

## Civil and Criminal Cases of Online Loans

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### ABSTRAK

Penyalahgunaan data pribadi dalam pinjaman online, terutama penggunaan KTP tanpa izin, memunculkan persoalan hukum pidana dan perdata di Indonesia. Sekitar 50% pengajuan pinjol melibatkan identitas palsu atau curian, dengan Jawa Barat sebagai wilayah terbanyak. Penelitian ini menggunakan metode yuridis normatif melalui kajian regulasi terkait kejahatan siber, perlindungan data, dan perjanjian. Dari aspek pidana, pelaku dapat dijerat UU PDP, UU ITE, serta pasal KUHP tentang penipuan, pemalsuan, dan pencemaran nama baik. Dari aspek perdata, timbul akibat hukum berupa pembatalan perjanjian, wanprestasi, perbuatan melawan hukum, dan tuntutan ganti rugi. Pencegahan dan penegakan hukum memerlukan sinergi pemerintah, OJK, Dukcapil, fintech resmi, dan masyarakat. Pendekatan terpadu hukum pidana dan perdata penting untuk perlindungan masyarakat dan kepastian hukum dalam pinjaman online.

**Kata Kunci: Pinjaman Online, Hukum Pidana, Hukum Perdata, Penyalahgunaan Data Pribadi**

## ABSTRACT

The misuse of personal data in online loans, especially the unauthorized use of identity cards, raises criminal and civil law issues in Indonesia. Approximately 50% of online loan applications involve fake or stolen identities, with West Java being the most prevalent region. This study uses a normative juridical method through a review of regulations related to cybercrime, data protection, and agreements. From a criminal aspect, perpetrators can be charged under the Personal Data Protection Law, the Electronic Information and Transactions Law, and articles of the Criminal Code concerning fraud, forgery, and defamation. From a civil perspective, the legal consequences include contract cancellation, breach of contract, unlawful acts, and claims for damages. Prevention and law enforcement require synergy between the government, the Financial Services Authority, the Population and Civil Registration Agency, official fintech companies, and the community. An integrated approach to criminal and civil law is important for the protection of the community and legal certainty in online lending practices.

**Keywords: Online Loans, Criminal Law, Civil Law, Misuse of Personal Data**

## BACKGROUND

The rapid development of information technology in today's digital era has brought about major changes in various aspects of life, including the financial sector. The emergence of Financial Technology (Fintech) is one form of innovation in the financial services sector that integrates technology with financial services. Fintech provides convenience, speed, and efficiency in conducting financial transactions, one of which is through online lending services, also known as peer-to-peer lending. This system allows people to obtain loans quickly and easily, without having to visit financial institutions such as banks or cooperatives.

Online loans are an alternative for people who need urgent funds because the application process only requires identity documents such as a Resident Identity Card (KTP), Taxpayer Identification Number (NPWP), and a bank account. Unlike conventional financial institutions that require collateral and relatively long disbursement times, online loans can disburse funds in a short time, even in a matter of hours. Data from the Financial Services Authority (OJK) shows that as of 2022, there are more than 100 fintech lending companies that are licensed and officially registered. This shows that the development of fintech in

Indonesia is experiencing rapid growth in line with the increasing public demand for easy and fast access to finance.

However, behind the convenience and speed offered, online loan services also raise various legal issues, particularly those related to the misuse of personal data, especially other people's ID cards without permission. In many cases, perpetrators use other people's identities to apply for loans, then disappear and fail to make payments. As a result, the parties whose identities are misused often become victims of debt collection and experience pressure, terror, and material and immaterial losses. This shows the weakness of the identity verification system in the online loan application process.

The act of using someone else's identity for personal gain is classified as a criminal offense of document or identity forgery, as stipulated in Article 263 of the Criminal Code (KUHP), and violates the provisions of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE), which has been amended by Law -Law Number 19 of 2016, and Law Number 27 of 2022 concerning Personal Data Protection (PDP). The ID card as a population document is also regulated in Law Number 24 of 2013 concerning Population Administration, which emphasizes that the accuracy and confidentiality of every citizen's personal data must be protected by the state.

The misuse of ID cards for online loans not only causes economic losses for lending companies, but also has a serious impact on victims whose identities have been falsified. From a victimology perspective, victims of crimes such as this experience suffering that is not only material, but also psychological due to intimidation, threats, and damage to their reputation in society. In the context of a constitutional state (*rechtstaat*), the protection of individual rights, including the right to personal data, is part of the principle of law enforcement and human rights.

This phenomenon shows that advances in financial technology need to be balanced with strengthened regulations, digital security systems, and effective legal protection for the community. Synergy is needed between the government, the OJK, and fintech providers in tightening the identity verification process, as well as raising public awareness to be more careful in safeguarding and protecting their personal data.

Therefore, it is important to conduct research on the “Legal Consequences of Using Someone Else's Identity in Online Loans” to analyze how regulations, legal protections, and criminal liability apply to the misuse of ID cards in fintech services, as well as to provide solutions so that similar incidents do not continue to recur in the future.

## RESEARCH METHOD

This study uses a normative legal research method (juridical normative) with a qualitative approach. This method focuses on the assessment of positive legal norms, legal principles, and doctrines applicable in the Indonesian legal system. The purpose of this method is to find the legal basis, understand the relevant legal concepts, and analyze the application of laws and regulations to cases of identity theft (ID cards) in online lending services (fintech lending).

The approaches used in this study include the statute approach and the conceptual approach. The statutory approach was carried out by examining various relevant legal regulations, such as the 1945 Constitution, the Criminal Code (especially Article 263 concerning forgery of documents or identities), the Criminal Procedure Code, Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE) and its 2016 amendments, Law Number 21 of 2011 concerning the Financial Services Authority, OJK Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services, and Bank Indonesia Regulation Number 19/12/PBI/2017 concerning the Implementation of Financial Technology. Through this approach, the researcher seeks to understand how these regulations govern legal protection and criminal liability for perpetrators of identity theft.

Meanwhile, a conceptual approach is used to examine legal theories that support the analysis, such as legal protection theory, criminal liability theory, as well as cyber law and victimology theories. This approach also helps to understand the views of legal experts on the philosophical basis for the creation of regulations related to personal data protection and financial technology.

The type of data used is secondary data, as this research is library research. Secondary data includes primary, secondary, and tertiary legal materials. Primary legal materials are laws and regulations governing criminal acts of forgery, electronic transactions, and personal data protection. Secondary legal materials include textbooks, scientific journals, previous research results, and the opinions of legal experts. Meanwhile, tertiary legal materials consist of legal dictionaries, encyclopedias, and online sources from official institutions such as the Financial Services Authority (OJK), Bank Indonesia (BI), and the Ministry of Communication and Information Technology (Kominfo).

Data collection techniques were carried out through literature studies by searching, reading, and reviewing legal materials from various relevant literature, including regulations, journals, and court decisions related to identity theft cases in online loans. After the data was

collected, the researchers conducted a qualitative analysis, which involved systematically and descriptively interpreting legal materials to describe the relationship between legal norms and actual practices. The analysis was conducted using deductive logic, which is drawing conclusions from general legal principles or theories to specific cases.

Using this normative legal research method, the study aims to provide an in-depth understanding of how the legal system in Indonesia regulates, protects, and enforces the law against the misuse of personal data in online loan services, while also assessing the effectiveness of legal protection for victims and criminal liability for perpetrators.

## RESULTS AND DISCUSSION

The results of this study show that the phenomenon of online lending (fintech lending) has become an integral part of the development of the modern financial system in Indonesia. Online lending services provide a fast, easy, and uncomplicated financing alternative for the public, especially for those who do not have access to formal financial institutions such as banks. However, behind this convenience, there are serious problems related to the misuse of personal data, especially identity cards (KTP) and other identity data. Many cases show that a person's identity is used without permission to apply for online loans, which then causes legal, social, and economic problems. Victims often only realize that their identity has been misused when they receive bills from online lending platforms, even though they never applied for the loan.

This phenomenon illustrates the weakness of the data verification system and the low public awareness of the importance of maintaining personal data security. The misuse of personal data in the context of online loans occurs due to gaps in data management by service providers, as well as the behavior of criminals who take advantage of victims' ignorance or negligence. In some cases, personal data is obtained through the buying and selling of data on the internet, dissemination through social media, or data leaks from public and private institutions. This shows that legal challenges in the digital age do not only concern criminal aspects, but also civil liability and legal protection of individual privacy rights.

From a criminal law perspective, the act of using someone else's identity to apply for an online loan can be classified as a criminal offense. The elements of intent and the purpose of obtaining illegal profits fulfill the elements in Article 378 of the Criminal Code concerning fraud, while the use or creation of false documents such as fake ID cards fulfills the elements

of Article 263 of the Criminal Code concerning document forgery. This action can also be categorized as a cybercrime because it is carried out through an electronic system. In the context of modern criminal law, perpetrators can be charged under Law Number 11 of 2008 concerning Electronic Information and Transactions as amended by Law Number 19 of 2016, specifically Articles 35 and 51 which regulate the falsification of electronic identities for profit. Thus, the misuse of another person's identity for online loan purposes is not only an administrative violation but also a criminal offense that has serious legal consequences for the perpetrator.

The application of criminal law to cases of personal data misuse has the main objective of deterring perpetrators and protecting the public from the negative impacts of financial technology developments. However, in practice, law enforcement against digital crimes often faces obstacles in terms of evidence. Digital evidence requires special expertise in digital forensics, and law enforcement agencies often find it difficult to gain access to transaction data from service providers. In addition, most online lending platforms operate using foreign-based server systems, making coordination between countries a separate obstacle. Therefore, in addition to law enforcement, there is a need to strengthen regulations and inter-agency cooperation so that the investigation and evidence-gathering processes can run effectively.

From a civil law perspective, the misuse of personal data in online lending creates a legal relationship between the victim, the perpetrator, and the service provider. Based on Article 1365 of the Civil Code (KUHPperdata), any act that causes harm to another person obligates the perpetrator to provide compensation. In this context, Victims whose identities are used without permission have the right to claim compensation for material and immaterial losses suffered, such as damage to reputation, psychological distress, and financial losses due to unlawful collection. However, the problem does not stop at the perpetrator's responsibility alone. Online loan providers also have legal responsibility if they are proven to be negligent in protecting user data. Based on the principles of negligence and strict liability, platforms that fail to maintain data security can be held legally responsible even if they did not directly commit the violation.

In civil relations, there are two forms of liability that can be imposed on online loan providers, namely contractual liability and liability outside of contracts (*onrechtmatige daad*). Contractual liability arises if the service agreement (terms and conditions) contains a

clause regarding the protection of personal data, while liability outside of contracts arises if the negligence of the provider causes losses even if it is not explicitly regulated in the agreement. This means that victims can file civil lawsuits either through contractual means or through unlawful acts. This affirmation is important to ensure that all parties have legal awareness in protecting and using personal data ethically and responsibly.

Furthermore, from a personal data protection perspective, personal data is part of human rights that must be protected by the state. Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) is an important milestone in providing a strong legal basis for the protection of citizens' data. The PDP Law stipulates that any processing of personal data must be done with the consent of the data owner, and gives individuals the right to sue if their data is used illegally. In the context of online loans, service providers have an obligation to implement data protection principles, such as purpose limitation, data minimization, accuracy, security, and accountability. Violations of these provisions are subject to administrative sanctions, fines, and even imprisonment for parties who deliberately leak or process data without authorization.

This study also shows that the misuse of personal data in online lending has significant social and psychological impacts. Victims are not only harmed economically, but also experience mental stress due to collection actions carried out by debt collectors. Many cases show that victims who have never borrowed money become targets of threats, terror, and even the dissemination of photos and personal data on social media by unscrupulous debt collectors. This not only damages the victim's honor but also causes psychological trauma. Therefore, in legal discussions, it is necessary to also consider non-legal aspects, namely moral and social protection for victims of cybercrime so that they receive fair compensation.

Normatively, the Indonesian legal system has actually provided legal instruments to prosecute and protect victims of personal data misuse in online loans. However, the effectiveness of law enforcement remains weak due to poor coordination between law enforcement agencies, the Financial Services Authority (OJK), the Ministry of Communication and Information Technology, and fintech providers. In addition, the public still has a low level of digital literacy, making them susceptible to being deceived by data collection methods such as fake links, unofficial applications, or excessive requests for contact access. This study emphasizes that combating personal data misuse must be

accompanied by public education on digital security and the importance of maintaining the confidentiality of personal identity.

Overall, these results and discussions show that personal data misuse in online lending is a complex and multidimensional legal phenomenon. From a criminal law perspective, perpetrators can be charged with fraud, forgery, and electronic identity misuse. From a civil law perspective, victims have the right to claim compensation, and service providers can be held liable for their negligence. Meanwhile, from a personal data protection perspective, the state has an obligation to ensure that every citizen's privacy is protected. Going forward, strengthening regulations, improving public digital literacy, and cross-agency cooperation are key to preventing and combating the crime of personal data misuse in the online lending ecosystem. Thus, the law not only serves as a repressive tool, but also as a preventive instrument to maintain a balance between financial technology advancement and the protection of citizens' rights.

## CONCLUSION

Based on the results of the research and discussion, it can be concluded that the development of online lending in Indonesia has had a dual impact on society. On the one hand, its presence has facilitated access to financial services for the wider community, especially for those who do not have collateral or access to conventional banking institutions. However, on the other hand, this advancement in financial technology also raises serious new legal issues, particularly regarding the misuse of personal data, such as the use of someone else's ID card without permission to apply for a loan. This practice not only causes economic losses for the victim but also raises complex legal issues because it involves criminal, civil, and individual privacy violations.

From a criminal law perspective, the act of deliberately using someone else's identity to take out an online loan constitutes fraud and forgery as stipulated in Articles 263 and 378 of the Criminal Code, and can be charged under the provisions of Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE). Such acts constitute cybercrime that directly harms victims and violates positive law. Therefore, perpetrators of personal data misuse in online loans must be held criminally responsible in order to create a deterrent effect and provide legal certainty for the public. However, in practice, criminal law enforcement in these cases often faces obstacles, particularly in terms of digital evidence and identification of perpetrators who often operate using online systems or across borders. Therefore, it is

necessary to strengthen the capacity of law enforcement officials in the field of digital forensics and inter-agency cooperation to optimize law enforcement in the cyber realm.

Meanwhile, from a civil law perspective, the misuse of personal data creates a legal relationship between the victim, the perpetrator, and the online loan service provider. Based on Article 1365 of the Civil Code, any unlawful act that causes loss obliges the perpetrator to provide compensation to the victim. In this context, perpetrators can be held liable not only criminally, but also civilly through compensation claims for material and immaterial losses. In addition, online loan providers also have legal responsibility if they are proven to be negligent in protecting users' personal data. In the event of data leaks or misuse due to security system negligence, the provider may be subject to contractual and non-contractual liability in accordance with the principle of strict liability and the principle of due diligence in financial services activities. Thus, civil law serves not only as a means of restoring the rights of victims, but also as a mechanism for monitoring the responsibilities of businesses in the fintech sector.

Furthermore, in the context of personal data protection, identity fraud for online loans shows the weak implementation of privacy protection principles in Indonesia. Although Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) is in place, practices in the field show that public and service provider awareness of the obligation to maintain data security is still low. The PDP Law emphasizes that all personal data processing must be based on consent, purpose limitation, and accountability principles. Violations of these provisions are subject to administrative and criminal sanctions. Therefore, strengthening regulations and oversight of online loan providers is crucial to ensure that all data processing activities comply with applicable laws.

In general, this study confirms that the misuse of personal data in online lending is a multidimensional issue that requires synergy between criminal law, civil law, and data protection law. The state, as the protector of citizens' rights, has a responsibility to ensure that every citizen receives fair and effective legal protection from the threat of digital crime. On the other hand, the public must also improve their digital literacy so that they do not easily give access to their personal data to irresponsible parties. Online loan providers are also required to strengthen their cybersecurity systems and apply the principle of transparency in managing user data. Thus, through the enforcement of strict laws, consistent regulations, and high public awareness, the crime of personal data misuse in online loan services can be minimized, thereby creating a safe, fair, and equitable digital financial ecosystem for all levels of society.

## SUGGESTIONS

Based on the results and conclusions of this research, several suggestions can be proposed to strengthen the legal protection system and prevent the misuse of personal data in online loan activities:

### 1. Strengthening Legal Enforcement and Coordination

Law enforcement agencies, including the police, prosecutors, and the judiciary, must improve coordination and technical capacity in handling cybercrime cases, particularly those involving identity theft and personal data misuse. Specialized training in digital forensics and the establishment of a joint cyber task force between law enforcement institutions and the Financial Services Authority (OJK) are necessary to ensure effective investigation and prosecution.

### 2. Enhancing Regulatory Supervision on Fintech Companies

The Financial Services Authority (OJK) and Bank Indonesia should tighten supervision over fintech lending platforms by ensuring that every service provider implements strong cybersecurity systems, encrypted data storage, and multi-factor identity verification processes. Fintech operators that fail to comply with data protection regulations should be subject to administrative and financial sanctions, including license suspension or revocation.

### 3. Improving Public Digital Literacy and Awareness

The government and educational institutions need to promote digital literacy campaigns that focus on the importance of protecting personal data, recognizing online fraud, and safely managing digital identities. Public awareness can be increased through social media, public service advertisements, and community-based education programs that teach users how to avoid sharing personal information carelessly.

### 4. Integrating Criminal, Civil, and Data Protection Laws

A harmonized legal framework that integrates criminal law, civil law, and data protection law should be developed to ensure consistent and comprehensive regulation of online loan practices. This integration would help prevent overlaps and legal loopholes, ensuring that both perpetrators and negligent service providers are held accountable under a unified legal approach.

### 5. Encouraging Responsible and Ethical Fintech Practices

Fintech companies must uphold ethical standards in processing personal data, applying the principles of consent, purpose limitation, and accountability as mandated by the Personal Data Protection Law. They should also provide transparent information to users about how their data is collected, stored, and used, and establish complaint mechanisms for victims of

data misuse.

## 6. Developing Preventive and Restorative Measures for Victims

In addition to punitive measures, the government and fintech providers should create preventive mechanisms, such as early warning systems and secure digital identity verification. Moreover, restorative justice mechanisms, including compensation and psychological support for victims of identity theft, should be institutionalized to restore victims' dignity and trust in the digital financial system.

In conclusion, tackling the misuse of personal data in online lending requires a comprehensive, multi-sectoral approach that combines strict law enforcement, regulatory reform, public awareness, and corporate responsibility. Through these measures, Indonesia can build a safer and more trustworthy digital financial ecosystem that protects citizens' rights and promotes legal certainty in the era of financial technology.

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