

Synchronization Regulation Debt Collector Industry Finance in Indonesia

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Abstract

The Financial Industry in Indonesia in providing credit facilities or financing facilities for debtors will definitely require debt collection activities from debtors who have defaulted in the context of recovering receivables from debtors. Who in this activity usually collaborate and or authorize debt collectors to carry out the collection function. However, in reality in the field there are many violations of the law committed by debt collectors and based on the analysis conducted in the study, it was found that one of the causes was due to regulatory conditions or regulations from Bank Indonesia (PBI) and the Financial Services Authority (POJK) regulations regarding debt collectors only apply binding on the financial industry as service users of debt collectors and not binding directly on each individual debt collector due to the limited regulatory authority of the two financial industry regulators who are only entitled to regulate the financial industry as stipulated in the existing laws and regulations. Therefore, in order to prevent violations of the law by debt collectors, it is necessary to have synchronized regulations from Bank Indonesia and the OJK and involve the Indonesian National Police (Polri) and the Supreme Court of the Republic of Indonesia in completing the preparation of regulations that are synchronized and have norms and objectives that are pre-emptive against law violations by debt collector as will be described in this paper.

Keywords

financial industry; debt collector; synchronization; pre-emptive.



I. Introduction

The financial industry in Indonesia, which consists of various types of institutions, participates support the economic growth of the community by providing and providing various forms of credit and financing facilities, especially supported by progress technology in the field of information and technology that also provides easy access service finance from industry finance in Indonesia. Human Resources (HR) is the most important component in a company or organization to run the business it does. Organization must have a goal to be achieved by the organizational members (Niati et al., 2021). Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired (Shah et al, 2020). The development of human resources is a process of changing the human resources who belong to an organization, from one situation to another, which is better to prepare a future responsibility in achieving organizational goals (Werdhiastutie et al, 2020).

And in each distribution of credit facilities or financing facilities and money-lending facilities provided by financial institutions are also not regardless of the condition of the

existence of debt collection activities to debtors who default or default in fulfillment his obligations.

For debt collection on debtors in the Banking Industry who are in function supervision from Bank Indonesia, Industry finance non bank or Institution

Fintech Financing and Industry (technology-based lending and borrowing services) who are under the supervisory function of the Financial Services Authority already have procedures or regulations related to debtor debt collection mechanisms with the use of service debt collector which include:

1. Regulation Use Debt collector in Sector Banking 1

- a. Regulation Bank Indonesia Number 14/2/PBI/2012 about Change on Regulation Bank Indonesia Number 11/11/2009 about maintenance Activity Tool Payment with Use Card Chapter 17 B verse 1 – 4.
 - b. Bank Indonesia Circular Letter 14/17/DASP Dated 7 June 2012, Roman VII Letter D Number 4b and 4c Regarding Change on Letter Bank Indonesia Circular Number 11/10/DASP concerning the Implementation of Activity Tool Payment with Use Card.
 - c. Association Organizer PMK.
2. Regulations on the Use of Debt Collectors in Non-Financial Institutions Bank
- a. Regulation Authority Service Finance Number 35 Year 2018 Chapter 48 paragraph (1) – paragraph (5) concerning the Company's Business Operation Financing
 - b. Financial Services Authority (OJK) Regulation No. 1 of 2013 concerning Protection Consumer Sector Service Finance.
 - c. Article 30 paragraph (3) which regulates Financial Services Business Actors (PUJK) to be responsible to consumers for the actions of parties third (debt collectors).
3. Fintech Company (Lending – Technology-Based Borrowing) or Loan On line (PINJOL)
- a. OJK Regulation Number 77 of 2016 concerning Borrowing Services Borrow Money based on Technology Information which arrange about system method permission and procedure business related information fintech technology.
 - b. Reporting Actions to the authorities or AFPI (Association of Fintech) or to OJK.

However, the fact is that there are still many attitudes of debt collectors who violate law and violate norms which apply in society. Therefore This paper will discuss the causes of legal violations by debt collector and how action pre-emptive (action prevention) which must be carried out by financial industry regulators and legal institutions such as The Indonesian National Police and the Supreme Court of the Republic of Indonesia, one of which is the preparation of regulations related to debt collectors compiled with the synchronization method by the regulator the financial industry, the National Police and the Supreme Court of the Republic of Indonesia as law enforcement agencies in Indonesia.

Writing this use Method Juridical normative, that is study literature sourced from secondary data as the main data consisting of: Ingredient Law Primary, Ingredient Law Secondary and Ingredient Law Tertiary. Ingredient law the then arranged by systematic for then drawn conclusion in problem which will researched 2. Approach writing m e n g g u n a k a n P e n d e k a t a n U n d a n g – u n d a n g (S t a t u t e A p p r o a c h) y a i t u P e r a t u r a n O t o r i t a s Services Finance and Regulation Bank Indonesia, Constitution Police RI, and Constitution Court great RI.

II. Review of Literature

2.1 Debt Collector Violation from Banking Financial Institutions, Institutions Financing and Institution Loan On line or Fintech

From various available data sources, it can be seen that this often happens legal violations related to debt collection interactions between debt collectors with defaulted debtors from a number of financial institutions due to: triggered by a conflict of interest between debt collectors and default debtors. Where debt collector requires debtor injury promise for pay debt which arrears but on the other hand the debtor is experiencing financial difficulties (cash flow problems) so that not yet could pay his obligations.

Based on a number of cases of legal violations committed from a number of debt collectors who come from a number of existing financial institutions, could outlined classification and form violation meant which include:

1. Pelanggaran Debt Collector Terhadap Norma Kesopanan / Etikasoopan_Santun
2. Violation Law Debt Collector with Element Criminal General
3. Violation With There is Element Criminal Special.

2.2. Violation Law Debt collector On Sector Banking (BANK)

The most common violation is that debt collectors collect debts from debtors using or through telecommunication tools when collecting debts "credit card", a form of law violation that is often found and often experienced debtors in forms that are "verbal harassment from debt collectors " against the debtor". As an example of a real case found from searching for information What exists is that which is experienced by one of the debtors from a credit card managed by Bank "M" in Jakarta where the debtor submits an open complaint on the website mediakonsumen.com; "I really feel very disturbed & upset over terror/intimidation/threats/obscenities and immorality from debt collectors Bank The "M" was misdirected that was thrown at me & my son. On billing my daughter-in-law's credit card arrears. And as a parent with forced and pressured to share responsibility for anything at all has never been confirmed from the start by Bank "M" regarding his current position serve as an emergency contact for applicants for credit card facilities from Bank M. Emphasis and coercion from debt collectors on emergency contact in the form of telephone and chat whatsapps dozens of times every day and use different phone numbers so that the victim ends up blocking numbers the "3.

III. Result and Discussion

3.1 Violation Law Debt Collector on Sector Institution Financing (Company Financing)

In this non-bank financial institution or financial institution based on search with information literature, from a number of known electronic pages that; problem "withdrawal vehicle guarantee (car motorcycle) by debt collector is a problem of law violations that often occur. According to the complaint data which received by OJK on year 2021 there is 595.521 where amount 25.072 complaints include; about requests for debtor information, debt collector behavior, restructurisation financing, fraud, and legality service service finance and product finance. In addition, it was also found that there were reference data on complaints that received by Ombudsman Republic Indonesia along year 2020. In classification of complaints in the field of Economics and Finance by 10.86% (176

reports), where 12.75% of them are complaints related to the problem of debt collectors confiscating goods debtor because no capable in installments.

Examples of real cases that occur as found from detik.com, where the attorney of the debtor reports at the Riau Police Headquarters for the debt collector with violation to chapter 170 KUHP paragraph (1) KUHP, Chapter 336 KUHP paragraph (1) of the Criminal Code and Article 335 paragraph (1) of the Criminal Code. The case begins with being followed reporter which moment that drive car brand Toyota Avanza BM 1993 QA white color on Jalan Tuanku Tambusai was intercepted and then chased up to Jalan Garuda Sakti Panam by debt collectors as many as 10 people using cars and motorcycles. It doesn't stop there, but a herd of debt collectors This also did damage to the reporting car starting from Jalan Tuanku Tambusai to Jalan Garuda Sakti Panam by hitting, bumping, hitting windshield and car body to deflate car tires. Not satisfied until there a herd of debt collectors also forced the complainant to stop and get out of the vehicle at the gas station Street Garuda Magic while Shout with threat will slit debtor, sentence containing the threat is heard by the surrounding community

3.2 Debt Collector Law Violations in the Fintech Company Sector Pinjol (Loan On line)

“Debt collector _ threatened the kindergarten (TK) teacher with the initial’s “S” where the party a teacher with the initial "S" who is in Malang, East Java has a debt to loan up to Rp. 40 million rupiah, in Malang, East Java. Victim S admitted that he arrived experience psychological disorders⁷, as a result of terror and intimidation by debt collector from the loan. And the actions of debt collectors have caused consumers or debtors commit "suicide" because they are afraid of being intimidated and embarrassed because they were terrorized through a contact number that was " tapped " by the fintech manager or pinjol illegal when beginning submission loan on line. Which actually action the prohibited conducted by OJK and apply also on company Fintech or Pinjol licensed and officially registered with OJK. The many and widespread number of violations of the law by debt collector pinjol the also supported fact data complaint which YLKI (Foundation Institution Consumer Indonesia) on year 2021 which inform that from 535 complaint which received by YLKI, 22.4% of them originated from consumer loan on line or "pinjol" ⁸.

3.3 Typical Violation Law by Debt collector Institution Finance

Based on description examples real case of violation law by debt collector good which work for interest Banking, Institution Financing and Company Fintech could classified Becomes three type typical violation law that is:

a) Debt collector to do Terror and Intimidation:

To credit card debtors, credit without collateral and or to debtors online loans / or "borrowing" by means of terror through the number the debtor's telephone or mobile number or by terrorizing the debtor through the office number or place of business of the debtor and also terror to the owner debtor emergency contact or contact number of spouse or family close to the debtor registered with the credit card manager or banking or Illegal Fintech companies or illegal loans that are not licensed and not registered with OJK. This will be very disturbing for other parties who even no knowing about debt – debt the.

b) Debt collector Using Words Rough Dan No. Indecent:

Debt collector in type violation law this Secrete words which indecent (disrespectful) to the debtor and is "insulting" to price self and name good from debtor.

c) Debt collector to do Violence or Persecution ⁹

In their actions, the violence committed by debt collectors also involves: the existence of victims on the part of the debtor who experienced persecution from the debt collector, because the debtor is trying to maintain the car or motorcycle which will drawn by debt collector and to debtor also experience pressure and coercion on withdrawal car and motorcycle and which many conducted in middle Street and tend character "plunder". cases violation from debt collector also will very susceptibly relates to violations of criminal offenses or general criminal law which set in KUHP or law criminal special like Constitution Protection Child, Constitution narcotics, and Constitution Emergency as the identification of potential violations and applicable cases in the table below this;

Table 1. Potency Violation Law Criminal General by Debt collectors.

No	CHAPTER CRIMINAL GENERAL (KUHP)	APPLICATION CASE ON CHAPTER CRIMINAL WHICH VIOLATED BY DEBT COLLECTOR
1	Chapter 55 jo 56 KUHP	Infiltration by fellow <i>debt collector</i> which help <i>debt collector</i> other so that happening offense criminal.
2	Chapter 167 KUHP	Enter house without permission from debtor.
3	Chapter 170 KUHP	<i>Debt collector</i> by together with <i>debt</i> other <i>collectors</i> To do beating on debtor.
4	Chapter 266 Paragraph number 1 KUHP	<i>Debt collectors</i> use letter or document which false identity false.
5	Chapter 285 KUHP	<i>Debt collector</i> To do adultery with wife debtor for compensation in payment debt.10
6	Chapter 310 KUHP	<i>Debt collector</i> To do blasphemy or insult on debtor in advance general,11
7	Chapter 335 KUHP	<i>Debt collector</i> To do deed no pleasant on debtor12
8	Chapter 338 KUHP	<i>Debt - collector</i> To do act criminal murder on debtor.
9	Chapter 351 KUHP	<i>debt collector</i> abuse the debtor when collect debts or when towing a vehicle <i>m o b i l / a t a u m o t r</i>
10	Chapter 353 KUHP	<i>debt collector</i> carry out severe abuse on the debtor when collect debts or when towing a vehicle <i>m o b i l / a t a u m o t o r y a n g m</i> cause a <i>bka n d e b i t o u r m e n g a l a m i _ l u k a</i> heavy or died.14

Table 2. Potency Violation Criminal Special by Debt collector
(Constitution Number 35 Year 2009 About Narcotics):

CHAPTER OFFENSE AND THREAT CRIMINAL NARCOTICS POTENTIAL CONDUCTED BY DEBT COLLECTOR	APPLICATION POTENCY ON CASE VIOLATION law NARCOTICS BY DEBT COLLECTOR
<p>Chapter 116 SD Article 117 (With threat punishment 5 SD 10 year prison).</p>	<p><i>Debt collector</i> use narcotics or psychotropic by oppose law with method use narcotics marijuana or narcotics in the form of other for cause "courage"¹⁵ in bill debt which including includes the use of drugs medicine certain which endanger debtor because decrease level awareness of <i>debt collectors</i> in acting and understand his deed potential violate law or happening "uncontrolling actions".</p>

Table 3. Potency Violation Criminal Law Protection Child by Debt collector (Constitution Number 35 Year 2014) About Change on Constitution Number 23 Year 2002 About Protection Child:

POTENCY VIOLATION AND THREAT CRIMINAL PROTECTION CHILD BY DEBT COLLECTOR	APPLICATION CASE VIOLATIONlaw PROTECTION CHILD BY DEBT COLLECTOR
<p>Article 76C Everyone is prohibited from placing, let, To do, orderedfor To do, or join as well as To do Violence to Child</p>	<p>Debt collector To do action; threaten, snapped child debtor and cause child debtor experience traumatized or under stress Fright which great</p>
<p>Chapter 76D Every Person prohibited To do Violence or threats of violence compel Child To do intercourse with him or withperson other.</p>	<p>Debt collector To do abuse sexualand rape to child debtor 16</p>

Chapter 76F Everyone is prohibited from placing, let, do, command do, or participate in doing kidnapping, sale, and or trading Child	Debt collector kidnap child from debtor so thatdebtor pay debt his
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Table 4. Potency Violation Law law Emergency No.12 Year 1951 By Debt collector

POTENCY VIOLATION law EMERGENCY BY DEBT COLLECTOR	APPLICATION CASE OFFENSE VIOLATION OF THE LAW DARURAT BY DEBT COLLECTOR
Article 1 Verse (1) and Verse (2) : Goods who, which without right enter to Indonesia make, accept, try acquire, deliver or try surrender, control, bring, have stock with him or have in his possession, keep, transport, hide, use, or remove from Indonesia something weapon fire, ammo or something ingredient explosive, punished with punishment dead or life imprisonment or imprisonment temporary as high as possible two twenty year.	<i>Debt collector</i> use and bring weapon fire forthreaten debtor so thatpay debt his and or the debtor was shot with a gun fire by <i>debt collector</i> 17, with purpose: for the debtor to submitm oto r / m ob i l for d i t a r i k.
Article 2 Verse (1) Goods who which without right enter to Indonesia, make, accept, try get it, deliver or try surrender, control, bring, have stock with him or have in his possession, keep, transport, hide, use or remove from Indonesia something bat, stabbing, or weapon awl (slag, steak, of stootwapen), punished with punishment prison as high as possible ten year.	<i>Debt collectors</i> use dan bring weapon sharp for threaten the debtor to be ready pay debts and or for; m enye r a hka n m ob i l / a t a u m motor for drawn.18

Table 5. Potency Violation Criminal On law ITE Number 11 Year 2008

Potency Violation Criminal law ITE No. 11 Th 2008 By Debt collector	Applicable Case Violation Criminal law I TE 11 / 2008 O l e h D e b t c o l l e c t o r
<p>Chapter 27 Paragraph (1)</p> <p>Everyone intentionally and without rights distribute and/or transmit and/or make Information accessible Electronic and/ or Document Electronic which have payload which violate decency</p>	<p><i>Debt collector</i> send text or images that violate decency to debtor or edit the face/profile of the debtor as if commit immoral acts and spread expand with use means media electronic, with destination embarrass the debtor or so that the debtor afraid and pay the debt.</p>
<p>Chapter 27 Paragraph (3)</p> <p>Everyone intentionally and without rights distribute and/or transmit and/or make Information accessible Electronic and/or Document Electronic which has insulting content and/or pollution name good.</p>	<p><i>Debt collector</i> performs data dissemination debtor's debt on social media or pages social media belonging to friends or family of debtor</p>
<p>Chapter 27 Paragraph (4)</p> <p>Everyone intentionally and without rights distribute and/or transmit and/or make Information accessible Electronic and/ or Document Electronic which have extortion charge and/or threats.</p>	<p><i>Debt collector</i> sends electronic message on debtors with substance threats so that debtor To do payment debta t a u m enye r a hka n m ob i l / m o t o r to be pulled</p>

Based on an analysis of a number of regulations and regulations related to work and activity debt collector which published by Bank Indonesia (BI) and Authority Service Financial Services Authority (OJK) is only intended and is binding on Financial Service Actors (PUJK) or institution finance just. Thing this because of course Duty and function as well as authority BI and authority OJK only could arrange on PUJK or institution finance which Becomes object supervision¹⁹. Notice amount description against legal violations that occur and are carried out by debtors' collectors must be able to take steps. Events of violations law as which there is in data table or which succeed collected from search information and analysis to regulation legislation which there is, identified caused by because:

3.4 PBI and POJK Which Not Could Tie by Direct Debt collector

Notice condition regulation legislation which there is moment this related Settings against debt collectors who do not regulate and do not bind directly to individual debt collectors, due to Bank Indonesia Regulations ("PBI") and OJK Regulations ("POJK") is only binding on financial industry parties in the procedure for cooperation and in using the services of a debt collector. Next in the event of violation law by debt collectors, so penalty

which there is in PBI and OJK only applies and is imposed on the financial industry and cannot be imposed on individuals from related debt collectors. And that's because of limitations the authority of Bank Indonesia and the OJK to regulate directly (direct norms) on each individual debt collector. Because Bank Indonesia and OJK as regulators

3.5 Debt Collector Regulation Norms that are Synchronous and Synergistic and are Pre-Emptive

Whereas as explained in the previous section, if Bank Indonesia and OJK have limited authority to directly regulate each debt collector. so already should for considered existence the rules related debt collectors who are not formed by Bank Indonesia and OJK only.

IV. Conclusion

That the problem with the implications of violating the law by debt collectors is very broad could impact on happening violation law criminal general, law special crimes such as; Narcotics law, child protection law, ITE law, UU emergency, and regulation Bank Indonesia and regulation OJK which apply moment This cannot be tied directly to individual debt collectors. Where is the rules legislation which there is moment, this only apply tie on party institution finance in terms of using and using debt collection services collector.

Debt collector problems must be done with the preparation of regulations legislation which character pre-emptive with method synchronization regulation regulations from the OJK, Bank Indonesia, the National Police and the Supreme Court of the Republic of Indonesia in skeleton for prevent happening violation law by debt collectors a debt collectors association to become a working container managing and supervising as well as providing guidance to the debt collector profession by implementing IT systems (information technology) and to help regulator industry finance in application protection to consumer user service service Industry finance.

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