (Djafri, 2017). We must be able to work hand in hand and cooperate well in terms of goodness. Especially in terms of *muamalah*, because the main principle in implementing *muamalah* is what underlies everything; when in *muamalah* we use the wrong principles, principles contrary to sharia will change the nature of the actions and work we do into a job that is not good and not halal (Kasri & Yuniar, 2021).

In addition, some business ethics are also related to Qawaidul fikhiyah (rules of fiqh), which is necessary for all of us. Many of us do not understand, even some who do not understand what *qowaidul fiqhiyah* is. Qowaid in language means principles basic principles or some principles of everything (Kalsum, 2014). At the same time, *fiqhiyah* means a deep understanding of a problem.

In other words, *Qawaidul fiqhiyah*, which we usually know as the rules of fiqh, is a rule or benchmark or basis and foundation related to fiqh issues. Meanwhile, according to other terms from several figures, the rules of fiqh are defined as "the laws of Shari'i relating to the deeds of servants based on detailed arguments". Some say, "The rules of fiqh are general laws or foundations that can be used to understand the issues covered in their discussion (Hutagalung & Isa, 2022).

According to economic observers, the rise of illegal online lending practices is caused by weak regulations, from the supervisory system to law enforcement against fraudulent

companies. On the other hand, this practice is also due to difficult economic conditions due to the Covid-19 pandemic and a digital society's consumptive behaviour. An illegal online loan user shared his experience when making a loan, from high-interest rates to threatening billing methods. So far, the police have uncovered 15 cases of illegal online loans, with 45 suspects in several areas in recent times.

First, the ease of making loans using ID cards, face verification, and other supporting personal data raises concerns among consumers. There are many violations related to the use of consumers' data. Some loans use consumers' data to claim their rights from consumers, but in a way that is prohibited. For example, they threaten to share consumers' data if they do not pay off payments. Even in one case, a consumer slandered had committed a dishonourable act and then took and disseminated personal data, which was not permitted because it violated the ITE law.

Literature Review

Research entitled "The Online Credit Buying and Selling System and its Compatibility with Islamic Law". The purpose of this paper is to reveal the current credit system. The method used is the study of the Qur'an and Hadith about usury and the theories of its prohibition. Through this study, economic practices following the Shari'a can be conceptually formulated, especially in financing with the buying and selling system (Hasan & Azli, 2022). The results of this discussion show that the basic law of buying and selling on credit is permissible. Shaykh Ibn 'Uthaymeen said: Selling on credit means that a person sells something (goods) at a tough price which is paid off over time. The original law is permissible based on the word of Allah QS. Al-Baqarah: 282. Likewise, the Prophet Muhammad Saw. allowed buying and selling as-Salam, namely buying on credit for the goods being sold (Sajidin, 2021).

Then there is research from Ahmad Hendra Rofi'ullah entitled "The View of Islamic Law on the Akad and Practice of Qard (Debt and Credit)". In his writing, he explained that in modern society today, a conditional debt and credit system has developed. Usually, conditional debts and credits occur in many circles, such as farmers, traders, business

people, entrepreneurs, etc (Iswahyudi, 2021). Therefore, Islam has regulated and provided guidelines on the implementation and practice of Qard (debit and credit) that is good, correct, and *maslahah*. So that in its performance, it does not contain elements of fraud (*gharar*) and aspects of usury and does not harm one of the parties to the Qard transaction (Jati & Zulfikar, 2021).

Research from Rachmad Risqy Kurniawan entitled "Credit Buying and Selling in the Perspective of Islamic Economics". This study aims to explain credit buying and to sell from the perspective of Islamic economics, built based on the interpretation of verses that are the source and foundation of Islamic economics (Rosyidi, 2018). This research is library research with the maudu'i interpretation method (thematic) and *tahlili* understanding (analytical). The results of this study indicate the permissibility (mubah) of buying and selling credit based on Surah Al-Baqarah Verse 275, Surah An-Nisaa verse 29 and Al-Baqarah Verse 282 (Biancone et al, 2020).

Then there is research from Abd. Ghafur, with the title "Business Ethics in Islam" in this research journal, explained and argued that to build a healthy business culture, it is necessary to use Islamic business ethics (Abdullah, 2017). But to start an Islamic business, ethics must do several things: (1) The intention is sincere to expect the Ridha Allah SWT. (2) Professional (3) Honest & Trustworthy (4) Prioritising the Ethics of a Muslim (5) Not Violating Sharia Principles (6) And the last is Ukhuwah Islamiyah (Rusydia et al., 2021).

In Muhammad Khoirul Fikri's research entitled "Perspective of Islamic Business Ethics on the Consignment System in the Reseller Strategy". The research mentioned that the business behaviour run by Hamzah Batik from the perspective of Islamic business ethics is good enough. In addition to the business values and ethics, the leadership ethics shown by the leader is good. The implementation of Hamzah Batik's consignment system with suppliers from the perspective of Islamic business ethics is quite good (Shamsudheen & Azhar Rosly, 2020). There are no parties who object and feel disadvantaged in the cooperation. Hamzah Batik has fulfilled the rights and obligations to its suppliers. The responsibility and trust the

supplier gives are well maintained so that they can cooperate. This research aims to find out how Hamzah Batik Yogyakarta's business behaviour is from the perspective of Islamic business ethics and how the implementation of Hamzah Batik Yogyakarta's consignment system with suppliers is from the standpoint of Islamic business ethics. This research is categorised as field research using a qualitative approach. Data were obtained through direct interviews with resellers, suppliers, and delivery services (Majeed & Zainab, 2021).

In a study conducted by Siti Dwi Pujiyanti entitled "Online Business Transactions in an Islamic Perspective", it is said that online buying and selling transactions on the Tokopedia application are very legal in Islamic law. There is no fraud or deception, or the desired item is incomplete or damaged (not as expected) that occurs during the transaction process (Mangani et al, 2019). Even if this happens, the responsible party must return all the buyer's money, and the sale and purchase are considered invalid because they do not fulfil the trade agreement. Objectives-This research aims to find out and explore online business transactions carried out by the Tokopedia application and online business transactions from an Islamic perspective on the Tokopedia application case study. Methods-This research is a qualitative research method, namely by using the field of Library Search (Literature Review) by taking references from several books and sources from websites or the internet (Putri et al, 2022).

Then there is research from Ahmad Abdullah entitled "Credit Loans in the Perspective of Islamic Education", which explains that the basic law of buying and selling on credit is permissible. Shaykh Ibn Uthaymeen said: Selling on credit means that someone sells something (goods) at a tough price paid off over time; the original law is permissible based on the word of Allah QS. Al-Baqarah: 282. Likewise, the Prophet Muhammad Saw. Allowed buying and selling *as-Salam* is buying on credit against the goods sold (Estijayandono, 2019). This paper aims to reveal the credit system that exists and applies today. The method used is the study of the Qur'an and Hadith about usury and the theories of its prohibition. Through this study, economic practices following Shari'a can be conceptually

formulated, especially in financing with the buying and selling system (Dewi et al., 2020).

Research conducted by Achmad Zurohman and Eka Rahayu entitled "Online Buying and Selling in an Islamic Perspective". It is said that online buying and selling is a buying and selling activity that only requires the seller and buyer to meet face to face. Buyers make payments first and then proceed with the delivery of goods. Taudhihul ahkam divide the conditions for the validity of buying and selling into two, namely 1) the seller and buyer must be willing, and there is no element of coercion, and 2) trading goods that are pure and useful. Through online sales, sellers and buyers get many benefits. Sellers only need a little money for promotion, etc (Sumarliah et al, 2022).

Buyers can access goods anywhere without the time and place restrictions as long as they are connected to the internet. The weakness of online buying and selling is that it is prone to fraud if the buyer is not careful and careful. Buyers must be able to choose a shop they can trust. Online buying and selling in Islam are also called salam, where the buyer pays first, and then the seller sends the goods. Muamalah is allowed in Islam as long as the pillars and conditions are met. Human life is inseparable from buying and selling activities (Afif Muamar dan Ari Salman Alparisi, 2017).

Along with the times, buying and selling are done in real markets and online using the internet. This research aims to analyse how Islam views online buying and selling. This research uses a literature study to comprehensively explain the advantages and disadvantages of online buying and selling.

METHODOLOGY

The method used is a literature study, which also means data collection techniques by examining books, literature, notes, and various reports related to the problem to be solved. Data was collected through multiple references, such as the fatwas of scholars and arguments (Asrowi, 2018). Researchers get data using internet media by looking at the times and problems that have occurred. The phenomena that have occurred are considered by researchers to research and take this title.

RESULTS AND DISCUSSION

Islam strongly encourages us, fellow Muslims, to help each other, especially helpful in terms of goodness. Following His Word Qs. Al - Maidah verse 2.

Meaning: "*And help each other in (doing) righteousness and holiness, and do not help each other in sin and transgression. And fear Allah, verily Allah is very severe in His punishment.*"

From the above verse, we know that as fellow Muslims, we are indeed encouraged to help each other, but with a note in terms of goodness, helping each other for things that bring benefits, not *mudharat*. As with the online loan business carried out by several companies or institutions that channel funds to provide capital or loans to people in need, it proves that there is a relationship between helping each other.

Online loans themselves are a type of loan that can be disbursed in a relatively faster time compared to ordinary loans. This loan is also referred to as a quick liquid loan. Where in the loan process, this is done through an application that we can download at several application stores available for each operating system on our mobile phones, such as through the Google Play Store (for Android) and Apple Store (for Ios) (Nahidloh, 2018), in addition, the way to use it is very easy and can be accessed anytime and anywhere. We only need to fill in personal data, upload private photos and wait for the application process; then, the fast loan liquid can be used immediately. In summary, the characteristics of Online Loans, namely:

(1). The form is in the form of an application. Online loan products / quick loans in Indonesia are generally in the form of applications that can be used on mobile phones by all groups of people. With the application's structure, the submission and data collection process can be made anytime and anywhere.

(2). They originate from Investors, Companies or Funding Institutions. These online loans are usually provided by a company or fund channelling institution, where the company gets loan funds from various investors, banks, or

other financial institutions to be channelled to its customers.

(3). The loan limit is a manageable size. As with loans in general, there is also a loan limit in this online loan; in other words, there is a maximum loan limit that is manageable, ranging from 5-10 million rupiah. That is due to the application requirements that do not require collateral or credit card ownership so that the number of loans that can be distributed to customers is manageable.

In addition to the above characteristics, several advantages of Online Loans make many people tempted, namely: Easy application process because it is online. The requirements for applying for a loan are easy. The loan process does not require collateral

But apart from the above advantages, online loans provide more disadvantages for customers or online loan borrowers. Moreover, in this world, the nature of people varies; there are many good people, and there are also many people who like to take advantage of opportunities in narrowness and are even more likely to take advantage of themselves but harm others. Therefore, we must be smart to sort out which will have a good impact or even break us.

That is also explained in *muamalah* fiqh, where in *muamalah*, it is required to have the principle of the benefit of humanity, fairness and balance, the focus of voluntariness and freedom, the principle of *tawhid*, and the principle of cooperation based on *muamalah fiqh*. Each party must behave well to maintain the relationship in all endeavours undertaken by the parties. And if one or both of them cheat, they have tarnished Islamic teachings. The Quran requires honesty in all contracts, regardless of whether the agreement is written or oral, forbids any breach of promise and regards it as cheating, dishonesty and fraud. As well as the Word of Allah letter An-Nisa "verse 29:

Meaning: "*O you who have believed, do not eat of one another's wealth by unlawful means, except by way of mutual trade between you. And kill not yourselves; verily, Allah is most merciful to you.*" (QS. An-Nisa: 29).

And from the analysis of the theory of *muamalah* fiqh rules and several other Islamic economic ideas, we can see that there are things that need to follow the system applied by several companies or institutions that provide funds that open online loans. In returning loan funds, a very large interest or other method is used for customers. In addition, a fairly sadistic and cruel collection process is also carried out by these online loan companies.

The practice of online lending (*pinjol*) is increasingly troubling the community. This instant way of borrowing money via online applications ensnares customers with suffocating interest rates and threats of terror from online lending companies. Cases of illegal *pinjol* fraud and intimidation of customers by a group of thugs under the guise of financial companies have spread in several regions. For this reason, the security forces do not remain silent. Responding to the rise of this Online Loans case, the Head of Public Relations of Polda Metro Jaya Kombes Yusri Yunus reminded the public to avoid being easily tempted by offers. Recently, Polda Metro Jaya officers raided the office of PT Indo Tekno Nusantara (ITN) in Green Lake City, Tangerang, regarding alleged illegal lending practices.

The company uses ten illegal applications to run its business. During the raid, the police arrested 32 people, namely company management and employees. Previously, the Special Crimes Unit of the Central Jakarta Metro Police also raided a shophouse in Cengkareng, West Jakarta, on 13 September 2021, which was allegedly used as a syndicate office for Online Loans.

The case of illegal online loans or financial technology (fintech) has reached President Joko Widodo. The State Palace held a special meeting by inviting relevant authorities such as the Financial Services Authority (OJK), Menkopolkam, the Ministry of Communication and Information Technology (Kemenkominfo), and the National Police Chief. From the meeting results, the government is determined to make joint efforts to eradicate and crack down on illegal online lending practices that harm the community. Because what has a lot of impacts is the small

community, especially people from the ultra-micro and MSME sectors.

In OJK's records from 2019-2021, there were 19,711 public complaints about illegal online lending. 9,270 (47.03 per cent) were classified as serious violations. Meanwhile, 10,441 complaints were related to minor/medium violations. The most common forms of serious breaches reported by the public include loan disbursement without the applicant's consent; threats of spreading personal data; billing to all mobile phone contacts with terror/intimidation; and billing with harsh words and sexual harassment.

OJK has been fostering registered and licensed Online Loans. Currently, there are 107 Online Loans registered and approved by OJK. The OJK stressed that all online loan providers must join the Indonesian Fintech Association (AFTECH). Guidance to organizers needs to be carried out so that people can take advantage of Online Loans with cheap, fast, targeted loans and do not violate ethics and the rule of law.

In addition, online loans have also violated the rules of fiqh in the second point of economics regarding "Haram eating other people's goods unlawfully". Where this violation is seen from the loan refund system that has an interest or, in other words, additional money must be returned in addition to the initial debt/loan. If the company providing the funds applies an interesting system in the loan, then it can be said that the money is usury, and it means that the provider of the loan funds has taken the rights of others or, in other words, has eaten what is not his right. The proof of this rule is also still related to the first point earlier, where the verse that explains this information is also in Qs. An-Nisa" verse 29 which reads: Meaning: "*O you who believe, do not eat from one another's wealth utilizing unlawful means.*" (QS: An-Nisaa: 29).

Not only the verse above that explains the prohibition of eating other people's rights, but the evidence narrated by Imam Ahmad in his Musnad, from Kaab bin Ujrah r.a. also explains that the Prophet SAW. said: Meaning: "*Verily, meat grown from unlawful wealth will not enter Paradise. Hell is more appropriate for him.*"

In addition, this is also closely related to the point of fiqh rules in economics about "There is no right to sweat the injustice". Based on the words of the Prophet Muhammad SAW. Narrated by Abu Dawud and Daruquthni from the hadith of Urwah bin Az Zubair: Meaning: *"Whoever revives the land, then the land becomes his mililk, and for the sweat of the wrongdoer has no right."*

Even though online loan collectors have the right to collect money that customers have borrowed, however, the collection process by defaming one's name and disclosing one's privacy is an act that is not commendable and is not recommended in Islam. So this should not be done, even though the business's initial intention is good because it provides loans to people in need, and it is closely related to helping others. Still, if it leads to things that benefit and harm another party, This business can be categorized as an illegal act.

From the several points above, this is related to one of the five principles of fiqh, namely the fourth point regarding dangers that must be eliminated. Following the following hadith history: Meaning:

"It is not permissible to cause harm, and it is not permissible to cause harm" (HR. Hakim and others from Abu Sa "id Al-Khudri, HR. Ibn Majjah from Ibn Abbas).

Borrowing money or electronic-based loans, better known as online loans (Pinjol), have become a business trend in the current century. Online loans that promise convenience, especially in the pandemic era, are seen as more effective, faster and easier than having to meet in person at the location to carry out debt transactions.

It started from *ribawi* practices such as stifling loan interest, physical threats to borrowers who cannot pay debts, threats to spread personal secrets to the public through social media and so on. In contemporary *muamalah* fiqh studies, it is permissible to borrow money online.

However, modern facilities that make it easy to carry out online loan transactions leave many problems in society. Starting from *ribawi* practices such as stifling loan interest, physical threats to borrowers who cannot pay debts, and

threats to spread personal secrets to the public through social media.

In contemporary *muamalah* fiqh studies, it is permissible to borrow money online. Legally (legal-formal/non-physical) handover is considered to have taken place both *i'tibâran* (custom) and *hukman* (shariah and positive law) by way of *takhliyah* (relinquishment of ownership rights on one side) and the authority to *tasharruf* (manage /trafficking/using on other parties), even though *hissan* (physical goods) handover has not taken place.

What are the dangers of these online loans? Bad billing, very unfavourable, violates the principles of *fiqh muamalah*. Therefore, it must be eradicated, especially by us as good Muslims who must remind each other and avoid behaviour that brings harm to achieve mutual benefit. Especially in the economic aspect of determining the results. We will consume and become the fruit of each of us. Because when what we consume is good, halal, and does not conflict with sharia law, our prayers will be more easily answered by Allah SWT.

CONCLUSION

Online loans are a type of loan that can be disbursed in a relatively faster time compared to regular loans. This loan is also referred to as a quick loan. This loan process is done through an application that we can download at several application stores available for each operating system on our mobile phones, such as the Google Play Store (for Android) and Apple Store (for Ios). In addition, the way to use it is very easy and can be accessed anytime and anywhere. We only need to fill in personal data, upload private photos and wait for the application process; then, the fast loan can be used immediately. In short, the characteristics of Online Loans, namely in the form of applications, come from investors, companies or institutions that channel funds. The loan limit is a manageable size. In addition to the above characteristics, several advantages of online loans make many people tempted, namely the easy application process because it is online, the requirements for applying for loans are easy, in the loan process does not require collateral.

Ijtima Ulama determined that online lending activities are haram because there are elements of usury, giving threats, and revealing one's secrets or disgrace to fellow debtors. MUI emphasized that offline and online loan services containing usury are haram, even though they are done based on willingness. MUI mentioned that the act of borrowing and lending or debt and credit is a form of *tabarru'* or benevolent contract based on mutual assistance, which is recommended as long as it does not conflict with sharia principles. However, if, in practice, collecting receivables is carried out by giving physical threats or revealing the secrets (disgrace) of someone unable to pay the debt is haram. In addition, if the borrower deliberately delays the debt payment for those who are able, the law is haram.

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