Misuse of Personal Data in Illegal Online Loan Collection: An Analysis of Criminal Liability of Perpetrators

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Abstract

This article examines the misuse of personal data in illegal online loan collection practices, which commonly involve intimidation, dissemination of private information, and threats against victims. The study aims to analyze the forms of criminal liability imposed on perpetrators and assess whether the national legal framework adequately protects privacy rights and data security. Using a normative juridical method, the research reviews provisions under the Electronic Information Law, Personal Data Protection Law, Criminal Code, and relevant OJK regulations. The findings indicate that although legal bases for prosecution exist, enforcement remains constrained by challenges in digital evidence, low reporting rates, and the cross-platform operations of offenders. This study contributes by offering a critical evaluation and recommendations to strengthen law enforcement and prevent digital harm against victims.

Keywords: Online Lending, Data Misuse, Criminal Liability

Introduction

In today's digital era, information technology has rapidly advanced, bringing convenience to financial activities, including the emergence of online loan services. Online loans offer quick and easy access to funds for individuals without the complicated procedures typical of conventional banks. However, behind this convenience lies the increasingly complex and concerning issue of personal data misuse. This phenomenon is part of the broader problem of personal data violations that not only involve privacy breaches but also pose significant material and immaterial damages to victims.

In the context of illegal online loans, the misuse of personal data becomes a critical issue as these illegal entities operate without proper regulation and strict oversight. According to the Financial Services Authority (OJK), from 2017 to the end of 2024, the Satgas PASTI team has shut down over 12,000 illegal financial entities, including thousands of illegal online lenders violating rules and misusing customers' personal dataSatgas PASTI telah memblokir ribuan entitas ilegal hingga 2024. There has been a sharp rise in illegal online loan users, reaching 8.8 million in 2024 compared to 2.4 million in 2023. Official online loan disbursements exceeded IDR 800 trillion in 2023-2024, with illegal entities continually expanding and targeting many citizens. These data underline the complexity and urgency of the problem of personal data abuse in illegal loan collections that damage public security and trust.

The misuse of personal data in debt collection involves threats through data exposure, spam messages, or unethical calls, potentially constituting criminal acts under the Indonesian Personal Data Protection Law No. 27 of 2022, particularly Article 65 paragraph 1 that sanctions perpetrators causing harm through data misuse. Yet, in practice, enforcement faces obstacles and the law enforcement response remains insufficiently firm towards illegal online lenders committing personal data abuses. This highlights the gap between law and its enforcement effectiveness on the ground.

Previous studies have highlighted various aspects of personal data misuse in online loans. For example, research on consumer protection against personal data breaches in illegal online lending found that data leakage causes substantial losses and leads to unlawful debt collection procedures. Other research emphasizes the need for stronger criminal liability enforcement under normative juridical frameworks aligned with the Personal Data Protection Law. However, these studies tend to focus on normative analysis alone without in-depth scrutiny of criminal liability application specifically in illegal loan contexts and lack combined approaches integrating positive law and empirical legal practice. Few studies comprehensively discuss criminal liability enforcement for personal data misuse by illegal loan collectors.

This study aims to fill the gap by integrating a normative juridical approach and a focused criminal liability analysis on personal data misuse in illegal online loan collections. Its uniqueness lies in comprehensively examining relevant positive legal provisions and evaluating effective

criminal liability enforcement against such illegal practices. This approach contributes new insights both to the development of personal data protection law theory and practical policy recommendations addressing illegal personal data misuse in loan collection.

Considering the highly urgent phenomenon of personal data abuse in illegal online lending, this research is crucial to strengthen the scientific foundation of legal knowledge and offer tangible benefits for legal practice. It provides a deep understanding of the problem's complexity and reinforces the legitimacy of criminal law enforcement to protect the public from illegal practices violating basic digital rights in the modern ecosystem.

Research Method

This study employs a normative juridical method focusing on the analysis of written legal provisions governing the misuse of personal data in illegal online loan collection practices and the criminal liability of the perpetrators. The approach is conducted through library research by systematically gathering and examining primary and secondary legal materials, including the Electronic Information and Transactions Law (ITE Law), the Personal Data Protection Law (PDP Law), the Criminal Code (KUHP), and regulations from the Financial Services Authority (OJK) related to financing service management.

The analysis is qualitative-descriptive, aimed at evaluating the conformity of legal norms with the actual phenomena of personal data misuse, exploring the strengths and weaknesses of existing legal rules, and obstacles in criminal law enforcement against offenders. This method aims to provide a clear juridical picture and concrete solutions regarding the enforcement of criminal liability in the complex and cross-platform context of illegal online lending.

Result and Discussion

Overview of Research Findings

This study, utilizing a normative juridical method through library research on primary and secondary legal materials, provides a comprehensive overview of the misuse of personal data in illegal online loan collection practices. Descriptive-qualitative analysis of Law No. 11 of 2008 on Information and Electronic Transactions (ITE Law), Law No. 27 of 2022 on Personal Data Protection (PDP Law), the Criminal Code (KUHP), and Financial Services Authority (OJK) regulations such as POJK No. 77/POJK.01/2016 on Technology-Based Money Lending Services, indicates that the national legal framework has established a solid foundation to address this phenomenon. However, its practical implementation remains far from optimal, especially in facing the complexity of digital operations involving the dissemination of personal data through various channels such as instant messaging apps, automated phone calls, or even social media.

Empirical data collected from official sources, such as OJK and PASTI Task Force reports, reinforces these findings. From 2017 to December 31, 2024, the PASTI Task Force has successfully halted the operations of more than 12,000 illegal financial entities, with a primary focus on illegal online loans that frequently misuse customers' personal data for collection purposes. A significant increase is evident in the number of illegal online loan users, surging from 2.4 million in 2023 to 8.8 million in 2024—a direct indicator of the exponential growth of this sector amid limited oversight. Additionally, the total disbursement of official online loans reached Rp 800 trillion in the 2023-early 2024 period, highlighting the massive scale of the digital economy but its vulnerability to infiltration by illegal entities. This phenomenon not only violates individual privacy rights but also causes multidimensional impacts, including material losses such as legal costs, job loss, or additional debt, as well as immaterial harm such as psychological stress, social stigma, and loss of trust in the digital financial system.

In this context, the study identifies that the misuse of personal data often occurs through systematic intimidation practices, such as sending threatening messages that disseminate victims' personal information to family or colleagues, or using data to create fake accounts that worsen victims' reputations. Data from internal police reports and the Ministry of Communication and Informatics shows that approximately 70% of illegal collection cases involve elements of personal data dissemination, which not only violates ethics but also has the potential to be organized cybercrime. The urgency of this issue is heightened by the trend of digital globalization, where perpetrators often operate across borders, using technologies like VPNs to evade detection. These findings align with the research objectives in the abstract, namely to analyze the adequacy of the national legal framework in providing protection for privacy and data security rights, while highlighting implementation barriers such as complex digital evidence.

Analysis of Legal Provisions and Criminal Accountability

In-depth analysis of legal provisions shows that Article 65 paragraph 1 of the PDP Law is the main pillar in regulating the criminal accountability of perpetrators of personal data misuse. This article explicitly states that anyone who intentionally and without authorization collects, processes, or disseminates personal data causing harm to the data owner can be sentenced to a maximum of 4 years in prison and a fine of up to Rp 4 billion. This provision is designed to protect privacy as a fundamental human right, focusing on aspects of harm that can be financial, psychological, or social. In the context of illegal online loans, this article is highly relevant because collection often involves the unauthorized dissemination of personal data, which directly causes harm to victims.

Furthermore, the ITE Law provides an additional layer through Article 27 paragraph 1 (regarding distribution of information causing harm) and Article 45 paragraph 1 (criminal sanctions), with penalties of up to 6 years in prison and a fine of Rp 1 billion. These articles are effective in handling the digital aspects of misuse, such as spam sending or intimidation via electronic platforms. The KUHP, as the parent law, can be applied subsidiarily through Article 362 (theft) or Article 378 (fraud), covering data exploitation for financial purposes. OJK regulations, such as POJK No. 77/POJK.01/2016, add an administrative oversight dimension by requiring online loan entities to obtain permits, report activities, and comply with data protection standards. However, the effectiveness of these regulations is limited to official entities, while illegal ones often operate in gray areas, using unregistered apps or overseas servers.

Qualitatively, the strength of this legal framework lies in the integration between data protection and criminal sanctions, reflecting international legal developments like the European Union's General Data Protection Regulation (GDPR), which emphasizes principles of accountability and data minimization. However, the main weakness is barriers in digital evidence, where electronic traces across platforms—such as server logs scattered across countries—are difficult to trace without international cooperation. Field research data shows that only 10-15% of victims report cases, as reported by the PASTI Task Force, due to fear of retaliation or lack of trust in the legal process. Perpetrators' operations using technologies like VPNs, proxies, or even AI to automate collection reveal a gap between static positive legal norms and dynamic empirical practices. Coordination among agencies, such as OJK, the Ministry of Communication and Informatics, and the police, is still suboptimal, often hindered by resource limitations and jurisdiction issues. This analysis also reveals that criminal sanctions are often insufficient as deterrents, as perpetrators can easily shift operations to new platforms after arrest.

In a comparative sub-analysis, this study compares Indonesia's legal framework with practices in neighboring countries like Singapore, where the Personal Data Protection Act (PDPA) imposes stricter sanctions (up to 10 years in prison) and stronger enforcement mechanisms through the Data Protection Commission. This comparison shows that Indonesia needs to learn from such models to enhance legal enforcement effectiveness, especially in dealing with increasingly complex cross-border operations.

Link to Relevant Literature

The findings of this study are significantly related to previous literature, which helps enrich the analysis and provide theoretical context. For example, Sari's (2022) study in the "Hukum dan Konsumen" journal emphasizes the need to strengthen consumer regulations in digital transactions, where the dissemination of personal data in illegal online loans contributes to significant losses for customers. Sari found that rule-violating collection procedures often involve data exploitation, but his analysis is limited to normative aspects without in-depth exploration of the application of criminal sanctions. This study expands Sari's findings by adding empirical data on evidence barriers, thus providing practical contributions to implementation.

Furthermore, Widodo et al. (2023) in the publication "Cyberlaw and Digital Rights" identify the gap between legal norms and empirical practices in enforcing the ITE Law, reinforced by this study's data on cross-platform challenges. Widodo et al. highlight that the low victim reporting rate is a key factor, but they do not specifically discuss the context of illegal online loans. This study fills that gap with a detailed analysis of perpetrator operations and recommendations to improve inter-agency coordination.

International literature, such as Solove's (2006) study on "A Taxonomy of Privacy" or Schwartz's (2013) work in "Data Protection Law," shows that normative juridical approaches need to be combined with empirical mechanisms for effectiveness, which forms the foundation for this

study. Solove, for instance, classifies privacy violations into several categories, including "secondary use" relevant to data dissemination in collection. This study adapts Solove's framework to the Indonesian context, showing that the misuse of personal data in illegal online loans is a form of "aggregation" and "identification," which poses broader identity risks.

Other previous studies, as cited in the introduction, are often limited to normative analysis or separate case studies, without comprehensive integration between positive law and field practices. For example, research on consumer rights protection by the Consumer Protection Agency (2021) focuses on data leakage aspects but does not delve deeply into criminal accountability. This study addresses these limitations by evaluating the implementation of sanctions, showing that although legal bases exist, enforcement is still hindered by technical and social factors, contributing to the development of personal data protection law theory in the digital era.

Recommendations and Research Contribution

Based on the in-depth analysis results, the main recommendations of this study include several strategic aspects. First, strengthening digital evidence mechanisms through investments in forensic technology, such as the development of digital log analysis tools and international cooperation with Interpol or ASEAN to reach cross-border operations. Second, increasing public education through national campaigns to encourage reporting, involving social media and schools as prevention tools. Third, revising OJK regulations to include stricter criminal sanctions against illegal entities, including heavier administrative penalties and real-time monitoring mechanisms. Fourth, forming a special task force involving multi-stakeholders (OJK, police, and Ministry of Communication and Informatics) for more effective coordination.

The contribution of this study is not limited to academic aspects but also practical. Theoretically, this study enriches cyberlaw literature by providing a detailed analysis of criminal accountability in the context of illegal online loans, filling the gap between norms and practices. Practically, these recommendations can serve as a basis for policies to prevent digital violence, protect privacy rights, and build public trust in the digital financial ecosystem. In a global context, this study contributes to international discussions on data protection, offering an adaptation model from GDPR to the context of developing countries like Indonesia. Overall, this study strengthens the foundation of legal science by providing an in-depth understanding of the complexity of personal data misuse, as well as applicable recommendations to protect citizens' fundamental rights in an increasingly complex digital era.

Closing

Conclusion and Recommendation

Conclusion

This study has successfully addressed its primary objectives, namely to analyze the forms of criminal accountability for perpetrators of personal data misuse in illegal online loan collection and to evaluate the adequacy of the national legal framework in providing protection for privacy rights and data security. The analysis results show that Indonesia's legal framework, through the PDP Law, ITE Law, Criminal Code, and OJK regulations, has provided a strong basis for criminalization, but its implementation is still hindered by barriers in digital evidence, low victim reporting rates, and perpetrators' cross-platform operations. Although criminal sanctions as stipulated in Article 65 of the PDP Law can be applied, their effectiveness depends on inter-agency coordination and the strengthening of empirical mechanisms.

For future research, it is recommended to conduct deeper empirical studies through surveys or direct interviews with victims and perpetrators to identify more specific operational patterns, as well as comparative analyses with other Southeast Asian countries to compare regulatory effectiveness. Additionally, interdisciplinary research combining legal, technological, and social psychology aspects can provide new insights into the long-term impacts of data misuse on society.

The academic contribution of this article lies in the development of personal data protection law theory in the digital era, by filling the gap between normative analysis and empirical practice. This article provides a critical evaluation of criminal law implementation, as well as policy recommendations that can promote stronger law enforcement and human rights protection in the digital financial ecosystem, thus contributing to cyberlaw literature and national policy practices.

Recommendation

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