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Personal data security as a form of legal certainty for the fulfillment of consumer rights for online loans

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ABSTRACT

Online lending services in Indonesia have grown rapidly in recent years, but this has also brought great challenges regarding the protection of consumers' personal data. Personal data security has become a very important issue, given the many cases of data breaches that can harm consumers. This study aims to analyse the role of personal data security in the fulfilment of consumer rights in online lending services, as well as to evaluate the existing legal certainty related to consumer personal data protection. The method used in this research is empirical juridical, with an analytical approach to relevant legal regulations and case studies regarding data breaches in online lending services. The results show that although there are regulations governing personal data protection, implementation is still weak and faces challenges such as a lack of consumer digital literacy and supervision of illegal service providers. The conclusion of this study is that legal certainty is needed to protect consumer rights, and that stricter regulations and better supervision of online loan service providers are essential. The implications of this research are the need for strengthened regulation, increased supervision by the Financial Services Authority (OJK) and other relevant institutions, and education to consumers on their rights regarding personal data.



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Introduction

The growth of the financial technology (fintech) industry in Indonesia, particularly in the online lending sector, has provided easier access to credit for the public (Junarsin et al., 2023; Kharisma, 2021). Through digital platforms, people can now obtain loans with faster processes and simpler requirements compared to traditional financial institutions (Agarwal & Zhang, 2020; Broby, 2021). This convenience is especially beneficial for those who do not have access to formal banking services (Boot et al., 2021; Sanyaolu et al., 2024). However, alongside these benefits, the development of online lending fintech has also brought about new challenges, including potential risks that threaten the security and comfort of consumers (Murinde et al., 2022; Vučinić, 2020).

One of the emerging issues is the widespread misuse of personal data by online lending service providers (Admiral & Pauck, 2023; Rolobessy et al., 2023). Complaints from loan consumers received by YLKI have increased every year, with consumer complaints dominating in 2022, accounting for 44 percent of all complaints in the financial services sector. These complaints include issues such as unethical and intimidating debt collection methods (57 percent), the spreading of personal data, complaints about loan repayment flexibility (11 percent), inappropriate loan information (7 percent), and the dissemination of personal data (6 percent). There

were also complaints from individuals who did not borrow money but were still being billed, accounting for 5 percent, whether their contact details were used as emergency contacts or for other reasons (Heriani, 2023). This situation creates uncertainty and fear among the public, undermining trust in the fintech industry itself (Sampat et al., 2024).

Personal data is part of the right to privacy, which is recognized as a human right that must be protected in accordance with both national and international law (Nair & Tyagi, 2021; Rodrigues, 2020). In the context of national law, the protection of personal data is regulated through Law No. 27 of 2022 on Personal Data Protection, which aims to ensure the security, confidentiality, and management of data in accordance with applicable principles (Bangsawan et al., 2023; Manurung, 2023). At the international level, various agreements and declarations, such as the General Data Protection Regulation (GDPR) in the European Union, also emphasize the importance of protecting personal data as a key element in safeguarding individual privacy (Stepenko et al., 2022; Weber et al., 2020). Without adequate protection, consumers' personal data is vulnerable to misuse, which could result in violations of their fundamental rights (Burman, 2022).

The security of personal data is also closely linked to legal certainty in fulfilling consumer rights, especially in the online lending sector (Atikah, 2020; Hamdani & Fauzia, 2021). When consumers' personal data is managed securely, it not only protects against potential misuse but also builds consumer trust in service providers (Aldboush & Ferdous, 2023; Prastyanti & Sharma, 2024). This trust is essential for the sustainability of the online lending industry, as consumers tend to prefer services that are transparent and provide guarantees for data protection (Feyen et al., 2023; Zhang et al., 2023). Personal data protection in Indonesia has been regulated in several important laws, including Law No. 8 of 1999 on Consumer Protection (Consumer Protection Law) and Law No. 27 of 2022 on Personal Data Protection (PDP Law). The Consumer Protection Law provides the legal basis for protecting consumer rights, including the right to security and comfort in transactions (Arifin et al., 2021). Meanwhile, the PDP Law specifically regulates the management of personal data by parties that collect, store, and process that data. The PDP Law also mandates strict protection of consumers' personal data to prevent misuse, leaks, and privacy violations (Attidhira & Permana, 2022).

On the other hand, the Financial Services Authority (OJK) plays the role of regulator overseeing online lending services in Indonesia (Sulistiyandari et al., 2024). OJK has issued regulations, such as POJK No. 77/POJK.01/2016 on Information Technology-Based Lending and Borrowing Services, which governs the governance and operations of online lending service providers, including the obligation to maintain consumer data confidentiality (Toguan & Hidayah, 2024). However, despite the existence of this legal framework, its implementation still faces various challenges (Kusumaningsih & Yulianingsih, 2023). Legal gaps in certain aspects, such as weak law enforcement mechanisms and a lack of effective sanctions for violators, have resulted in personal data protection not being fully optimized. This poses risks for consumers and calls for greater attention from authorities to strengthen oversight and the enforcement of existing regulations.

The existence of illegal online lending applications has caused serious impacts on consumer rights, particularly in terms of personal data security and unethical treatment. Unlicensed online lending platforms often fail to comply with consumer protection standards, including the secure management of personal data. Many consumers have fallen victim to data misuse, such as intimidation by debt collectors through threatening messages or the dissemination of personal information to third parties. In addition, excessively high interest rates and non-transparent payment terms further burden consumers, especially those in economically challenging situations (Saimima & Patria, 2021). The presence of loans causes many problems, especially in terms of consumer protection. One of the phenomenal cases that took the victim of death, namely a taxi driver with the initials Z desperately ended his life after being entangled in debt with a loan application of Rp500 thousand (Heriani, 2019). Hundreds of students at one of the universities in Bogor were deceived and entangled in loan debts of hundreds of millions of rupiah (Bestari, 2022), one of the subsidiaries of a pharmaceutical State-Owned Enterprise (BUMN) was entangled in loan debts by using the names of its employees without the employees concerned knowing that their names were used (Intan, 2024).

Law enforcement against illegal online lending services faces significant challenges. Although there are various regulations such as Law No. 27 of 2022 on Personal Data Protection and oversight by the Financial Services Authority (OJK), personal data protection in online lending services in Indonesia still faces many obstacles, including widespread privacy violations by illegal service providers. Previous research by Noor et al., (2022), Rolobessy et al., (2023), Hamdani & Fauzia, (2021) has tended to focus on the technical aspects of data protection or legal regulations in general, but few have specifically highlighted the connection between personal data security and legal certainty in fulfilling consumer rights. This creates a research gap that needs to be bridged to provide a comprehensive understanding of how personal data protection can be a key instrument in building consumer trust and ensuring their rights. This research is urgent given the rapid growth of the online lending

sector, accompanied by an increase in reports of personal data misuse, thus requiring a more effective approach to protect consumers while strengthening the implementation of existing regulations.

The aim of this study is to analyze the connection between personal data security and legal certainty in fulfilling consumer rights in online lending services, as well as to identify strategic steps that can be taken to improve personal data protection in this sector. This study also aims to evaluate the implementation of existing regulations, such as Law No. 27 of 2022 on Personal Data Protection, and the role of the Financial Services Authority (OJK) in overseeing online lending providers. Thus, this research is expected to provide relevant policy recommendations to strengthen legal protection for consumers and enhance trust in fintech services in Indonesia.

Method

This research uses an empirical juridical method, which is an approach that combines the study of applicable legal norms with the analysis of field facts (Supeno, 2022). This approach aims to understand the implementation of personal data protection in online lending services and to analyze the extent to which existing regulations, such as Law No. 27 of 2022 on Personal Data Protection and Law No. 8 of 1999 on Consumer Protection, can provide legal certainty for consumers. Primary data is collected through in-depth interviews with consumers using online lending services, representatives of service providers, legal experts, and relevant officials at the Financial Services Authority (OJK). These interviews aim to gather information on consumers' experiences facing personal data violation risks, expert opinions on regulatory weaknesses, and the supervisory efforts undertaken by OJK. Purposive sampling technique is used to select respondents relevant to the research topic.

In addition, observations of online lending practices are also conducted to see how service providers comply with regulations related to personal data protection. Secondary data, including official documents, annual reports, relevant regulations, and previous research findings, are also analyzed to complement the primary data. This approach provides a comprehensive picture of the state of personal data protection in the fintech sector, particularly in online lending services. Data analysis is performed descriptively and qualitatively, combining library research findings and field data to identify the gaps between existing regulations and their implementation in the field. The results of this research are expected to provide strategic policy recommendations to strengthen consumer personal data protection and enhance legal certainty in online lending services in Indonesia.

Results and Discussions

Personal data is defined as any information that can identify a person, either directly or indirectly, such as name, address, identity number, financial data, and digital footprint (Saglam et al., 2022). In the context of digital services, personal data security is an important element as this data is often used by service providers for operational, analytics or marketing purposes. If not managed properly, personal data is vulnerable to misuse, such as information leakage or unauthorised use, which can harm consumers materially and immaterially. Therefore, personal data security is not only a technical necessity, but also a legal obligation that digital service providers must fulfil. The consumer right to personal data protection is part of the right to privacy recognised in various national and international legal instruments. In Indonesian law, this right is regulated through Law Number 27 Year 2022 on Personal Data Protection and Law Number 8 Year 1999 on Consumer Protection. This right gives consumers authority over their data, including the right to know, access, correct, and delete personal data stored by third parties. Non-compliance with this right can be considered a serious offence that threatens consumer trust in digital service providers, including in the online lending sector.

Personal data security has a close relationship with legal certainty in consumer protection. When consumer data is effectively protected through clear regulations and consistent implementation, consumers will feel more secure in using digital services, including online lending. Conversely, weaknesses in data protection can lead to legal uncertainty, which ultimately harms consumers and weakens trust in service providers. Therefore, personal data security is not only relevant from a technical standpoint, but also a crucial component in creating a fair and reliable digital services ecosystem. Consumer protection of personal data in Indonesia is regulated in various legal regulations, one of which is Law No. 8 Year 1999 on Consumer Protection. In this law, service providers are required to provide security and comfort guarantees for consumers. Article 4 of this law explicitly states that consumers have the right to comfort, security, and safety in using goods or services. Although it does not specifically regulate the protection of personal data, this law provides a legal basis for consumers to claim liability in the event of a violation that harms them.

More specifically, Law No. 27 of 2022 on Personal Data Protection (PDP Law) is a major milestone in the regulation of personal data protection in Indonesia. It regulates individuals' rights over their personal data,

including the right to access, rectify, and delete data. In addition, the law sets out the responsibilities of service providers, including the obligation to ensure the security of the personal data they manage. In the context of online lending services, service providers are required to protect consumer data from misuse or leakage, as well as ensure that the use of data is done in accordance with the consumer's consent. Violations of the PDP Law are subject to administrative and criminal sanctions, which serve to strengthen legal certainty.

In addition to general laws, more specific regulations are established by the Financial Services Authority (OJK) regarding the provision of online lending services. OJK sets operational standards for service providers, including the obligation to maintain the confidentiality of consumers' personal data. One key regulation is OJK Regulation No. 77/POJK.01/2016 on Information Technology-Based Lending Services, which governs the management of online lending services. This regulation emphasizes the importance of adequate information technology security systems and compliance with consumer protection principles. However, the main challenge lies in monitoring and enforcing the law against unregistered illegal service providers, which are often the primary source of personal data breaches.

The strength of regulations related to personal data protection in Indonesia, such as Law No. 27 of 2022 on Personal Data Protection and OJK regulations on online lending services, lies in the existence of a clear legal framework to protect consumers and prevent the misuse of personal data. These regulations grant consumers specific rights, such as the right to access, correct, and delete personal data, and impose obligations on service providers to ensure data security. However, the weaknesses are evident in the aspects of implementation and law enforcement, which remain weak. Challenges include the inability to address violations by illegal service providers, limited supervisory resources, and low public awareness of their rights. Moreover, coordination among relevant agencies, such as OJK, the Ministry of Communication and Information, and law enforcement, is often suboptimal, creating gaps in consumer protection and legal certainty in the digital sector.

Although the current legal framework is more comprehensive than before, there are still several weaknesses that could create gaps in personal data protection. One such weakness is the lack of effective implementation mechanisms and coordination among relevant institutions. The Personal Data Protection Law (PDP Law), which has already been enacted, still requires further regulation through implementing provisions to ensure consistent enforcement. Additionally, public legal literacy regarding personal data protection remains low, resulting in suboptimal law enforcement. In this context, commentary on the current legal framework highlights that, despite improvements, further efforts are needed. These include stricter oversight of service providers, harsher sanctions for data violations, and public education to raise awareness of their rights regarding personal data.

A common case of personal data security violations in online lending services in Indonesia is the misuse of data by illegal lending applications. At the end of 2018, there were 283 people who reported violations of the law committed by loan companies, such as oppression in the collection process to the dissemination of personal data. The Indonesian Consumer Institute Foundation (YLKI) stated that there are 4 (four) dominant problems related to loans, namely default, billing methods to consumers, the absence of personal data protection and illegal loans (Gunawan, 2020). Complaints from loan consumers entering YLKI every year have increased, even throughout 2022 consumer complaints dominate, namely 44 percent of all complaints in the financial services sector with problems such as billing methods (57 percent) that are carried out in an unethical and intimidating way and spreading personal data, complaints about online loan payment waivers (11 percent), inappropriate loan information (7 percent) to the dissemination of personal data (6 percent).

There are also those who do not borrow but are billed as much as 5 percent, whether they are used as emergency contacts or so on but do not borrow but are billed (Heriani, 2023). Not limited to illegal operators, legal service providers have also faced allegations of data breaches leading to misuse by certain individuals, even though they are supervised by the Financial Services Authority (OJK). One interview with a consumer who received intimidation from an online loan said:

'I have experienced intimidation from debt collectors who used my personal information to pressurise payments. Verbal threats and even the distribution of sensitive information to contacts on my mobile phone is very annoying and harmful. In addition, I feel that I do not understand my rights regarding personal data protection and do not know how to report such violations.'

These violations have serious implications for consumer rights, both legally and psychologically. The dissemination of personal data by online lending service providers has resulted in intimidation, such as verbal threats via messages or phone calls, and even defamation on social media. These impacts not only harm consumers emotionally but also financially, as they often bear additional costs due to extortion or loss of reputation. Furthermore, such violations erode consumer trust in digital services and create fear of using internet-based financial technology.

To address these cases, various legal remedies have been taken by consumers and regulators. Consumers, through lawyers or consumer rights support agencies, have reported illegal organisers to the police. On the other hand, OJK is working with the Ministry of Communication and Information to block illegal lending apps that are found to be in violation of the law. However, despite regulatory efforts, many consumers do not report these cases due to lack of information on legal procedures or fear of retaliation from illegal organisers. Therefore, there is a need to strengthen the legal framework, educate the public, and increase supervision of online lending services to prevent similar offences in the future. This was expressed by one of the Financial Services Authority (OJK) Officials:

'OJK continues to minimise violations in online lending services, especially by illegal providers. One of the concrete steps we are taking is working with the Ministry of Communication and Information to block illegal applications. However, we realise that supervision alone is not enough. We encourage the strengthening of regulations and the improvement of public digital literacy so that consumers can protect themselves from the risk of personal data breaches.'

One of the main challenges in protecting consumer data is the low level of digital literacy in society (Moenjak et al., 2020); (Koskelainen et al., 2023). Many consumers do not understand the importance of keeping their personal data private, such as allowing apps access to contact lists or photo galleries without considering the risks. This lack of awareness is often exploited by online lenders, especially illegal ones, to access and misuse consumer data. In addition, consumers often do not read the terms and conditions stated in the app, thus unknowingly giving consent to the widespread use of their personal data. Another challenge is the lack of supervision of illegal online lending services (Suryono et al., 2021). Although the Financial Services Authority (OJK) and the Ministry of Communication and Information Technology (Kominfo) have made various efforts to block illegal applications, such applications continue to emerge with more sophisticated operational methods. Law enforcement against illegal providers is also a major challenge, given that many of them operate without a licence or are based overseas, making them difficult to reach under national laws. As a result, consumers remain vulnerable to personal data breaches.

Regulators' limited resources are also an obstacle in overseeing thousands of digital service providers. Regulators such as OJK are not only responsible for online lending services, but also a wide range of other technology-based financial services. The limited number of supervisors compared to the rapid growth of service providers leads to gaps in supervision. In addition, complaint mechanisms from consumers are often slow to respond, worsening the situation when violations have already occurred. Technological developments, such as artificial intelligence (AI) and Big Data, also add to the risk of personal data breaches. These technologies enable the collection, analysis and dissemination of data on a large scale at high speed, making it difficult to control. Misuse of these technologies by irresponsible parties can increase the potential for personal data breaches, such as consumer profiles being sold to third parties without consent. This challenge requires adaptive regulations, as well as collaborative efforts between the government, service providers, and the public to create a safe and trusted digital ecosystem (Subagiyo et al., 2022).

The Financial Services Authority (OJK) has an important role in protecting consumer rights in the online lending sector. As a regulator, OJK is tasked with overseeing technology-based financial service providers to comply with legal provisions, including the protection of consumers' personal data. OJK also has the authority to impose sanctions, such as revocation of operational licences, on providers that are found to have violated the rules. In addition, OJK provides complaint services for consumers who experience violations of rights, such as intimidation or misuse of personal data. These efforts are expected to encourage organisers to be more responsible in managing their services. Collaboration between institutions, such as the Ministry of Communication and Information Technology (Kominfo), the Indonesian National Police (Polri), and OJK, is crucial in combating illegal online lending. Kominfo, for example, plays a role in blocking illegal applications or websites that are not registered with OJK. Meanwhile, the National Police plays a role in cracking down on the criminals behind the illegal service operations. This collaboration includes investigation, evidence collection, and law enforcement processes against illegal service providers. This synergy is expected to reduce the presence of illegal services that harm consumers, although challenges in coordination and law enforcement are still obstacles that need to be overcome.

The effectiveness of supervision of authorised online loan providers also needs to be evaluated regularly. Despite OJK's strict operational standards and regulations, cases of data leakage or consumer rights violations continue to occur in some legitimate providers. This suggests that regular supervision, both through compliance audits and digital monitoring mechanisms, needs to be strengthened. In addition, regulators should continue to update regulations to keep pace with technological developments and emerging risks. With these steps, consumer rights can be optimally protected, and trust in digital services can increase. One of the technical recommendations to improve the security of consumers' personal data is the implementation of encryption and security technologies by online lending service providers. Service providers should ensure that all consumer data

stored or transmitted over the network is encrypted to a strong standard. In addition, the implementation of security protocols such as two-factor authentication can help reduce the risk of unauthorised access to consumer accounts. This step not only protects data, but also demonstrates the service provider's commitment to providing optimal security to its users.

Consumer education is also a crucial step in protecting personal data. Many consumers still do not understand the importance of maintaining data privacy or the risks of giving permission to access data without consideration. Educational campaigns involving governments, service providers and non-profit organisations can help raise public awareness on how to protect their personal data. This could include guidance on reading application terms and conditions, choosing an online lending service that is registered with OJK, and recognising the signs of an illegal service. Increased supervision of illegal online loan providers is also a priority. The government, through OJK and Kominfo, needs to strengthen monitoring and prosecution mechanisms against illegal services that continue to emerge. In addition, the application of data analytics-based surveillance technology can help identify and stop suspicious service operations before they harm consumers. By tightening this supervision, illegal providers will lose space to operate, so the risk of misuse of consumer data can be minimised.

The role of the public in reporting personal data breaches is equally important. The public can be an additional watchdog by reporting cases of data breaches or illegal services to the authorities. To support this role, governments and regulators need to provide easily accessible and responsive reporting channels, so that consumers feel heard and protected. Collaboration between the government, service providers, and the public will create a safer and more trusted digital ecosystem, so that consumers can use services with confidence. Good personal data protection has a direct impact on increasing consumer confidence in online lending services. When service providers implement strict security measures, such as data encryption and protection against unauthorised access, consumers feel more confident about sharing their sensitive information. This trust not only influences consumers' decision to use the service, but also encourages them to leave positive reviews that can attract new customers. Conversely, data security breaches or misuse of personal information breeds distrust, which can be detrimental to a service provider's reputation and business continuity.

Enforcement of clear regulations related to personal data protection also has a positive impact on the sustainability of the fintech industry in Indonesia. With transparent and consistent rules in place, fintech businesses can operate within a clear legal framework, creating a sense of security for both consumers and investors. Strict regulations encourage service providers to prioritise data security as part of their operational standards. This not only protects consumers, but also improves the competitiveness of Indonesia's fintech industry on a global level, given that data security is one of the key factors in attracting international business partners and investment. Legal certainty is crucial in guaranteeing consumers' rights over their personal data. Without clear and consistent rules, consumers can feel anxious and unprotected when they share their personal data with service providers. Legal certainty provides a basis for consumers to claim their rights in the event of a breach, as well as ensuring that each service provider is responsible for the protection of the data they manage. In addition, legal certainty also gives consumers confidence that their personal data will be treated in a safe manner and in accordance with applicable regulations.

To strengthen consumer protection, it is important to tighten the existing legal framework, particularly in terms of the use of personal data by service providers. One recommendation is to introduce more detailed regulations regarding the management and use of personal data, including the obligation of service providers to obtain explicit consent from consumers before using their data for other purposes. In addition, there needs to be stricter sanctions for service providers that violate these provisions, such as larger fines or revocation of business licences. Strict enforcement will provide a deterrent effect and encourage service providers to maintain high standards in consumer data management.

Conclusions

This research shows that personal data security is one of the crucial aspects in ensuring legal certainty in the fulfilment of consumer rights, especially in the online lending sector. Adequate protection of personal data not only protects consumers from the risk of misuse of information, but also builds consumer confidence in the online lending services available. Legal certainty, reflected through clear regulations and strict sanctions against violations, is a key pillar in ensuring that consumer rights are effectively protected. Despite the existence of regulations related to personal data protection in Indonesia, the implementation and supervision of online lending service providers, both registered and illegal, still face challenges. Therefore, there is a need to strengthen the legal framework, improve supervision of service providers, and educate consumers about their rights. With

these measures, it is hoped that the fintech industry, especially online lending services, can develop sustainably by paying attention to the protection of consumers' rights and ensuring that their personal data remains secure.

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