

Reflection on Criminal Law Based on the Chaos of Campus Loan

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Abstract: In recent years, due to the driving of economic interests and the rapid development of the Internet, some online lending platforms will reach out to the campus. Although it provides many conveniences for college students who are in urgent need of funds, in the course of their development, due to the lack of legal supervision, the subject of supervision responsibility is not clear, which has triggered many social incidents that have caused serious harm to society, schools and families. Due to the lack of effective legal supervision, these lending platforms have many illegal operations in actual operations. These behaviors have brought heavy psychological pressure and economic burden to students and families, and have also hidden dangers for campus safety and social security. Reflecting on the development of campus loans from the perspective of criminal law can not only regulate the development of campus loans, but also provide relevant reference for the improvement of criminal law. Therefore, this paper combines several common types of campus loans, summarizes and summarizes many chaos, and reflects on the causes and effects of these chaos from the perspective of criminal law.

1. Introduction

Campus load is a new type of online lending model based on the development of internet technology in recent years. The new lending model is convenient and efficient, with wide coverage, and uses the advantages of the internet to collect information widely. Integration saves the time and information cost of borrowing[1]. At the same time, people with capital needs can register their own materials on the APP, and they can realize their willingness to lend without going to a special business place or cumbersome procedures. The model is an innovation and change to traditional lending, so that the region is no longer a restriction on the way of lending, making lending more flexible and efficient, can meet the different needs of different borrowers and provide more types of lending, and improve the transaction rate of both borrowers and lenders is relatively convenient and more in line with the actual needs of college students[2].

Some advertisements about campus loans, such as borrowing loans, campus loans, etc., can be seen everywhere on campus or in school. A large number of college students are making loans on such platforms in order to meet their various needs, and finally they are unable to repay the loans. In the event of a school loan, it has brought many adverse effects to students, families and schools[3]. The main reason for the above situation is that due to the lack of effective supervision of campus loans, the lack of relevant and sound legislation, and the lack of supervision, the problems continue to emerge. In order to effectively regulate the chaos of campus loans and promote their healthy and stable development, we should formulate sound online lending laws and regulations as soon as possible.

Through the introduction of the type of campus loan, this paper makes people have a certain understanding of campus loans. Further, it is explained by some chaos in campus loans, which attracts people's attention and proposes reflections from the perspective of criminal law[4]. In this way, the new financial product of campus loan is included in the government's supervision, to guard against its danger, to use its benefits to supplement the shortcomings of the traditional lending model, and to play an active role in promoting the financial system such as microfinance in China.

2. Type of Campus Loans

Due to the different nature and business form of the lending platform, the role of the lending platform is different, There are three types of campus loans. The layout of the online loan platform in the campus is shown in Figure.1.

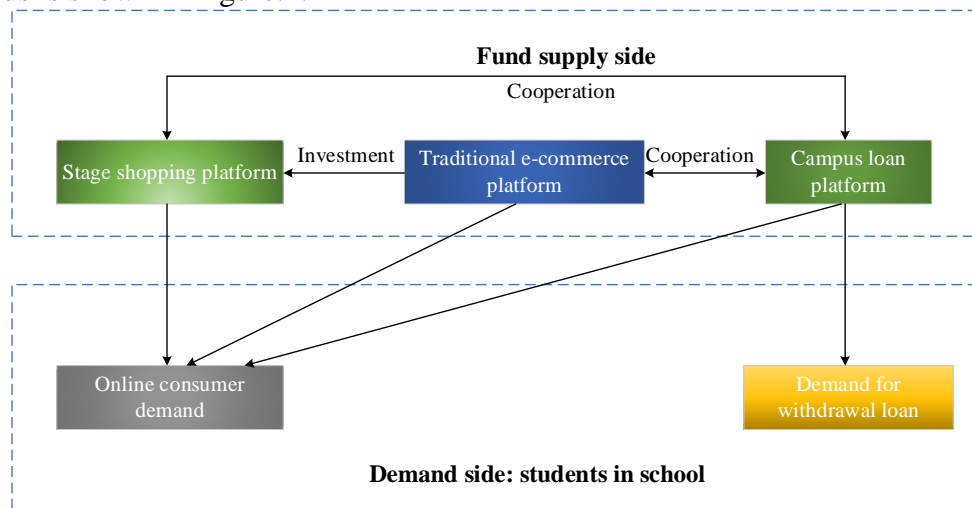


Fig.1 the Layout of the Online Loan Platform in the Campus

The first type is to provide credit business by derivative of traditional e-commerce platform. For example, credit services provided by e-commerce platforms. They mainly provide loan services for the purpose of shopping. Generally, they only support consumer payment, not transfer or withdrawal, this type only charges for consumers or merchants, and the cost is relatively low. Although the business is relatively standardized, there are still some risks, such as college students with weak self-control may face debt crisis due to excessive use, with the development of the platform, the three or five days, the longest is one year[5].

The second type is the stage shopping platform for college students, such as the earliest “stage music” and “fun” Stage “and so on, mainly to meet the shopping needs of college students. Unlike the first type, this type of platform itself does not a direct e-commerce, one end of which is connected with e-commerce, the other end is connected with investors, similar to traditional e-commerce salesperson. Most of these platforms charge consulting fees, service fees, management fees and other fees for e-commerce and investors, with relatively high annual interest rate. In addition to the first type of campus loan risk, there are also usury and other risks.

The third type is the network lending platform specialized in providing cash loan services, such as “famous school loan” and “auction loan”, etc. Most of these platforms use “low interest rate, zero down payment” as publicity gimmicks, but they charge a variety of consulting fee, service fee, management fee, etc., with very high real interest rate. In addition, some illegal operators provide cash loans to college students who can't borrow money from the formal platform through the platform, and induce college students to repay loans or urge them violently when they can't repay.

3. The Chaos of Campus Loan

While campus loans are alleviating the difficulties of students' money, there are also some bad loans. The legal thinking on how to manage the campus loan phenomenon has become a more urgent topic. The chaos of campus load occurs in all types of loan services mentioned above. However, due to the different types of services, the management chaos they bring is relatively different.

3.1 Naked Loan

Naked loan means that the borrower borrows money through the online loan platform and sets high interest rate, mostly for the female college students to take photos naked with their ID card as

guarantee. When the borrower fails to make the repayment on time, the lender will force the borrower to make the repayment by publishing the naked photos it holds or contacting the borrower's parents[6]. Naked loan has developed into a kind of grey industry chain, which has resulted in repayment and sale of naked loan information to achieve profits, and the borrowers who choose naked loan also fall into a vicious circle. Young female college students haven't really entered the society, they have little social experience, and they have high consumption desire, which leads to a serious imbalance between consumption ability and consumption desire. Many girls pursue high consumption and luxury goods to meet their vanity. In order to meet their strong consumption desire, they have embarked on the road of naked loan. Because there is no other guarantee, they are often required to shoot. Naked photos or small videos are used as loan guarantees to get the loans they need. When they fail to repay on time due to default, they often fall into this kind of naked loan mire[7]. If the family is rich, their parents can help repay in time. If the family is not rich, and they lack the ability to repay, they can only be at the mercy of the lender and fall into a gray life, even because of choosing to end one's life in order to be unable to repay a loan or to have a psychological breakdown has brought extremely bad influence to family and society. From a civil point of view, this kind of behavior of the lender seriously violated the privacy and personality rights of the people at that time, and the sale of nude photos was more and more involved in criminal crimes such as spreading obscene articles for profit. Such problems became more and more serious, involving more and more girls, seriously affecting the family and social harmony, causing extremely bad impact.

3.2 Deception Loan

The lending platform defrauds the borrower, the lending platform deliberately conceals the provisions that are harmful or even illegal to students, and deceives students to sign loan contracts. According to the law, the interest rate agreed by the private lenders should not exceed 24%, and the law does not protect more than 24%. In the campus loan, the agreed interest rate often exceeds 36%, which is totally inconsistent with relevant laws[8]. The amount of refinancing is not to say how much your loan amount is, and how much you can get in the end. The lending platform will often charge more than 10% of the agency fee from the loan amount, which is obviously contrary to the provisions of the contract law of China. They deducted a portion of the amount in the process of borrowing, so that the borrower could not obtain the full amount of the loan, but still need to repay the principal and interest according to 6,500 yuan. According to analogy, this kind of deduction of a certain amount in the principal. The act of using money as an intermediary but still calculating interest on the principal amount is a clear violation of the principle of equality of transactions. Such behavior is also inconsistent with the legal spirit of our country. The third person deceives the borrower. Because most college students are not deeply involved in the world, their minds are relatively simple, they have too little understanding of complex society, and they are easily deceived by third parties because of their commitment to trusting people. This kind of behavior involves the crime of fraud in criminal law.

3.3 Violence Compel Loan

Sometimes, violent forcing of loan will lead to illegal and criminal behaviors. This kind of behavior usually occurs when college students are unable to repay the loan, and when they are overdue, the campus loan platform will organize its own staff to use various methods to intimidate the people at that time to repay the loan. The methods of violent forcing of loan are usually as follows: first contact with the borrower's parents by phone or other means, and constantly correct their parents harass and then exert pressure. Sometimes they will send text messages or phone calls to the borrower to threaten the borrower. If they don't repay, they will send information to the borrower's classmates or their tutors to let the surrounding people know that they use the loan platform to borrow money and don't repay it on time, and even publish the borrower's information in the school post bar to advertise it. Seriously, even the staff of the lending platform will take the borrower away and lock him up, detain him for dozens of hours to force him to repay, which seriously infringes the personal freedom right of the person at that time, and even constitutes the

crime of illegal detention in criminal law.

4. Reflection on the Perspective of Criminal Law

From the perspective of criminal law, reflecting on the chaos in the development of campus loans, there are many problems worthy of consideration. The path map of default risk of campus loan is shown in Figure.2.

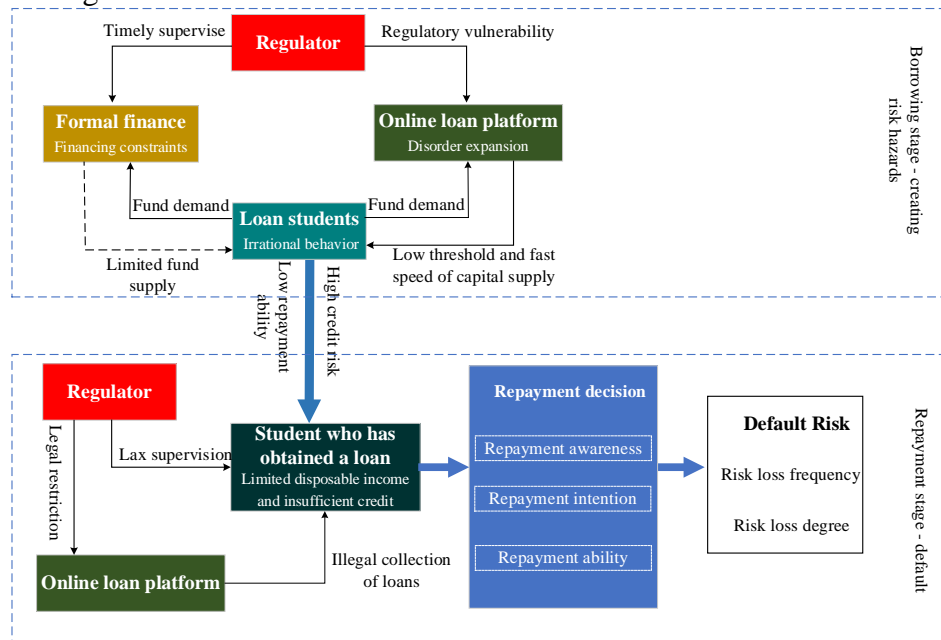


Fig.2 Path Map of Default Risk of Campus Loan

4.1 Financial Fraud in Loan Profit

The profit model of campus loans is actually very simple. Its income mainly depends on collecting loan interest and various overdue penalties. The most controversial aspect of campus load is its interest rate, and the opacity and ambiguity of some platform interest rates are important incentives for campus hazard incidents[9]. At the same time, the particularity of unsecured lending and borrowing is not rigorous. The incentive, and the realization of the campus loan profit model involves the issue of financial fraud.

Firstly, the setting of the fine. Although it is a normal behavior for students to pay a certain fine when they are unable to repay the loan, in the process of implementing the campus loan, the setting of the fine is beyond the scope of students. Especially when students pay overdue, this kind of fine will be mixed with the principal and interest, which makes the students in difficulties more difficult to extricate themselves.

Secondly, disguised high interest rate. Although there are also some campus loan platforms that will charge about 30% of the relevant interest according to article 26 of the provisions on the application of law in the trial of private loan cases, some campus loan platforms will also add a disguised charge on the basis of these legitimate and compliant interest. For example, some high cost, handling fees, call loan fees and many other items of charges[3]. So as to improve the interest rate of campus loans in disguised form. However, for these disguised charges, some loan platforms often do not inform the borrowers in advance. Therefore, it is suspected of financial fraud.

From the perspective of criminal law, if the campus load institution causes certain personal and property damage to the students who are the main borrowers through the above actions, it constitutes a causal relationship at the legal level. Therefore, it should bear all relevant criminal responsibilities.

4.2 Illegal Act of Disguised Violent Collection

Violence or disguised violence is almost a common violation of many campus load institutions.

In this regard, some researchers have made such a summary of the behavior of campus loan institutions. The ten steps of the campus online lending platform are: 1. send QQ notifications to all loan student groups overdue; 2. send a text message alone; 3. call alone; 4. contact the loan student roommate; 5. contact the student's parents; 6. contact again to warn the student himself; 7. send a lawyer's letter; 8. go to school to find a student; 9. posting a large amount of money owed by students in public places in schools; 10. Send text messages to all students and friends. Among them, there is even more violent collection or demand for the debtor as a collateral. If the payment is overdue, the nude photos and other personal information, including address and telephone number, will be made public. In this quotation, no matter what kind of mortgage action the campus loan institution takes, it violates the law. Whether the campus loan institution publishes relevant information about students or publishes nude photos of students, it violates the relevant provisions of the criminal law. Therefore, it also bears certain criminal responsibility[4].

4.3 Multi-Dimensionality of Campus Loan Illegality

Although not all campus loans have objective illegal behaviors, we can conduct multidimensional analysis on some illegal behaviors of campus loans.

Firstly, the diversity of violations. For example, it is a typical behavior to release naked photos of borrowers in the chaos of campus loans. However, in this kind of behavior, it will not only involve the victim's commitment, but also involve the borrower's illegal behavior. To some extent, both parties involved in campus loan have illegal behaviors. Especially for the school loan institutions, whether the borrower promises to release nude photos in advance or not, he cannot do so. Because, this involves the crime of disseminating obscene articles and the crime of disseminating obscene articles for profit. In the above case, if the borrower of the campus loan threatens the borrower to repay the high interest with his naked photo, he may also be involved in the crime of extortion. Therefore, this involves another criminal law level, how to identify the crime of extortion.

Secondly, the perfection of criminal law. Campus loan is a new form of loan, therefore, the criminal law which has been formulated for a long time has shown relative imperfection in some extent. For example, as mentioned above, when using naked photos to coerce borrowers to repay funds, some scholars think that if it does not go beyond the scope of rights, has the necessity of using strength, and its means and behavior itself does not constitute other crimes stipulated in the criminal law, it should be considered that it does not cause damage to the property of the other party and should not be regarded as a crime. However, there is still no clear standard for the scope of rights. Therefore, the process of defining this standard has become the process of perfecting criminal law.

5. Conclusion

The elimination of illegal campus loan is not achieved overnight, nor can it be fully realized only by the regulatory measures issued by some regulatory authorities, but requires the joint efforts of the whole society. Through the follow-up analysis of the current regulatory means, we can find that the relevant policies have achieved certain results, but we also need to see the deficiencies of the current measures, actively improve the legal system, and ensure that there is a law to follow. In order to better protect the legitimate rights and interests of college students, the social status and responsibility of campus loan platform should be clarified.

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