

The Online Loans and Protection of Users' Personal Data: A Normative Judicial Approach

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Abstract

Digital technology makes financial services such as online loans easier, but the risk of misuse of users' personal data by loan providers remains. Therefore, legal services are needed for education about user rights regarding personal data protection and dispute resolution. Online loans operators are obliged to protect users' personal data and provide a fair dispute resolution mechanism.

Objective: The objective of this study is to investigate the protection of personal data of online loans users with law enforcement, outreach and comprehensive regulations.

Theoretical Framework: The rampant use of online loans (pinjol) in Indonesia has provided easy access to finance for the community. However, behind this convenience, there are serious problems related to the protection of users' personal data. Misuse of personal data such as the spread of contact data, threats, and fraud is an issue that often arises and harms many parties. There is a connection between the technology mentioned above and economic law, which plays a very important role in regulating the balance between the interests of economic actors, including loan service providers and users.

Method: The method used in this research is descriptive research with a normative juridical approach. The data source used is a secondary source. The data collection techniques used were document study and qualitative data analysis. Data collection was carried out through interviews which became supporting data. The data obtained was analyzed descriptively..

Results and Discussion: The results showed that the government can ensure that loan providers comply with consumer protection regulations through strengthening regulations, intensive supervision, public education, facilitating complaints, and collaborating with related parties. Examples of concrete implementation include creating a national loan database, a 24-hour complaint hotline, and a financial literacy campaign. With these steps, it is hoped that the government will create a conducive environment for digital finance while protecting consumers. Current

dispute resolution mechanisms have varying levels of effectiveness in handling cases of data privacy violations by loan providers. Factors influencing effectiveness include case complexity, public legal awareness, institutional capacity, and dynamic regulations. Available mechanisms include complaints to the OJK, mediation, civil lawsuits, and reports to the police. Challenges that need to be addressed include increasing institutional capacity, legal awareness, strengthening regulations, effective sanctions, and providing evidence. Existing mechanisms have contributed to dispute resolution, but there are still challenges that need to be overcome. To increase effectiveness, joint efforts are needed from the government, related institutions and the community..

Research Implications: The implications of this research that joint efforts are needed from the government, related institutions and the community to protect users' personal data. With synergy and cooperation, it is hoped that the protection of online loans users' personal data can be significantly improved.

Originality/Value: This study contributes to the literature by [highlighting the originality of the research, whether through the innovative approach, new discoveries or practical contributions]. The relevance and value of this research are evidenced by [explain how the results may impact the area of study or professional practice].

Keywords: online loans; Protection of personal data; normative juridical approach

I. Introduction

The development of information and communication technology (ICT) has brought significant changes in various aspects of life, including the financial sector. Online loan services are an alternative financial solution that is easily accessible to the public. However, this convenience also raises concerns regarding the security of users' personal data. Online loan is a fast-growing financial service in Indonesia. Behind the ease and speed, there are various challenges that need to be addressed. Regulation and education to the public are the key to creating a healthy and sustainable loan ecosystem. Digital technology has provided convenience in various aspects, including financial services through online loans. However, behind this convenience, there is a risk of misuse of users' personal data by loan operators. Therefore, legal services are needed to provide education about user rights related to personal data protection, as well as to help resolve disputes between users and organizers. In the context of economic law, loan operators are required to protect users' personal data and provide fair dispute resolution mechanisms. Violations of the law by the organizers may also be subject to legal sanctions (Anonymous 2024a).

The rampant use of online loans in Indonesia has provided easy access to finance for the community. However, behind this convenience, there are serious problems related to the protection of users' personal data. Misuse of personal data such as the spread of contact data, threats, and fraud is an issue that often arises and harms many parties. There is a connection between the technology mentioned above and economic law, which plays a very important role in regulating the balance between the interests of economic actors, including loan service providers and users (National Law Magazine 2019).

Personal Data Protection in Online loan is Important because of the confidentiality of Personal Information: Personal data such as phone numbers, addresses, and other contact data are sensitive and must be kept confidential. In addition, personal data protection aims to prevent fraud in this case, namely the misuse of personal data can open up opportunities for fraud, such as distributing loans without approval or unauthorized collection. The last is human rights violations. Data privacy violations are a form of human rights violation and can cause psychological trauma to victims. Here is some accurate data information related to online loan cases that have an impact on negative access and violations of the law on the illegal dissemination of personal data: First, there are cases of illegal loans where according to the OJK, as of November 2023, there are 3,291 illegal loans that have been closed. This has an impact on people who are entangled in illegal loans, often experiencing unethical debt collection, such as intimidation, harassment, and threats. In the second case, in 2023, the personal data of 279

million Indonesians was leaked and sold on online forums. The impact of personal data leaks can result in fraud, identity theft, and other data misuse. Third, the violation of the law on the unlawful dissemination of personal data is a violation of Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. Negative access caused by a decrease in credit score, being entangled in illegal loans can lower credit scores and make it difficult to access formal financial services. Fourth, not to mention other psychological impacts, for example, unethical debt collection can cause stress, depression, and even suicide (OJK 2024a).

Challenges in Personal Data Protection in Online loan are such as regulations that are still dynamic. Regulations related to personal data protection in Indonesia are still developing and are not yet fully comprehensive. Monitoring is difficult because the number of loan operators is very large, making supervision difficult and complex. Low public awareness where many people do not understand the importance of protecting personal data and do not know the steps to be taken in the event of a breach. The rapid pace of digital technology makes it easier for criminals to access and misuse personal data. Research problems are legal services strengthen the protection of personal data of loan users that have been often misused, the concrete steps that the government can take to ensure that loan operators comply with applicable legal rules related to consumer protection and effectiveness the dispute resolution mechanisms currently available in resolving issues between users and loan operators, especially in cases of data privacy breaches. The objectives this study to explaining about legal services can strengthen the protection of personal data of loan users which has often been misused, the concrete steps that can be taken by the government to ensure that loan operators comply with applicable legal rules related to consumer protection and to measure the effectiveness of the dispute resolution mechanisms currently available in resolving issues between users and loan operators, particularly in cases of data privacy violations.

2 THEORETICAL FRAMEWORK

Personal Data Protection in Online loan is Important because of the confidentiality of Personal Information: Personal data such as phone numbers, addresses, and other contact data are sensitive and must be kept confidential. In addition, personal data protection aims to prevent fraud in this case, namely the misuse of personal data can open up opportunities for fraud, such as distributing loans without approval or unauthorized collection. The last is human rights violations. Data privacy violations are a form of human rights violation and can cause psychological trauma to victims. Here is some accurate data information

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2. Research Method

The method used in this study is descriptive research with a normative juridical approach. This research is located in the Regional Government agencies, Regencies and Cities, especially in agencies that are directly related in the form of several regional apparatus and other legal institutions that are directly related. The data source used is a secondary source. The data collection techniques used are document study and qualitative data analysis. The data that will be used in this study comes solely from secondary data supported by interviews with all targeted regional apparatus, in addition to taking information and direct data from related agencies such as the OJK. Field data collection is carried out by conducting direct interviews with the collected data and then analyzed using qualitative juridical analysis methods. The data obtained were analyzed descriptively.

3. Results and Discussion

The results of this study are compiled based on the objectives of the research, namely:

A. How legal services can strengthen the protection of personal data of loan users who have often been misused

The problem of misuse of personal data in online loan services (pinjol) is indeed a serious issue in Indonesia. Legal services have a crucial role in strengthening the protection of personal data of loan users. The results of research from Kusnadi(2021), the essence of the legal protection of personal data as a right to privacy is the constitutional right of citizens. Indonesia does not yet have laws and regulations that are the legal basis for the protection of personal data.

Therefore, in the legal protection of personal data, Indonesia is experiencing a void of norms so that it cannot optimally protect the personal data of citizens.

The right to privacy is one of the rights inherent in everyone. The right to privacy is the dignity of every person that must be protected. Personal data is data related to a person's characteristics, name, age, gender, education, occupation, address, and position in the family (Rosadi 2017).

Personal data is a person's right to privacy that must be protected from various aspects of life. Several international instruments such as the OECD Guidelines and the Data Protection Convention of the Council of Europe interpret personal data as all information relating to an identified or identifiable natural person (Rosadi, 2017).

Another definition of personal data is data in the form of identity, codes, symbols, letters or numbers that mark a person's personal identity that is personal and confidential (Sautunnida 2018). Having a sensitive nature makes personal data an interesting thing for others because there are so many needs for a person's activities related to one's personal data. Personal data is an asset or commodity of high economic value (Hanifan, 2020)

The essence of the right to privacy of personal data is the constitutional right of Indonesian citizens which has been regulated in the 1945 Constitution of the Republic of Indonesia, especially in article 28 letter G paragraph (1). The form of legal protection of personal data as privacy in Indonesia currently applies several articles that imply regulating personal data. Indonesia does not yet have special laws and regulations that are the legal basis for personal data protection so that currently Indonesia has a norm vacuum (Kusnadi 2021). Here are some ways that can be done:

1. Legal Consultation and Legal Aid

- a) Providing Information: Legal services can provide clear and easy-to-understand information on consumer rights related to personal data protection, including procedures for reporting breaches.
- b) Assisting with Legal Proceedings: For victims of data misuse, legal services can assist in the complaint process, mediation, or even lawsuits against the responsible parties.
- c) Assistance: Legal services can provide legal assistance during the legal process, so that victims feel more protected and do not feel alone.

2. Legal Counseling

- a) Raising Awareness: Through legal counseling, the public, especially loan users, can better understand the importance of protecting personal data and how to maintain the confidentiality of their data.

- b) Preventing Misuse: With a good understanding, people will be more aware of fraudulent modes that utilize personal data and can avoid the risk of data misuse.

3. Policy Advocacy

- a) Regulatory Improvement: Legal services can play an active role in encouraging regulatory improvements related to personal data protection, both at the central and regional levels.
- b) Strengthening Law Enforcement: Legal services can advocate for law enforcement against cases of misuse of personal data to be carried out consistently and effectively.

4. Litigation

- a) Lawsuits: In cases of serious misconduct, legal services may file class action lawsuits to protect the interests of multiple victims.
- b) Presidential Decision: Through litigation, a court decision can be produced that sets a precedent for similar cases in the future.

5. Cooperation with Related Institutions:

- a) Financial Services Authority (OJK): Collaborate with OJK to supervise lending activities and ensure they comply with applicable regulations.
- b) Consumer Protection Commission: Cooperate with the Consumer Protection Commission to receive consumer complaints and conduct mediation.
- c) Non-Governmental Organizations (NGOs): Partnering with NGOs focused on consumer protection and human rights to strengthen personal data protection efforts.

The Financial Services Authority (OJK) issued Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services. In terminology, OJK provides terminology related to loans, namely information technology-based money lending services, which are the implementation of financial services to bring together lenders and borrowers in order to carry out lending and borrowing agreements in rupiah currency directly through an electronic system using the internet network. Loan companies as organizers are required to apply for registration and licensing to the OJK. After being registered with the OJK, the loan company is required to apply for a license within a maximum period of 1 (one) year from the date of registration with the OJK (Anonymous 2016; Ansa 2023).

In its development, privacy is not only protected by law but also included by cultural norms, ethics and business/professional practices (Budhijanto, 2018). For this reason, the community needs to be educated, that personal data is also a human right protected by law, education needs to be carried out consistently because Indonesian people are classified as a communal society whose life is very open and used to easily trusting others (Astuti 2020).

To ensure that education runs consistently (periodically), directed and measurable, it is necessary to make formal regulations. Roscoe Pound's opinion says that law as a tool of social engineering, means that law is not only a collection of abstract norms/legal order, but also a process to balance conflicting interests and values. This process will give birth to a new balance and make society engineered towards a new and better state. This is in line with the opinion of MochtarKusumaatmadja who said that law functions as a means of formation/development of society that can shape society towards new views (Rumokoy & Maramis 2017).

Advocacy is a systematic and organized effort to influence and urge policy changes that favor the community gradually. Therefore, advocacy is more of an effort to change social change through all channels and tools of democracy, political processes and legislation contained in the democratic system that applies in a country (Zulyadi 2014).

The purpose of advocacy is to make changes, so there will always be resistance, opposition and conflict. There is no single factor that guarantees the success of advocacy. Suharto (2009) explained that there are several principles that can be used as guidelines in designing successful advocacy. These principles are realistic, systematic and tactical.

The Importance of the Role of the Government

In addition to the role of legal services, the government also has a very important role in protecting the personal data of loan users, including:

- a) **Strict Law Enforcement:** Strict law enforcement against perpetrators of misuse of personal data.
- b) **Socialization:** Socializing the public about the importance of personal data protection and ways to protect themselves.
- c) **Comprehensive Regulations:** Develop comprehensive and effective regulations to regulate lending activities and protect users' personal data.

The protection of personal data in online transactions is a critical issue in the digital era, where the increasing use of the internet for e-commerce and e-government services has raised concerns about data privacy and security. Governments play a crucial role in establishing regulations and frameworks to protect personal data and ensure consumer trust in online transactions. Governments play an important role in protecting personal data in online transactions through the establishment of strong legal frameworks and regulations. Although traditional government regulations are the primary mechanism, the effectiveness of these protections varies according to the national context. Trust in government organizations can mitigate perceived risks, but there are still significant challenges and limitations in legal protection today. Comprehensive and clear regulations are essential to ensure the security of

personal data and maintain consumer trust in the digital age (Wu 2014; Walshet al 2017; Purba et al 2023; Beldad 2011; Azhari & Soetopo 2022; Hasibuan 2022; Widi et al 2021).

Efforts to prevent loan problems

- a) Select Registered Loans: Make sure the selected loans have been registered and supervised by the OJK.
- b) Read the Terms and Conditions: Read the terms and conditions carefully before applying for a loan.
- c) Keep Data Confidential: Don't carelessly give personal data to untrustworthy parties.
- d) Report If a Violation Occurs: If you experience a violation, immediately report it to the OJK or consumer protection agency.

The emergence of information and communication technology (ICT) has brought great changes in various areas of life, including the financial industry. Online payment systems such as online loans (pinjol) have developed as a financial option that is easily accessible to the general public. However, ease of use has raised concerns regarding the security of users' personal information. This is related to the service system is a procedure or procedure to provide services to customers involving all owned physical facilities and existing human resources. This service system must be consistent with the service package, designed simply so as not to confuse customers. One of the indicators of an effective service system is the ease of providing services with a system that is barely visible (Megahayati 2008).

B. Concrete steps that can be taken by the government to ensure that loan operators comply with applicable legal rules related to consumer protection

The government has a crucial role in ensuring that online loan operators (pinjol) operate in accordance with the rule of law and provide adequate protection for consumers. Here are some concrete steps that can be taken:

1. Strengthening Regulations

- a) Comprehensive Regulations: Revise and strengthen the laws and regulations governing the loan sector, ensuring strict sanctions for violators.
- b) Operational Standards: Establish clear operational standards for loan operators, including regarding the collection, use, and storage of personal data.
- c) Inter-Institutional Collaboration: Improving coordination between the Financial Services Authority (OJK), the Ministry of Communication and Informatics, and other relevant institutions to ensure effective supervision.

2. Intensive Supervision

- a) Periodic Monitoring: Periodically monitoring the activities of loan operators, both licensed and unlicensed.

- b) **Strict Enforcement:** Provide strict sanctions for loan operators who violate regulations, ranging from reprimands to revocation of business licenses.
- c) **Information Transparency:** Opening public access to the list of licensed loan operators and information related to violations committed.

3. Community Education

- a) **Socialization:** Conduct massive socialization to the public about the risks of using loans, how to choose legal loans, and steps to take if you experience problems.
- b) **Financial Literacy:** Increasing people's financial literacy to be wiser in managing finances and avoiding unproductive debt entanglements.

4. Complaint Facilitation

- a) **Complaint Channel:** Provides a complaint channel that is easily accessible to the public to report violations committed by loan operators.
- b) **Quick Response:** Ensuring fast, precise, and transparent complaint handling.

5. Cooperation with Related Parties

- a) **Consumer Protection Agency:** Working with consumer protection agencies to provide legal protection for aggrieved consumers.
- b) **Industry Associations:** Establish cooperation with loan industry associations to encourage the implementation of responsible business practices.

6. Information Technology

- a) **Automated Reporting System:** Developed an automated reporting system that allows the public to report loan violations online.
- b) **Data Analytics:** Using data analysis technology to identify patterns of violations and take preventative measures.

Examples of Concrete Implementation

- a) **Pinjol National Database:** Create a national database that records all loan operators along with their business licenses, so that the public can easily check the legality of a loan.
- b) **Complaint Hotline:** Provides a 24-hour complaint hotline that can be accessed by people from all over Indonesia.
- c) **Financial Literacy Campaign:** Launching financial literacy campaigns regularly through various media, such as television, radio, and social media.

An information and communication technology (ICT) service is used for convenience in the financial industry as mentioned in a service system in the form of procedures or procedures to provide services that are designed as simple as possible and implemented with consistency. The term system comes from the Greek word "Systema" which means a whole composed of many parts, meaning the relationship that takes place between a unit or component on an orderly basis. In the great Indonesian dictionary published by the Ministry of Education and Culture,

a system is defined as a form of totality (Amirin 2001; Ministry of Education and Culture 1988).

The rapid development of financial technology (fintech) in Indonesia has led to an increase in the number of online financial service providers. Ensuring these providers comply with legal standards is crucial for protecting consumers. The government plays a significant role in enforcing compliance and safeguarding consumer rights. The Financial Services Authority (OJK) is crucial in supervising fintech companies in Indonesia, as outlined in the Financial Services Authority Law and Consumer Protection Law. This includes ensuring compliance with regulations such as the Financial Services Authority Regulation Number 77/POJK.01/2016 concerning Information Technology-Based Lending and Borrowing Services. Consumer protection in the financial sector is governed by Act No. 8 of 1999 concerning Consumer Protection. This law aims to protect consumers from unfair practices and ensure their rights are upheld in online loan agreements (Sinaga 2022).

Compliance with international regulations, such as the Health Insurance Portability and Accountability Act (HIPAA), Sarbanes-Oxley Act, and others, is essential for global service providers. These regulations emphasize the protection of customer data and require regular reporting and adherence to strict standards. A risk-based approach to compliance, similar to the anti-money laundering (AML) framework, can be adopted for online platforms. This involves a duty of care standard and a three-tier compliance framework to ensure accountability and prevent infringement (Srinivasan 2019; Ullrich 2018).

The government, through the Financial Services Authority (OJK), plays a pivotal role in ensuring that online financial service providers comply with legal standards. This includes enforcing consumer protection laws, adopting international compliance standards, and implementing a risk-based compliance framework. These measures collectively help safeguard consumer rights and maintain the integrity of the financial sector (Sinaga 2022; Srinivasan 2019; Ullrich 2018).

C. The effectiveness of the dispute resolution mechanisms currently available in resolving issues between users and loan operators, particularly in cases of data privacy violations

The current dispute resolution mechanism in handling cases of data privacy violations by online loan operators (pinjol) has several varying levels of effectiveness. Some of the factors that affect this effectiveness include:

1. **Case Complexity:** Data privacy breach cases often involve complex digital evidence that is difficult to gather. This can slow down the dispute resolution process.

2. Legal Awareness: The level of legal awareness of the public regarding consumer rights and reporting procedures is still relatively low. As a result, many victims did not report the cases of violations they experienced.
3. Institutional Capacity: Institutions that are authorized to handle data privacy violation cases, such as the Financial Services Authority (OJK) and the police, often have limited human resources and budgets.
4. Dynamic Regulations: Regulations related to personal data protection in Indonesia are still evolving, so the interpretation and application of the law in concrete cases is often challenging.

Dispute Resolution Mechanisms Currently Available:

1. Complaints to the OJK: The OJK as a regulator of the financial services sector has the authority to receive and follow up on consumer complaints related to violations committed by loan operators.
2. Mediation: The parties to the dispute may try to resolve the issue through mediation facilitated by an alternative dispute resolution agency.
3. Civil Lawsuit: Victims can file a civil lawsuit in court to seek compensation for the losses incurred.
4. Report to the Police: If there is a criminal element in the violation that occurred, the victim can report the case to the police.

Challenges and Improvements Needed:

1. Institutional Capacity Building: Authorized institutions need to increase their capacity to handle cases of data privacy violations, including in terms of human resources, technology, and budget.
2. Increased Legal Awareness: The government and related institutions need to massively socialize the public about consumer rights and reporting procedures.
3. Strengthening Regulations: Regulations related to personal data protection need to be continuously updated and adjusted to technological developments and business practices.
4. Effective Sanctions: Sanctions given to loan operators who violate regulations need to be firmer and have a deterrent effect.
5. Provision of Evidence: The victim needs to be assisted in gathering strong evidence to support his lawsuit.

According to Ludwig von Bertalanffy, a system is a set of elements that are bound in a relationship between these elements and with the environment. In simple terms, a system can be interpreted as a collection or set of elements, components or variables that are organized, interacting, interdependent and integrated. Systems Theory in general was first elaborated by Kenneth Boulding, especially emphasizing the importance of paying attention to every part that makes up a system (Uchjana 1994; Tata 2004).

The Financial Services Authority (OJK) is an independent institution formed to protect the interests of consumers and the public in the implementation of financial services. OJK has the function of regulating, supervising, inspecting, and investigating financial service institutions. OJK regulates the implementation of online loans (pinjol) through the Financial Services Authority Regulation (POJK) Number 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services (LPMUBTI). This POJK regulates various matters related to loans, ranging from the requirements of operators, lending procedures, to consumer protection (OJK 2024b; OJK 2024c).

The Personal Data Protection Law (PDP Law) is a vital legal foundation in today's mushrooming digital era. The PDP Law, which has been in effect since 2022, has an important role in maintaining the confidentiality and security of individual personal data. Personal Data is information about an individual that can identify or identify such individual directly or indirectly through electronic or non-electronic systems (Anonymous 2024b).

The effectiveness of mechanisms for resolving personal data protection disputes is a critical issue in the digital age. Various methods, including Online Dispute Resolution (ODR), Alternative Dispute Resolution (ADR), international mediation, and international arbitration, have been proposed and implemented to address these disputes. This synthesis examines the effectiveness of these mechanisms based on recent research (Clifford & Sype 2016).

Online Dispute Resolution (ODR) and Alternative Dispute Resolution (ADR) are effective for settling low-cost e-commerce disputes out-of-court, including those related to personal data protection. These mechanisms provide an additional means to existing enforcement mechanisms, particularly within the European Union, under the scope of the Alternative Dispute Resolution Directive and the Online Dispute Resolution Regulation

International mediation, supported by frameworks like the Singapore Convention on Enforcement of International Settlement Agreements Resulting from Mediation, can be an effective tool for resolving cross-border personal data disputes. This mechanism is particularly relevant for countries with diverse data protection laws, such as Indonesia, Australia, Singapore, the Philippines, the European Union, and China. International arbitration is a valuable method for resolving personal data disputes, especially those involving multiple jurisdictions. The effectiveness of this mechanism is highlighted by its application under the European Union's General Data Protection Regulation (GDPR) and its comparison with laws in Australia and Singapore. The success of international arbitration largely depends on the consent of data subjects to use their personal data in dispute resolution (Dewi et al 2019; Trakman et al 2020).

The research indicates that various mechanisms, including ODR, ADR, international mediation, and international arbitration, can be effective in resolving personal data protection disputes. Each method has its strengths and is suitable for different contexts, such as low-cost e-commerce disputes, cross-border disputes, and multi-jurisdictional issues. The choice of mechanism depends on the specific nature of the dispute and the legal frameworks in place (Clifford & Sype 2016; Dewi et al 2019; Trakman et al 2020).

4. Conclusion

The conclusions of this study are there is a synergy between legal services, the government, and public awareness, it is hoped that the protection of personal data of loan users in Indonesia can be significantly improved. The implementing the steps above, it is hoped that the government can create an environment conducive to the growth of the digital financial sector while providing optimal protection for consumers. Although the current dispute resolution mechanism has contributed to overcoming the problem of data privacy violations by loan operators, there are still a number of challenges that need to be overcome. To increase the effectiveness of dispute resolution, joint efforts from the government, related institutions, and the community are needed.

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