

# Law Enforcement on Misuse of Personal Data by Online Loan Business Actors

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**Abstract:** *This study aims to explore data breaches in the usage of online loan applications (peer-to-peer lending) that happen as a result of financial advancements in technology. It is essential to discuss the issue of personal data security in online loan application activities because it concerns fundamental privacy for everyone. This phenomenon not only offers convenience in obtaining loan facilities but also creates problems, primarily related to personal data entered during registration and requests for access to several points of personal data when making loans through the application provided and vulnerable to being misused by third parties and even the platform. Alone. Based on the findings of normative juridical investigations conducted, borrowers' data is legally protected under the ITE Law and OJK regulations governing financial technology (fintech). In addition, administrative sanctions and criminal sanctions can be applied if personal data is violated. If an online lending business actor violates someone's data, the district court will sanction the customer or cybercrime perpetrator and revoke the fintech business license from the financial services authority (OJK).*

**Keywords:** Law Enforcement; Online Loans; Personal data

**Abstrak:** Tujuan dari penelitian ini adalah untuk berbicara tentang pelanggaran data dalam penggunaan aplikasi pinjaman online (*peer to peer lending*) yang muncul sebagai akibat dari kemajuan teknologi dalam dunia keuangan. Penting untuk membahas masalah keamanan data pribadi dalam kegiatan aplikasi pinjaman online karena menyangkut privasi yang fundamental bagi setiap orang. Fenomena ini, tidak hanya menawarkan kemudahan dalam mendapatkan fasilitas pinjaman tetapi juga menimbulkan masalah terutama terkait dengan data pribadi yang dimasukkan saat pendaftaran dan permintaan akses beberapa poin data pribadi saat melakukan pinjaman melalui aplikasi yang disediakan dan rentan digunakan secara tidak tepat oleh pihak ketiga bahkan platform itu sendiri. Berdasarkan temuan investigasi yuridis normatif yang dilakukan, data pribadi peminjam dilindungi secara hukum berdasarkan UU ITE, serta peraturan OJK yang mengatur tentang finansial teknologi (fintech). Selain itu, sanksi administrasi dan sanksi pidana dapat diterapkan jika data pribadi dilanggar. Jika pelaku usaha pinjaman online melanggar data pribadi seseorang, pengadilan negeri memberikan sanksi kepada pelaku pelanggaran atau kejahatan cyber serta pencabutan izin usaha fintech dari otoritas jasa keuangan (OJK).

**Kata Kunci:** Penegakkan Hukum; Pinjaman Online; Data pribadi

## Introduction

The use of technology and information today shows progress in various fields such as education, economics, and others, including those related to scientific progress, such as science, which are easily accessible so that we can quickly get various information. Most jobs are assisted by technology in doing them correctly, quickly, effectively, and efficiently while minimizing the risk of human error. Likewise, in the business sphere, promotions and opportunities to improve people's welfare are carried out quickly in the economic sector, regardless of location or region, and reach all levels of society at the national and world

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levels. Along with advances in information and technology, issues emerge that can harm society, such as misuse of data, identity theft, selling personal data, and fake.<sup>1</sup>

Quoted from the Jawa Pos page, which states that throughout 2022, cases of data theft from various social media, including Twitter, Whatsapp (WA), Facebook, and several companies, have become a hot topic. According to the Identity Theft Resource Center (ITRC) report, more than 400 million cases of personal data theft are dominated by social networking platforms.<sup>2</sup>

The following case, which is no less a hot topic, is regarding misuse of personal data. Indra, a 40-year-old man whose desire to buy property in the form of an apartment had to be dashed due to data theft by online loan officers, was revealed when Indra wanted to apply for an Apartment Ownership Credit (KPA) scheme at one of the banks. Based on the Financial Information Services System (SLIK) examination results, it was recorded that Indra had installment arrears on one of the Online Loans at the Financial Services Authority (OJK). Even though Indra has never applied for any loan at all, especially using online loan services, what is surprising is that the personal data listed is his data.<sup>3</sup>

The two cases related above are evidence of system weaknesses and a lack of supervision from the government as the provider of regulation and enforcement of these violations. This allows personal data to be exploited and causes losses for data owners. Personal data is a component of human rights that must be protected, and misuse, theft, and sale of personal data are illegal information technology practices. They can also be classified as human rights violations.

For various reasons, financial technology (in this case, online loans) is needed by society because of urgent needs and obstacles to access to conventional banking. Technological advances are increasingly meeting people's needs. As a result, financial technology (Fintech) is developing and becoming an alternative for people to get accessible money loan services despite several problems, including the security of users' data.

There are two opposing sides to the impact of the presence of digital financial companies resulting from current technological advances. Apart from making it easier for people to get a loan quickly to meet emergency needs, online loans also risk harming the parties involved. Online loans currently cause many cases in the financial world, one of which is violating everyone's privacy data. There are many negative impacts arising from the widespread use of online loans that violate the law, including customer trauma, buying and selling people's data for various illegal purposes, and even suicide.<sup>4</sup>

With current technological advances in the financial sector, security measures must be accompanied to protect user information. This research examines how law enforcement applies to online loan business actors who misuse people's data due to technological developments.

## Research Methodology

This research uses normative legal research, namely, studies from library materials, to provide a sequential understanding of the rules in specific legal fields, conduct studies on several regulations, and even predict the development of legal rules.<sup>5</sup> Based on this

<sup>1</sup> Reky Nurviana Ashinta Sekar Bidari, "Stimulus Ekonomi Sektor Perbankan Dalam Menghadapi Pandemi Coronavirus Disease 2019 Di Indonesia", *Legal Standing Jurnal Ilmu Hukum* 4, no. 1, (2020): 87.

<sup>2</sup> <https://www.jawapos.com/teknologi/01433222/ratusan-juta-kasus-pencurian-data-pribadi-terjadi-sepanjang-2022>, diakses pada tanggal 16 Juni 2023.

<sup>3</sup> <https://www.cnbcindonesia.com/tech/20221103143019-37-384908/horor-data-pribadi-orang-lain-dipakai-buat-pinjam-di-pinjol>, diakses pada tanggal 16 Juni 2023.

<sup>4</sup> Ramadhani Tripalupi Irma, "Pengelolaan Dokumen Elektronik Layanan Jasa Keuangan Berbasis Financial Technology (Fintech)", *AKSY: Jurnal Ilmu Akuntansi Dan Bisnis Syariah* 1, no. 1, (2019): 101.

<sup>5</sup> Dyah Ochtorina Susanti dan A'an Efendi, *Penelitian Hukum (Legal Research)*, (Jakarta: Sinar Grafika, 2018). 11.

understanding, this method is implemented to analyze and study the rules or norms relating to law enforcement regarding the misuse of personal data by online loan business actors. In this regard, in writing this scientific work, the author uses 2 (two) types of approaches, namely: First, the legal approach, which is used to examine the laws and regulations related to the legal content presented<sup>6</sup>, in this case, the rules or favorable laws in Indonesia which regulate the misuse of personal data by online loan business actors, starting from the form of law enforcement to the sanctions given to the perpetrators. Second, the conceptual approach is used to discover the views of legal scholars and doctrines that have developed in legal science<sup>7</sup>, where, in this case, we use books and legal journals that discuss legal protection and legal consequences resulting from the misuse of people's data.

## Results and Discussion

### Legal Protection for Fund Borrowers whose Data is Misused by Online Loan Business Actors

Everyone, not only the individual, has the right to maintain and protect their privacy; the state, in this case, also has a role in protecting each individual's right to privacy. Discussing privacy more clearly, Warren and Brandeis in Siti Nur Shoimah and Dyah Ochtorina Susanti explain the concept of privacy, namely:

*"Privacy is the right to enjoy life and be left alone, and this development of the law was inevitable and demanded legal recognition."*<sup>8</sup>

Warren's opinion above shows that privacy is a type of right automatically available to every person. Of course, this right can be used during the owner's life in carrying out his daily life, so of course, considering that privacy is essential, it must be protected. In this regard, there are several reasons why the right to privacy needs to be protected: First, when someone is in contact with one another, someone needs to defend their position on some issues by covering part of their private life. It means exposing everything about him, which will become a boomerang for himself. Second, only some people like crowds, meaning they also need time to be alone to calm their thoughts, introspect themselves, or do other things that do not require others to be beside them. Third, privacy is a right that stands alone and does not depend on other rights, but this right will only be recovered if the person publishes private things to the public. Fourth, privacy is a person's right to have and build a relationship, such as building a household (marriage) building a family, without exposing one's private life to one's family. Fifth, the losses suffered due to privacy leaks are challenging to assess because they disrupt their personal lives, so the victim must receive compensation if any losses are suffered.<sup>9</sup>

In connection with the explanation above, personal data is one of the privacy rights. Article 1 point 1 of Law Number 27 of 2022 concerning Personal Data Protection states that Personal Data is data about natural persons who are identified or can be identified individually or in combination with other information, either directly or indirectly, through electronic or non-electronic systems. Personal data contains several things, characters, codes, and letters, which information cannot be known to anyone (confidential)<sup>10</sup>, and explains a person's identity starting from the name, job, age, education, place of residence

<sup>6</sup> Dyah Ochtorina Susanti dan A'an Efendi, *Penelitian Hukum (Legal Research)*, 10

<sup>7</sup> Dyah Ochtorina Susanti dan A'an Efendi, *Penelitian Hukum (Legal Research)*, 15.

<sup>8</sup> Siti Nur Shoimah dan Dyah Ochtorina Susanti, "Perlindungan Hukum Terhadap Data Pribadi Nasabah Pasca Merger 3 Bank Syariah menjadi Bank Syariah Indonesia", *Jurnal TAPIS* 6, no. 1, (2022): 21.

<sup>9</sup> Lihat Dewi S., "Prinsip – Prinsip Perlindungan Data Pribadi Nasabah Kartu Kredit Menurut Ketentuan Nasional dan Implementasinya." *Sosiohumaniora* 19, no. 3, (2017): 206.

<sup>10</sup> Sautunnida, "Urgensi Undang-Undang Perlindungan Data Pribadi di Indonesia: Studi perbandingan Hukum Inggris dan Malaysia" *Kanun Jurnal Ilmu Hukum* 20, no. 2, (2018): 376.

or domicile, and others.<sup>11</sup> and explains a person's identity starting from the name, job, age, education, place of residence or domicile, and others. Based on this understanding, personal data is essential for every person because it can describe the origin of that person. In this regard, it is natural that a person's data needs to be guaranteed legal protection.

Legal protection is the protection of honor and dignity and recognition of the human rights of every human being owned by legal subjects based on legal provisions from arbitrariness so that regulations arise that aim to protect legal subjects from such arbitrariness.<sup>12</sup> Several experts also express their opinions regarding legal protection, such as Harjono, who states that it aims to maintain and protect a particular interest, where to do this, the interest in question is made a legal right.<sup>13</sup> Satjipto Rahardjo also gave a different opinion that legal protection is a forum for protecting human rights where these rights are violated or distorted by other people, which, of course, harms the rights owner, so protection is needed so that all people (society) get their rights given by law.<sup>14</sup> Based on several definitions of legal protection above, it can be understood that protection is an essential tool and means that if one day someone experiences a loss due to their rights being violated or violated. In connection with this scientific paper, there is one of the pioneers regarding the theory of legal protection. The author quotes his opinion to examine the writing of this scientific paper, namely Moch. Isnaeni believes that both individuals and rulers form a shield to protect themselves from threats or risks of loss that may come at any time. In the business world, there are 2 (two) types of legal protection, namely external legal protection and internal legal protection.<sup>15</sup>

First, external legal protection is established by parties with high authority through several legal regulations. This external legal protection is used to ward off various losses that can create injustice for the parties. Apart from that, this protection is also used to prevent exploitation by one party because it is superior to the other party.<sup>16</sup> In connection with this understanding, the implementation of external legal protection for personal data owners (the public) regarding the security of their data is contained in several laws and regulations, including Financial Services Authority Regulation No. 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector (from now on referred to as POJK Consumer Protection in the Services Sector), Regulation of the Minister of Communication and Information of the Republic of Indonesia Number 20 of 2016 concerning Protection of Personal Data in Electronic Systems (from now on referred to as Minister of Communication and Information Regulation concerning Protection of Personal Data in Systems Electronics), and Law Number 27 of 2022 concerning Personal Data Protection (from now on abbreviated to the PDP Law)

*Second is internal legal protection, namely a forum that aims to safeguard the interests of the parties, where these interests are stated in an agreement in the form of a contract or agreement.*<sup>17</sup> In this regard, in general, this legal protection is a form of protection related to legal protection for the owner of personal data provided by internal

<sup>11</sup> Mahira dan Emilda, "Consumer Protection System (CPS): Sistem, Perlindungan Data Pribadi Konsumen Melalui Collaboration Concept", *Legislatif* 3, no.2, (2020): 297.

<sup>12</sup> Sayyid Muhammad Zein, et.all, "Perlindungan Hukum Terhadap Konsumen PT. PLN (Persero) Balikpapan Terkait Adanya Pemadaman Listrik." *Jurnal Lex Suprema* 2, no. 1, (2020): 362.

<sup>13</sup> Harjono, *Konstitusi sebagai Rumah Bangsa*, (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi, 2008), 357.

<sup>14</sup> Satjipto Rahardjo, *Ilmu Hukum*, Cet. V, (Bandung: Citra Aditya Bakti, 2000), 54.

<sup>15</sup> Siti Nur Shoimah dan Dyah Ochtorina Susanti, "Perlindungan Hukum Terhadap Data Pribadi Nasabah Pasca Merger 3 Bank Syariah menjadi Bank Syariah Indonesia", 23.

<sup>16</sup> Siti Nur Shoimah dan Dyah Ochtorina Susanti, "Perlindungan Hukum Terhadap Data Pribadi Nasabah Pasca Merger 3 Bank Syariah menjadi Bank Syariah Indonesia".

<sup>17</sup> Moch Isnaeni, *Seberkas Diorama Hukum Kontrak*, (Surabaya: Revka Petra Media, 2018), 42.

parties, in this case, the Online Loan Business Actors (Hence, Pinjol). The form of protection is implemented through an agreement (contract) between the borrower of funds as the owner of personal data and the Pinjol party who is bound by the agreement, or it can also be a form (standard agreement) for the approval of the Borrower of Funds regarding information which can include, among other things, a guarantee of the security of the borrower's data. Regarding this, the fact is that no Pinjol has yet implemented these rules, so of course, Pinjol has a vast opportunity to misuse the personal data of borrowers. Especially when the owner of the personal data never made any agreement with Pinjol, but his data was spread and even became a terror target from Pinjol.

Personal information obtained publicly through access to public services or disclosed under official identification is considered public. Personal information is unique; that is, each person's data is detailed and attached to their person and significantly influences various aspects of their life, including residential, social, and financial aspects. In addition, the personal data owner must consent before obtaining specific personal data<sup>18</sup>

The state's stated goals must be achieved by providing personal data security to every resident and citizen of Indonesia in connection with advances in technology and information, especially in the use of personal data in online loans. "Every person has the right to protection of himself, his family, honor, dignity, and property under his control, and has the right to a sense of security and protection from the threat of terror for doing or not doing something, as stated in Article 28G paragraph (1) of the law. -The 1945 Constitution of the Republic of Indonesia.<sup>19</sup>P. Siagian emphasized that there are three types of state, each in the form of royal power as the holder of government control; legal state, namely the government only as implementer of regulations and is passive; and welfare state, namely the government system is more expanded and has great authority in state development, including economy to improve the welfare of the people.<sup>20</sup> Depending on the role and function of the government: political state (where the King functions as the government and holds all power), legal state (where the government enforces the laws), and welfare state (where the mandate includes ensuring the welfare of all citizens). When power is understood legally, it is referred to as sovereignty. The highest level of control over the population and people is sovereignty, which is not limited by law.

Article 29 Paragraph (1) of Law Number 39 of 1999 concerning Human Rights states that every person has the right to personal security, family, honor, dignity, and property rights, and is complemented by article 30, which states that everyone has the right to a sense of security. Moreover, peace and protection against the threat of fear of doing or not doing something. The issue of online-based financial services is considered to violate the law and human rights. The use of any information via electronic media relating to a person's data must be carried out with the person's consent, unless otherwise determined by statutory regulations, in Article 26 paragraph (1) and paragraph (2) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (from now on referred to as the ITE Law) states that every person whose rights have been violated by paragraph (1) can claim compensation for violating the law. According to these articles, unless otherwise stated in the invitation regulations, if someone uses other people's information via electronic media without first asking or obtaining permission from the owner concerned, they can be held responsible for the losses they cause.

<sup>18</sup> Ridha Aditya Nugraha, "Perlindungan Data Pribadi Dan Privasi Penumpang Maskapai Penerbangan Pada Era Big Data", *Jurnal Mimbar Hukum* 30, no. 2, (2018): 268. <https://doi.org/10.22146/jmh.30855>

<sup>19</sup> Sinta Dewi Rosadi, "Konsep Perlindungan Hukum Atas Privasi Dan Data Pribadi Dikaitkan Dengan Penggunaan Cloud Computing Di Indonesia", *Yustisia Jurnal Hukum* 9, no. 3, (2016): 406. <https://10.20961/yustisia.voig4.2780>

<sup>20</sup> Marbun, S.F. & Mahfud, M. D. Moh, *Pokok-Pokok Hukum Administrasi Negara*, (Yogyakarta: Liberty, 2006), 41.

The agreement mentioned in the protection article means that individuals must be aware of and consent to using or exploiting their data for the purposes or interests stated when it was obtained.<sup>21</sup> Provisions regarding prohibited acts in electronic transactions have been regulated, starting from Article 30 to Article 33 of the ITE Law, and Article 35, which is part of Chapter VII concerning Prohibited Acts, regulates how to protect customers' data. The ITE Law strictly prohibits the unauthorized use of electronic systems to access other people's data to collect information by violating the security system.<sup>22</sup> However, on the other hand, if people are more careful in using internet services through various applications, we can already see that the potential for misuse of data will occur if, when using the application, there is a request to grant permission to access contacts, images and other vital points attached to electronic devices—that person. However, what often happens is that people need to fully understand the risks of granting every access permission requested by the application, and they are more concerned with immediate interests, namely so that the platform provider can approve the loan.

Likewise, Article 100 paragraph (1) of OJK Regulation No. 10-05 of 2022 concerning Information Technology-Based Joint Funding Services regulates the protection of consumer data, and Article 101 regulates transparency of organizers, namely that in realizing consumer protection, organizers are obliged to apply the principles of transparency and treatment. Fairness, reliability, confidentiality, and security of consumer data/information, handling complaints, and resolving consumer disputes simply, quickly, and at affordable costs. Meanwhile, regulations regarding transparency have stipulated that the Organizer is obliged to clearly state the name of the Organizer at the head office, offices other than the head office, and on the Electronic System. Organizers must include global positioning system coordinates on the Organizer's page regarding location, head office, and offices other than head office.

#### **Legal Consequences of Agreements Made by Online Loan Business Actors That Disregard Borrower Data**

The Indonesian legal system has regulated the law of agreements as stipulated in Article 1320 paragraph (1) of the Civil Code (from now on referred to as the Civil Code), which states that one of the conditions for the validity of an agreement requires the agreement of those who bind themselves, and likewise in Article 1338 paragraph (1) of the Civil Code that all agreements made legally apply as law for the parties who make them. Thus, contract law has a principle of consensual, which gives everyone the right to freedom of contract as long as it does not conflict with statutory regulations.

Misuse of the personal data of debtors (Fund Borrowers) by creditors (Pinjol) in online loan application services in carrying out collections that do not comply with procedures is very detrimental to debtors. Therefore, debtors should also emphasize their rights in every loan agreement to legal protection for the security of their data, which creditors exploit. Acts of default include not doing anything that violates the terms of the agreement and includes unlawful acts in activities that are detrimental to the debtor from creditors who exploit the debtor's loan information and data to other parties. The psychological effects experienced by debtors due to misuse of their data by fintech platforms have a very negative impact on the debtor's life, which can cause the debtor to be afraid to leave the house or go to work, experience depression, anxiety and constant feelings

<sup>21</sup> Kornelius Benuf, *Perlindungan Hukum Terhadap Keamanan Data Konsumen Dalam Bisnis Financial Technology (Fintech) Di Indonesia*, (Universitas Diponegoro, 2019)

<sup>22</sup> Hendy Sumadi, "Kendala Dalam Menanggulangi Tindak Pidana Penipuan Transaksi Elektronik di Indonesia", *Jurnal Wawasan Yuridika* 33, no. 2, (2015): 75.

of guilt, even to the point of committing suicide. as refereed in the case that occurred in Depok in November 2022, where a 44-year-old mother of two with the initials JB was found to have committed suicide, allegedly due to stress due to Pinjol's bill which reached 12 million.

If we look at Article 1365 of the Civil Code, every act that violates the law and causes loss to another person requires the person who caused the loss through his fault to compensate for the loss. By the creditor's action of misusing the personal data of the debtor as the loan platform provider, it can be judged that this act is unlawful; apart from violating the credit agreement that both parties have made, it also violates other legal provisions. Apart from that, in article 29, POJK no. 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector, has emphasized that Financial Services Business Actors are obliged to be responsible for consumer losses arising from errors and negligence, management, employees of Financial Services Business Actors, and third parties who work for the benefit of Financial Services Business Actors. Consumer data protection has been further strengthened with the issuance of POJK No. 10 /POJK.05/2022 concerning Information Technology-Based Joint Funding Services (from now on referred to as LPBBTI) has regulated in more detail the responsibilities and limits of authority of the LPBBTI platform. Article 100 regulates consumer protection, and Article 102 regulates procedures for billing debtors. Namely, if the recipient of funds (debtor) defaults, the organizer (creditor) must collect the debtor at least by giving a warning letter to the debtor first containing information and details of the debtor's bill.

As a result of creditors' misuse of people's data as users of online loan services, debtors experience losses in various aspects. If seen from the social and moral aspects, the debtor experiences distrust of the environment, and the environment will also become distrustful of the debtor. In contrast, from the material aspect, the debtor can experience losses if the party who misuses the data commits fraud in the debtor's name. In connection with the explanation above, apart from the consequences for debtors, misuse of the personal data of fund borrowers (the public) also has legal consequences for agreements made by Fund Borrowers and Pinjol Business Actors. It has been regulated in Article 23 of the PDP Law that the agreement clause in which there is a request to process Personal Data that does not contain explicit valid consent from the Personal Data Subject is declared null and void. It means that if an agreement does not include a clause regarding the consent mechanism for processing the personal data of one of the parties (in this case, the Fund Borrower), then the agreement is null and void.

#### **Law Enforcement on Misuse of Personal Data by Online Loan Business Actors**

For creditors who misuse debtors' data in online loan services, several legal provisions regulate the sanctions applied to perpetrators of violations. Sanctions may be imposed due to a debtor's personal information breach.<sup>23</sup> Legal regulations relating to private rights to personal data are a manifestation and recognition that everyone's right to privacy is a fundamental human right. Personal Data Protection has a solid and explainable logical basis, namely Pancasila, the ideal of law.

Article 26, paragraph (2) of the ITE Law explains that every person whose rights, as intended in paragraph (1), have been violated can file a lawsuit for losses incurred based on this law. Also, criminal sanctions have been regulated in this law, namely in Article 45B of the ITE Law, which states that every person who intentionally and without the owner's consent sends electronic information and electronic documents containing threats of violence or intimidation aimed at personally as in Article 29 were sentenced to a maximum

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<sup>23</sup> Chairunnisa Ratu Salma, "Perlindungan Hukum Terhadap Penerima Pinjaman Dalam Perjanjian Penggunaan Layanan Peer To Peer Lending", *Kumpulan Jurnal Mahasiswa Fakultas Hukum* 5, (2019).



imprisonment of 4 (four) years and a maximum fine of Rp. 750,000,000. This sanction only applies to individual actors, while for online loan service business actors who violate the security of debtors' privacy data, several legal provisions have been regulated, including fines and revocation of business permits. Article 104 paragraph (1) POJK 10/05/2022 states that in billing Fund Recipients as intended in Article 102 paragraph (1) and Article 103 paragraph (1), the Organizer is obliged to ensure that the billing is carried out by the norms applicable in society and provisions of laws and regulations. Meanwhile, the sanctions are regulated in article 105, namely that the OJK provides sanctions in stages to business actors, starting from written warnings, restrictions on business activities, revocation of permits, and blocking of platform electronic system services.

This provision is further strengthened by the Minister of Communication and Information Regulation number 20 of 2016 concerning the protection of personal data in electronic systems in Article 36 paragraph (1) which states that every person who obtains, collects, processes, analyzes, stores, displays, announces, sends and disseminating Personal Data without rights or not by the provisions of this Ministerial Regulation or other statutory regulations is subject to administrative sanctions by the provisions of statutory regulations in the form of verbal warnings, written warnings, temporary suspension of activities, and announcements on the website in network (online website).

However, sanctions for the above violations can only be applied easily to business actors whose business status is registered or licensed with the OJK or other government institutions. Meanwhile, the government finds it difficult to take legal action for illegal online loan businesses because their legal objects and subjects quickly move. What is even worse is that their business location is abroad. However, according to Sudikno Mertokusuno, law is a means of protection for humans. Also, according to Philipus M Hadjon, the rule of law provides the primary goal of legal protection to its people through its government with the principles of human rights and the principles of the rule of law.<sup>24</sup>

Referring to the explanation above, to overcome this problem, in 2022, the government issued Law Number 27 of 2022 concerning Personal Data Protection (UU PDP), which, of course, was issued to take-action against individuals who are not responsible for misuse of personal data, including Pinjol. Some of the sanctions imposed on individuals who violate provisions relating to the confidentiality of personal data include administrative sanctions, including written warnings; temporary suspension of Personal Data processing activities; deletion or destruction of Personal Data; and administrative fines. Administrative sanctions, as referred to, are a maximum of 2 (two) percent of annual income or annual receipts for violation variables. [See Article 57 of Law Number 27 of 2022 concerning Personal Data Protection] Furthermore, the misuse of personal data is also regulated in a particular clause, namely in Article 65 of the PDP Law, which explains, among others:

- 1) Every Person is prohibited from unlawfully obtaining or collecting Personal Data that does not belong to them to benefit themselves or others, which may result in loss to the Personal Data Subject.
- 2) Every person is unlawfully prohibited from disclosing Personal Data that does not belong to him
- 3) Every person is prohibited from creating false Personal Data or falsifying Personal Data to benefit themselves or others, which may harm others.

If the provisions of Article 65 above are violated, then there are administrative sanctions that can be imposed on the perpetrator, namely:

<sup>24</sup> Bakhri, *Ilmu Negara Dalam Pergumulan Filsafat, Sejarah Dan Negara Hukum*, (Depok: Raja Grafindo, 2018), 217.



- 1) Any person who intentionally and unlawfully obtains or collects Personal Data that does not belong to him to benefit himself or another person, which may result in loss to the Personal Data Subject, shall be punished by a maximum imprisonment of 5 (five) years and a maximum fine a lot of IDR 5,000,000,000.00 (five billion rupiah).
- 2) Any person who intentionally and unlawfully discloses Personal Data that does not belong to him or her shall be punished by imprisonment for a maximum of 4 (four) years and a fine of a maximum of IDR 4,000,000,000.00 (four billion rupiah).
- 3) Any person who deliberately and unlawfully uses Personal Data that does not belong to him or her will be punished by imprisonment for a maximum of 5 (five) years and a fine of a maximum of IDR 5,000,000,000.00 (five billion rupiah).

In further provisions, it is also explained that every person who deliberately creates false Personal Data or falsifies Personal Data to benefit himself or another person, which may result in harm to others, will be punished by imprisonment for a maximum of 6 (six) years and criminal maximum fine of IDR 6.000. 000,000.00 (six billion rupiah).<sup>25</sup> Apart from being sentenced to a crime, additional penalties can also be imposed in the form of confiscation of profits and assets obtained or proceeds from criminal acts and payment of compensation. The PDP Law has even regulated the final provision for corporate violations in Article 70 of the PDP Law with criminal sanctions in the form of fines and additional penalties.

## Conclusion

Law enforcement for online loan business actors who misuse people's data is regulated in various regulations such as Financial Services Authority Regulation No. 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector (POJK Consumer Protection in the Services Sector), Regulation of the Minister of Communication and Information of the Republic of Indonesia Number 20 of 2016 concerning Protection of Personal Data in Electronic Systems (Minister of Communications and Information Technology regulations concerning Protection of Personal Data in Electronic Systems), and Law Number 27 of 2022 concerning Personal Data Protection (UU PDP). The new provisions, namely the PDP Law, have specifically regulated the protection of personal data, including in the case of misuse of personal data of borrowers of funds by online loan business actors, which consists of a) Administrative Sanctions, which include written warnings, temporary suspension of Personal Data processing activities, deletion or destruction of Personal Data, and administrative fines; b) Criminal Sanctions; c) Fines; and d) Additional Penalty. It shows that the existence of the PDP Law in law enforcement efforts regarding misuse of personal data has been effective because it can apply to official (legal) Online Loan business actors and Illegal Online Loan business actors.

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