

Urgency of Regulating Victims' Economic Rights in Fictitious Credit Cases Based on Misuse of Personal Data

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ABSTRACT

Background. The rapid development of information technology has led to an increase in fictitious credit cases involving the misuse of personal data. Victims often experience significant economic losses, including damaged credit reputation and financial hardship. While Indonesia has implemented the Personal Data Protection Law and the Witness and Victim Protection Law, these regulations lack specific provisions for addressing economic losses caused by such crimes.

Purpose. This study aims to explore the urgency of regulating victims' economic rights in fictitious credit cases involving personal data misuse. It also seeks to identify the gaps in existing legal frameworks and propose new measures to address these issues effectively.

Method. The study employs a qualitative approach by analyzing existing laws, regulations, and case studies related to personal data misuse in Indonesia. It highlights the inadequacy of current policies and emphasizes the necessity for legal reform.

Results. The findings reveal a significant legal vacuum in protecting victims' economic rights, including compensation, restitution, and credit reputation restoration. The study underscores the need for comprehensive regulations to ensure justice and economic recovery for victims, as well as improved oversight of personal data management and law enforcement.

Conclusion. To protect victims' economic rights, Indonesia must develop specific regulations addressing fictitious credit cases. Enhancing legal frameworks and strengthening enforcement mechanisms are essential to mitigate the impact of personal data misuse in banking transactions.

KEYWORDS

Credit Reputation Restoration, Fictitious Credit, Legal Reform, Personal Data Misuse, Victims' Economic Rights.

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INTRODUCTION

The rapid advancement of technology and information in recent decades has brought significant changes to various aspects of human life. The digital revolution, marked by the emergence of the internet, smart devices, and artificial intelligence, has created an ecosystem that enables information to spread quickly and be easily accessible to anyone at any time and from any location. In the economic sector, technology has driven the digitization of business processes, online transactions, and financial service innovations, including digital banking (Ajeeshkumar et al., 2021).



However, despite the convenience and efficiency offered, these developments also pose new challenges, particularly concerning the protection of personal data. Data has become a valuable asset in the digital era, yet it is often misused by irresponsible parties for illegal purposes, such as identity theft and other criminal acts, including fictitious credit fraud (Ajmal et al., 2022). Therefore, technological and informational advancements not only offer immense opportunities but also necessitate robust regulation and adequate legal protection to ensure security and fairness for all users.

Fictitious credit constitutes a criminal act where the perpetrator applies for credit facilities or loans from financial institutions, such as banks or financing companies, using the personal identity or data of another person unlawfully. In such cases, perpetrators typically acquire the victim's data through various means, including system hacking, phishing, or purchasing data from irresponsible parties (Alamiery, 2023). The personal data utilized often includes critical information such as identification numbers (e.g., national ID cards), taxpayer identification numbers (NPWP), or the victim's bank account details. Using this data, the perpetrators forge documents and create false credit profiles to secure loan approvals (Amalina et al., 2023). Consequently, victims are often unaware that their names have been used in credit applications until they receive notices of payment obligations or find themselves blacklisted by creditors due to non-payment for loans they never initiated.

This phenomenon of fictitious credit has increased in parallel with the growth of technology and the digitization of financial services (Buonomano et al., 2023). Data released by the Financial Services Authority (Otoritas Jasa Keuangan, or OJK) in recent years shows a significant upward trend in public complaints regarding illegal or fictitious credit, particularly during the pandemic era, when digital transactions surged. A real-world example includes the misuse of a bank customer's data in Indonesia by a perpetrator to secure credit without the victim's knowledge, resulting in the victim being burdened with debt they never requested. Moreover, a survey by the Indonesian Fintech Association reported a rise in cases of personal data misuse in online loan transactions, with many victims suffering financial losses and psychological stress due to such actions (Asim et al., 2022). This underscores the urgent need for stronger legal protections to prevent the misuse of personal data in banking and digital lending activities.

Personal data is a critical element in an individual's life, encompassing freedoms and safeguarding the dignity of every person (Busby et al., 2020). Under Article 1(1) of Law Number 27 of 2022 on Personal Data Protection, personal data is defined as information about an individual that can be uniquely identified, either through single data or in combination with other data, accessible through electronic or non-electronic systems. The protection of personal data is vital to support individual freedoms, such as political, spiritual, religious, and personal life freedoms. It also safeguards fundamental human rights, including the right to freedom of expression, self-determination, and privacy. However, technological advancements also facilitate unauthorized access to personal data through criminal acts such as wiretapping, banking fraud, and money laundering via cyberspace (Campelo et al., 2023). Wiretapping involves the installation of devices or software to steal information, banking fraud employs illegal methods to obtain funds, and money laundering entails the covert transfer of funds through cyber networks.

In Indonesian law, the right to personal data protection intersects with constitutional rights as stipulated in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which states that every citizen has the right to personal protection, family, honor, dignity, and property under their control (Chauhan et al., 2023). Although this right was initially interpreted within the scope of property rights, the advancement of technology necessitates a broader

understanding of this right as encompassing privacy, including more sensitive aspects of individual life. Legal protection for victims of criminal acts, including the misuse of personal data, is regulated under Law Number 31 of 2014 on the Protection of Witnesses and Victims. Article 1 paragraph (2) of this law defines a victim as an individual who suffers physical, mental, or economic harm due to a criminal act. [6] The regulation is based on the principles of protection, legal certainty, public interest, balance, and accountability to ensure the fulfillment of victims' rights as citizens (Cheng et al., 2020). This interpretation highlights that privacy protection and individual rights are fundamental components of Indonesia's legal system, particularly in a digital era rife with personal data violations.

The crime of fictitious credit, which involves the unauthorized use of personal data, has significant impacts on victims, including economic, social, and psychological harm (Cheng & Whang, 2022). Economically, victims are often burdened with debts they never incurred, such as obligations to repay credit or accumulating interest. This results in substantial material losses, particularly if the credit obtained by the perpetrator is of a considerable amount. Worse, victims may face administrative sanctions from banks, such as being blacklisted by the Financial Information Services System (Sistem Layanan Informasi Keuangan, or SLIK), making it difficult to access banking services in the future (Chiong et al., 2021). This condition directly affects the financial stability of the victims, both personally and for their families, especially if the victims rely on banking facilities for daily needs or business operations.

Socially, victims may suffer reputational damage in the eyes of the community and financial institutions. For instance, the status of the victim as a problematic debtor can result in social stigma, leading to a decline in trust from their surrounding environment, including family, colleagues, or business partners (Dalal et al., 2020). On the other hand, the psychological impact is also severe. Victims may endure significant mental stress due to the complex and exhausting process of resolving the issue, such as proving they were not involved in the credit application. Fear of legal threats from financial institutions, insecurity regarding data privacy, and loss of trust in the banking and digital systems are examples of the emotional burdens often experienced (De Corato, 2020). All of these illustrate that the impacts of fictitious credit crimes extend far beyond material losses, reaching fundamental aspects of victims' lives.

Although criminal acts related to the misuse of personal data have been recognized as a serious threat, existing regulations do not fully provide economic rights protection for victims, particularly in cases of fictitious credit. Law Number 27 of 2022 on Personal Data Protection, for instance, primarily focuses on regulating individuals' rights to control their personal data and the obligations of data processors to protect users' privacy (Devda et al., 2021). While the law imposes sanctions on data violators, it does not establish clear mechanisms for restoring the economic rights of aggrieved victims. Victims' rights are limited to the assurance of data confidentiality but do not extend to compensation or financial recovery for material losses.

Furthermore, Law Number 31 of 2014 on the Protection of Witnesses and Victims does not comprehensively accommodate the protection of economic rights in the context of technology-based crimes, including the misuse of personal data (Filipczak et al., 2020). The law's focus is on physical protection, security, and psychological support for witnesses and victims, without specifically addressing adequate economic recovery mechanisms. As a result, victims of fictitious credit crimes often lack a clear legal pathway to claim compensation or obtain economic rehabilitation.

This legal void creates a gap in the protection of victims' rights, particularly in a digital era fraught with risks of personal data misuse. The absence of specific regulations on economic

recovery often leaves victims bearing the losses on their own, without legal certainty to restore their financial condition (Gradl & Protz, 2020). Therefore, the development of regulations is urgently needed to not only focus on personal data protection but also to guarantee victims' economic rights, including effective compensation mechanisms to address material losses caused by crimes such as fictitious credit. Such regulations would represent a crucial step in strengthening justice and public trust in Indonesia's legal system.

RESEARCH METHODOLOGY

The normative legal research method is an approach that focuses on the study and analysis of applicable legal norms, both in the form of laws and regulations, legal doctrines, and legal principles that are relevant to the issues being studied (Gupta et al., 2021). In the legislative approach, this research focuses on the study of written regulations, such as laws, government regulations, and other related regulations, to find legal certainty and identify gaps or weaknesses in existing regulations (Hossain et al., 2022). Meanwhile, the conceptual approach is used to explore a deeper understanding of the legal concepts underlying the issues being studied, such as the protection of victims' economic rights and personal data privacy. This approach involves theoretical analysis to explain the basic principles that form the basis of law, provide relevant interpretations, and offer normative solutions to legal problems (Hussain et al., 2022). By combining these two approaches, the research aims to produce a comprehensive understanding of the existing legal framework and provide constructive recommendations for necessary regulatory improvements.

RESULT AND DISCUSSION

Regulations Governing Protection of Economic Rights of Victims of Fictitious Credit Crimes Based on Misuse of Personal Data

The economic rights of victims are a fundamental aspect of the legal protection that should be afforded to individuals harmed by criminal acts, including fictitious credit cases based on the misuse of personal data (Kalaj & Cohen, 2020). These rights encompass the recovery of financial losses incurred by victims due to credit applications made without their consent or knowledge. In fictitious credit cases, victims are often burdened with debts or penalties imposed by financial institutions, despite never having applied for such credit. Consequently, victims' economic rights are violated as they face pressure to repay obligations that are not their responsibility, while perpetrators unlawfully profit from the misuse of the victims' data. Broadly, the economic rights of victims include several elements, such as compensation for material losses, annulment of unauthorized financial obligations, and restoration of economic reputation, including removal from banking blacklists. However, the realization of these rights is often hindered by the lack of specific regulations governing the mechanisms for the economic recovery of victims in cases of personal data misuse. For instance, Law Number 27 of 2022 on Personal Data Protection primarily addresses administrative or criminal sanctions for perpetrators of data misuse but provides limited focus on victims' rights to compensation or economic recovery.

Personal data constitutes a crucial element of an individual's life, encompassing information related to health, employment, education, and other personal details stored in relevant systems. More broadly, personal data is part of the right to privacy, as enshrined in principles of personal rights, which include the right to enjoy private life without interference, the right to communicate without surveillance, and the right to control access to personal information (Karmakar & Li, 2022). In the context of personal data misuse for fictitious credit transactions, victims' identification cards used without their consent for loan purposes constitute a violation of privacy rights with direct

financial consequences. Under Article 4 of Law Number 27 of 2022 on Personal Data Protection, personal data includes types of information capable of identifying an individual, such as identification cards used for fictitious loans. Therefore, the unauthorized use of someone's data to obtain loans constitutes a violation of the victim's privacy rights and falls under the category of fictitious credit, causing economic harm to the victim. [11]

Fictitious credit refers to loans disbursed by banks using false data, wherein the bank processes credit applications based on fabricated information created by internal parties without proper verification of its authenticity. In such cases, the misuse of victim's personal data to obtain fictitious credit leads to payment defaults and significant financial losses for the victims, who are often unaware that their personal data has been compromised. Legally, the framework regulating protection for victims of personal data misuse in fictitious credit cases in Indonesia spans several statutes (Kaun & Stiernstedt, 2022). Law Number 31 of 2014 on the Amendment of Law Number 13 of 2006 on the Protection of Witnesses and Victims, particularly Article 5 paragraphs (1) and (2), sets forth the rights of victims of criminal acts. However, the economic rights of victims resulting from criminal acts involving personal data misuse, such as in fictitious credit cases, are not explicitly addressed in this law. Consequently, while victims have rights to protection from criminal actions, protection of their economic rights, such as compensation or financial recovery, remains very limited.

Additionally, Law Number 23 of 2006 on Population Administration, Law Number 27 of 2022 on Personal Data Protection, and Law Number 10 of 1998 on Banking protect personal data but do not extensively regulate the economic rights of victims arising from the misuse of personal data in fictitious banking credit transactions. Existing protections are limited to aspects of privacy and the proper management of personal data, without clearly addressing victims' rights to economic recovery (Kim et al., 2022). In this context, the economic rights of victims can be articulated as rights to legal protection against unlawful use of personal data, which include the right to report criminal acts, obtain legal assistance, and receive compensation or recovery for financial losses incurred. Moreover, victims have the right to repair their tarnished credit records caused by the misuse of their data for fictitious credit purposes.

Law Number 31 of 2014 on the Protection of Witnesses and Victims, as an amendment to Law Number 13 of 2006, aims to protect witnesses and victims involved in criminal justice proceedings (Lee et al., 2022). This regulation is essential as witnesses and victims play a crucial role in uncovering criminal acts and protecting them ensures they can provide testimony free from fear or threats. Such legal protection reflects Indonesia's commitment to upholding human rights as enshrined in the Constitution and international human rights instruments ratified by the government. Accordingly, the Witness and Victim Protection Law establishes a legal basis for the state to protect individuals who are witnesses or victims of criminal acts, as well as rights related to physical protection, security, and psychological support.

However, although this law provides adequate physical and psychological protection for witnesses and victims, it does not specifically regulate the protection of economic rights for victims, particularly in the context of criminal acts involving banking transactions such as fictitious credit. Article 5 paragraphs (1) and (2) of Law Number 31 of 2014 outlines the rights afforded to victims concerning physical and psychological protection but does not address the recovery of economic losses resulting from criminal acts (Xie et al., 2020). Victims of personal data misuse in fictitious banking credit cases suffer significant financial losses, with their economic rights, which should be protected, remaining unaddressed under this law. There are no clear guidelines or procedures on

how victims experiencing economic losses due to fictitious credit can legally obtain compensation or recovery.

On the other hand, in addressing criminal cases such as banking fraud involving the misuse of personal data for fictitious credit transactions, this law only stipulates criminal sanctions for offenders without specific provisions targeting the protection of victims' economic rights. The Witness and Victim Protection Law focuses more on imposing sanctions on perpetrators of criminal acts but does not provide a clear mechanism for compensation or restitution for victims suffering financial harm (Machín et al., 2024). Regarding restitution, the law only covers compensation for victims who suffer direct losses from criminal acts. However, in the fictitious credit cases examined, victims often endure indirect economic losses, such as tarnished credit reputations and financial liabilities arising from the misuse of their personal data by third parties. This demonstrates that the law does not provide adequate protection for victims whose losses are more complex and indirect.

Based on existing provisions, there is no clear formulation regarding the economic rights of victims in the context of personal data misuse in fictitious credit transactions. Consequently, economic rights are not encompassed within the scope of protection provided under Law Number 31 of 2014 on the Protection of Witnesses and Victims. While the law offers victims protection in terms of physical and psychological aspects and opportunities to seek justice through legal proceedings, economic rights, which should be integral to victims' entitlements in fictitious credit cases, remain inadequately regulated (Liu et al., 2023). This highlights the importance of strengthening regulations to provide more comprehensive legal protection for victims, particularly regarding the recovery of economic losses resulting from the misuse of personal data in fictitious credit transactions.

The legal vacuum concerning the protection of the economic rights of victims of criminal misuse of personal data, particularly in fictitious credit cases, can be identified through the insufficiency of existing regulations. Although several laws address personal data protection, such as Law Number 27 of 2022 on Personal Data Protection and Law Number 31 of 2014 on the Protection of Witnesses and Victims, none explicitly provide protection for the economic rights of victims directly affected by personal data misuse (Majeed Butt et al., 2021). The Witness and Victim Protection Law focuses more on physical and psychological protection for witnesses and victims of criminal acts, granting access to legal assistance and protection from threats. However, the law lacks provisions concerning compensation or restitution for victims who experience financial losses due to the misuse of personal data in fictitious credit transactions. Moreover, no clear legal guidelines exist on how to address victims' economic losses, which often involve more complex issues, such as tarnished credit reputations and illegitimate financial liabilities.

An analysis of this gap points to the need for additional regulations specifically addressing the economic rights of victims in cases of personal data misuse. Such regulations are crucial to provide clear legal avenues for victims to obtain recovery or compensation for the financial losses they suffer. For example, victims of fictitious credit, where personal data is used without authorization, often face not only damaged credit reputations but also debt burdens resulting from data falsification (Vijayan et al., 2023). In such cases, victims require stronger regulatory provisions concerning the right to appropriate compensation and mechanisms to restore their tarnished credit records caused by the perpetrators' actions. In the absence of such regulations, victims lack a strong legal basis to claim compensation or pursue recovery for the economic losses they endure, ultimately hindering their access to justice.

Furthermore, this legal vacuum highlights the need to revisit the definition and scope of personal data protection under existing regulations. Currently, laws on personal data protection primarily focus on preventing data misuse and obligating data controllers to ensure the security of personal information. However, these provisions do not address the economic recovery of victims financially harmed by such criminal acts. The need for regulations governing the recovery of victims' economic rights has become increasingly urgent, given the rising number of personal data misuse cases involving criminal activities such as fictitious credit (Mallakpour et al., 2021). Without clear regulations, victims will continue to suffer without adequate legal protection to recover their material losses, whether in the form of refunds, restitution, or the restoration of their economic reputations. Therefore, additional regulations specifically governing the protection of victims' economic rights in the context of criminal misuse of personal data are necessary to close the legal gaps and provide justice for victims.

Urgency of Legal Arrangements Needed to Guarantee Protection of Victims' Economic Rights in Fictitious Credit Cases Involving Misuse of Personal Data

The protection of victims' economic rights in fictitious credit cases involving the misuse of personal data is a significant issue requiring serious attention in the development of Indonesia's legal system. Although regulations exist governing the protection of personal data and victims of criminal acts, such as the Personal Data Protection Law and the Witness and Victim Protection Law, there are no provisions specifically addressing the protection of victims' economic rights. This legal vacuum presents challenges in providing appropriate remedies for victims who suffer financial losses due to personal data misuse in banking transactions (Pang et al., 2020). Therefore, clearer and more comprehensive legal arrangements are necessary to ensure the protection of victims' economic rights, including material loss recovery, compensation, and credit reputation protection. Such regulations would not only safeguard individuals from incurred losses but also provide legal certainty in addressing the increasingly prevalent cases that arise with advancements in technology and information.

Although Indonesia has enacted several regulations aimed at protecting individual rights, such as the Personal Data Protection Law and the Witness and Victim Protection Law, these laws are insufficient to protect victims' economic rights in fictitious credit cases involving the misuse of personal data. The Personal Data Protection Law (Law Number 27 of 2022) regulates the management and protection of personal data but does not specifically address the recovery of economic rights for victims suffering losses due to personal data misuse in banking transactions (Shihab et al., 2023). Similarly, the Witness and Victim Protection Law (Law Number 31 of 2014) focuses on physical and psychological protection for witnesses and victims of criminal acts but does not detail the economic rights of victims directly affected by economic crimes such as fictitious credit. Existing regulations tend to overlook the financial loss recovery aspect for victims impacted by banking transactions carried out using misused personal data.

This legal gap underscores the urgent need for specific legal provisions to accommodate victims' economic rights in this context. For example, victims of fictitious credit often face significant financial losses, such as diminished credit reputations and difficulties accessing financial services in the future. However, current laws do not provide clear mechanisms to address such losses, including restitution or compensation processes that could help victims recover their financial standing (Qu et al., 2020). Additionally, there are no specific provisions offering guidance on restoring tarnished credit records or outlining the steps necessary to protect victims violated economic rights. Therefore, victims' economic rights should form an integral part of legal

protection for individuals affected by the criminal misuse of personal data. Without clear regulations, victims will struggle to assert their rights and achieve proper justice concerning the material losses they suffer.

In the context of protecting the economic rights of victims of criminal misuse of personal data, particularly related to fictitious credit cases, existing regulations fall short of providing adequate protection. While the Personal Data Protection Law (Law Number 27 of 2022) establishes a legal framework for personal data protection, it does not specifically address how victims whose personal data has been misused can recover their economic rights. For instance, no provisions govern compensation or restitution mechanisms for victims who experience financial losses due to personal data misuse in banking transactions (Selema et al., 2022). Victims frequently endure significant economic harm, including compromised credit reputations, but there is no clear guidance on how they can repair their financial position or obtain appropriate compensation. The absence of such regulations highlights a legal vacuum that urgently needs to be addressed.

This legal gap necessitates the creation of new regulations or the amendment of existing laws to ensure that victims' economic rights in criminal misuse of personal data cases are optimally protected. A new, more specific, and comprehensive regulation is urgently needed to establish measures for recovering victims' economic rights, including compensation and restitution procedures (Rasheed et al., 2021). Furthermore, the regulation must include mechanisms for restoring credit records tarnished due to personal data misuse and granting victims access to improve their financial circumstances. Given the rapid development of technology enabling personal data misuse in banking transactions, the current legal system is ill-prepared to handle these dynamics. Consequently, adjustments to existing regulations are essential to accommodate the needs of affected victims.

Effective recovery for fictitious credit victims also requires a system that ensures they receive adequate compensation or restitution. Clear and accessible legal procedures for victims are crucial to enable them to recover from their losses. Additionally, a well-designed legal system should provide victims the opportunity to restore their compromised credit records due to fictitious transactions (Satam et al., 2023). Structured legal arrangements would also help protect victims from further misuse of data by enforcing the obligations of third parties, such as banking institutions, to maintain the confidentiality of customers' personal data. Strengthened oversight of personal data management and stricter enforcement of laws addressing violations in the banking and other sectors are therefore necessary.

Establishing a clearer legal framework to address the misuse of personal data in banking transactions must also involve determining who is responsible for the losses arising from such criminal acts. Regulations must include measures ensuring that victims can obtain the legal assistance necessary to navigate often complex and time-consuming legal proceedings. Without clear provisions on accountability and how victims can seek protection, it will be difficult for them to achieve the justice they deserve (Reshmy et al., 2021). With a clear and comprehensive legal framework, similar cases can be prevented in the future, and the economic rights of victims can be safeguarded more thoroughly. Strengthened oversight of personal data management and stricter enforcement of laws will serve as preventive measures to reduce the potential economic harm experienced by innocent individuals.

CONCLUSION

The current regulations, despite the existence of the Personal Data Protection Law and the Witness and Victim Protection Law, are not sufficient to provide comprehensive protection for the

economic rights of victims. The absence of a clear mechanism for the recovery of financial losses, compensation, and improvement of the victim's credit reputation is one form of a deep legal vacuum. The regulations are still limited to the physical and psychological protection aspects of victims but do not accommodate the needs of victims in the economic context arising from the misuse of personal data in banking transactions. This shows that there is an urgent gap that must be addressed immediately by establishing more specific and comprehensive regulations.

Based on this conclusion, it is very important to immediately draft or update existing regulations so that they can provide more comprehensive legal protection for victims of criminal acts of misuse of personal data, especially related to the restoration of economic rights. New regulations governing the mechanisms of compensation, restitution, and restoration of credit reputation must be a priority so that victims can obtain appropriate compensation and continue their lives without the burden of prolonged economic losses. In addition, strengthening the supervision system for the management of personal data and strict law enforcement against parties who misuse data will be very important to prevent similar cases in the future. Thus, a joint effort is needed to ensure that the economic rights of victims can be optimally protected in every legal aspect, from prevention to recovery.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

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