

The Measuring Ideal Accountability in Leaking Customer Personal Data as an Unlawful Act

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Abstract. *The aim of this research is first to identify cases of personal data leakage as unlawful acts that violate the law. Second, find an ideal concept for cases of leakage of bank customers' personal data based on the burden of proof. This article used a normative (doctrinal) method with statute and conceptual approach. The results of the research show that personal data leakage is a form of unlawful act that can be held accountable provided that the elements are met: the existence of the act, the act being against the law, the existence of an error or negligence (negligence), the existence of a loss, and a causal relationship between the cause and the loss. Judging from the burden of proof and the applicable regulations, the concept of strict liability is an appropriate concept for cases of leakage of customer personal data because it is shifting the burden of proof so that business actors must prove that they are innocent.*

Keywords: *Accountability; Customer; Liability; Personal.*

1. Introduction

Justice, as stated by Prof. Mochtar Kusumaatmadja, is one of the fundamental goals of the legal system based on the principle of the state of law based on Pancasila, which guarantees the realization of social justice for all levels of society. One of the manifestations of justice is the recognition of human rights (HAM) as a right that is inherent in every individual. Personal data is qualified as part of a person's identity that contains information that can be used for administrative purposes and transactions, so it requires comprehensive legal protection (Rasjidi, 2018).

The urgency of legal protection of personal data is rooted in the recognition of the right to privacy as part of human rights, as expressly stated in Article 28G paragraph (1) of the Constitution of the Republic of Indonesia of 1945, historically, the right to privacy has been recognized as a universal norm, both in the form of written regulations and as a moral principle that lives in society (Hanifan Niffari, 2020).

The phenomenon of personal data leakage that is increasingly rampant as a result of misuse by unauthorized parties (hackers) has caused material and immaterial losses for various parties, such as the disclosure of financial documents, passwords, transaction card numbers, and other sensitive data. The high risk of personal data breaches is reflected in the fact that Indonesia is listed as one of the ten countries with the largest

data leak incidents, reaching 94.22 million leaked population data, with an estimated loss of IDR15.9 billion (Sari, 2024).

For example, the data leak incident at Bank Syariah Indonesia involving around 15 million customer data, as well as the case in Semarang City where a customer suffered a loss of Rp3 billion due to the misuse of his personal data for illegal opening of a new account. This shows that personal data has a strategic role as an identity instrument in accessing products and services, so that if it is not adequately protected, it will have a great potential to be misused by irresponsible parties. Therefore, digital data security is an important aspect in preventing identity theft, fraud, and other losses (Rifka, 2023).

As a consumer, every individual has the right to protection and security of their personal data in transactions using products and services, as stipulated in Article 4 of Law No. 8 of 1999 concerning Consumer Protection (UUPK). This provision is strengthened through the presence of special regulations in the form of PDP Law, which in Article 3 emphasizes that the management and processing of personal data must be carried out based on the principles of protection, legal certainty, and respect for the rights of personal data subjects.

Article 12 of the PDP Law provides legal legitimacy to the subject of personal data to file a lawsuit. In the civil law system, if there is a violation of the rights of the data subject, the victim (plaintiff) has the burden of proof for the act that caused the loss caused by the defendant as the controller of personal data. This is different from the principle in the criminal procedure law which upholds the principle of presumption of innocence, where the proof of guilt is on the side of the prosecution (Zainal Asikin, n.d.).

The evidentiary mechanism in civil law actually creates an imbalance in position between the owner of personal data and the data controller, where in terms of legal relations tend to be unequal. This imbalance is caused by the limited access of victims to complex information technology systems, so the impact is very detrimental to the victims (Claudia, 2023).

This can be seen in the case of PT Dwi Cermat Indonesia (Cermati) which is suspected of committing illegal acts with the spread of 2.9 million personal data of its consumers. The proof mechanism based on the principle of responsibility on the basis of presumption of liability imposes a burden of proof on the customer as the aggrieved party. The Customer must prove that the data leak is not the result of his own negligence, but is caused by the negligence of the personal data controller in providing adequate protection and in submitting notices in accordance with the provisions of the law (Edbert, 2023).

On the other hand, in the case of data leakage involving PT Bank Syariah Indonesia, the legal liability mechanism is based on the principle of strict liability, where there is no need to prove an element of error from the data controller. The UUPK provides a legal basis for the provision of compensation in various forms, including material damages, compensation, and punitive damages (Fatmala, 2023).

In the opinion of Dr. Edmon Makarim, S.Kom., S.H., LL.M., Dean of the Faculty of Law, University of Indonesia, every individual who suffers losses due to data leakage has the right to claim compensation, although in practice proving immaterial losses tends to be difficult to do. In addition, there are cost and time constraints that often become obstacles in the process of enforcing the rights of personal data subjects, so that public legal awareness is a crucial aspect.

It should also be understood that data leakage incidents are not solely caused by external attacks (hacking), but can also occur due to internal weaknesses in data management by electronic system operators. Therefore, an objective and accountable process of proof becomes important, which is not enough based only on unilateral statements, but requires the involvement of competent supervisory agencies (Makarim, 2020).

As already described, the burden of proof that is still placed on the victim shows that the principles of balance, protection, and legal certainty have not been fulfilled as referred to in Article 3 of the PDP Law. This has implications for the lack of ideal norms of civil liability in ensuring the rights of victims effectively and fairly. Business actors, especially in the banking sector, should be proactively responsible for the management of data under their control as a form of consumer protection (Boeken, 2024).

The absence of an ideal accountability mechanism in the PDP Law causes legal disparities in practice, including legal uncertainty regarding the form of liability for compensation by business actors. This condition shows the potential for multiple interpretations in the implementation of the provisions of the PDP Law, which ultimately affects the loss of public trust in the legal system (Claudia, n.d.).

Juridically, responsibility is a logical consequence of the authority, duties, and obligations inherent in business actors. If the obligation is not carried out as it should and causes losses, then legal liability must be enforced. Legal liability is known in various forms, including: fault-based liability, presumption of innocence, and strict liability (Made, 2020).

As affirmed by Gustav Radbruch, legal certainty is the main goal of the law itself, which is intended to create a social order that can be guided by all citizens. However, legal certainty must also be able to accommodate the protection of the most vulnerable parties, as emphasized by John Rawls in his theory of justice (Warjiyati, 2018).

Law No. 7 of 1992 concerning Banking Article 2 states that banking business activities must be carried out based on the principle of economic democracy by paying attention to the principle of prudence. This provision underlines that banks are obliged to maintain customer confidentiality as part of legal protection and public trust. Violation of the principle of confidentiality of customer data is a form of negligence that gives rise to legal liability from the bank.

Therefore, research on the PDP Law in terms of civil liability for personal data leaks, especially in the banking sector, is urgent as a form of fair legal development. The banking sector, which has a high risk of data leaks, must be further studied from the perspective of legal justice theory so that consumer protection can be realized effectively.

2. Research Methods

This work uses a doctrinal/normative law research method because the focus of the study departs from the ambiguity of norms, using (Diantha, 2016), the statute, conceptual, and analytical approach. The source of legal materials consists of primary legal materials of laws and regulations and secondary legal materials in the form of theoretical studies in books and journals. The study analysis using qualitative analysis. This legal research is said to find ideal and appropriate concepts because it is a research

that is carried out with the aim of finding the right concepts and systems for problems in the research topic so that this research is called doctrinal research.

3. Results and Discussion

3.1. Data Leakage as an Unlawful Act

The concept of unlawful acts originating from the provisions of Burgerlijk Wetboek (BW) still faces the problem of dualism between the legal substance that applies in Indonesia and in the Netherlands. In the period after the codification of the Dutch BW from 1838 to 1919, unlawful acts were understood as active or passive acts that caused harm to other parties, either intentionally or due to negligence, as formulated in Article 1365 of the Indonesian Civil Code. However, before 1919, actions that were only contrary to the norms of decency or the norms of social decency in taking into account the interests of other parties had not been qualified as unlawful acts.

Through the decision of the Supreme Court of the Netherlands in 1919 in the case of *Lindenbaum v. Cohen*, there is an expansion of the meaning of unlawful acts. The interpretation of Article 1401 of the Dutch Civil Code, which is equated with Article 1365 of the Indonesian Civil Code, states that unlawful acts are not limited to violations of written legal norms, but also include: (1) violations of the subjective rights of other parties protected by law; (2) acts that are contrary to the legal obligations of the perpetrator; (3) acts that are contrary to moral norms (*goede zeden*); and (4) acts that are contrary to propriety and order in community life (Fuady, 2002).

The problem that arises today is the difficulty of the community in distinguishing whether the losses incurred are the result of unlawful acts or defaults. The fundamental difference between the two lies in the source of the obligation: default arises from the existence of an agreement that is not fulfilled by one of the parties, while unlawful acts arise from acts that are contrary to the applicable law, both written and unwritten (Mustabsyir, 2021).

According to Prof. Wirjono Prodjodikoro, the term "unlawful acts" has a wider scope, including violations of legal norms, moral norms, religious norms, and norms of politeness. Meanwhile, Sudargo Gautama defines unlawful acts as a legal principle that aims to regulate harmful behavior, provide liability for losses incurred in social interactions, and provide a legal basis for compensation for damages (Gautama, 1972).

As stipulated in Article 1353 of the Civil Code, unlawful acts are one of the sources of engagement born from the law. This alliance arises because of a legal event that gives rise to a legal relationship between the parties, without the need for prior agreement. Furthermore, Article 1365 of the Civil Code emphasizes that every unlawful act that causes harm to another party obliges the perpetrator to compensate for the loss.

Elements of unlawful acts include:

1. There are acts, both in the form of actions and omissions, that are not carried out even though they are legally obligatory. For example, the leakage of personal data by banks is a form of negligence in applying the principles of prudence and protection to customers (Fuady, 2002).
2. These acts violate the law, both in the sense of violating subjective rights, legal obligations, moral norms, and propriety in society. This act can be

interpreted as a violation of the right to privacy as stipulated in Law No. 27 of 2022 concerning Personal Data Protection, Article 8 paragraph (1) of the European Convention on Human Rights, as well as the provisions in UUD 1945 (Djojodirjo, 1979).

The relationship between customers and banks is essentially a legal relationship based on the function of banking intermediation, as stated by Sutan Remy Sjahdeini. Banks act as institutions that collect and distribute public funds, and therefore have a legal obligation to maintain the confidentiality of customer data in accordance with the provisions of Law No. 10 of 1998 concerning Banking (Trisadini, 2017).

The legal obligation of banks to maintain the confidentiality of personal data is also affirmed in various other legal instruments, such as Article 32 of the Human Rights Law and Regulation of the Minister of Communication and Information Technology Number 20 of 2016 concerning the Protection of Personal Data in Electronic Systems. All of these provisions are binding on the bank as the controller and processor of the data, even if it is not explicitly stated in the agreement between the bank and the customer.

In practice, the protection of personal data is only included in the bank's internal privacy policy, not as an agreement clause. Therefore, if the bank discloses customer information without a valid legal basis, then a lawsuit can be filed based on the principle of unlawful acts, apart from default if there is indeed a contractual agreement.

The privacy policy itself is a statement of the commitment of business actors in managing personal data, but it is not contractual and directly binding. Therefore, violations of the provisions of the privacy policy can still be used as a basis for legal liability based on the doctrine of unlawful acts.

The element of error is also an element in determining unlawful acts. Mistakes can be in the form of intentionality or negligence. Errors can stem from negligence in the data security system that provides illegal access to unauthorized parties. This negligence shows a disregard for the principle of prudence and data protection standards that should be applied by banks.

As a financial services institution and payment system operator, banks are subject to consumer protection provisions as stipulated in OJK Regulation. In addition, Article 34 of the Personal Data Protection Law emphasizes that personal data controllers are required to conduct a risk assessment of the protection of processed personal data.

Cases of violations of customer data confidentiality by banks show weaknesses in the implementation of personal data protection obligations, which can legally be qualified as unlawful acts and become the basis for civil liability to aggrieved customers.

3.2. Civil Liability for Leakage of Bank Customers' Personal Data According to the Ideal Concept of Accountability

According to the Great Dictionary of the Indonesian Language (KBBI), responsibility is defined as the obligation to bear all consequences for something that if something happens can be sued, blamed, or sued. In legal terminology, responsibility is understood as an obligation attached to a person to carry out something that has been determined as a legal obligation for him. Accountability is an inherent consequence of a binding legal relationship (engagement) between parties that have a central position in the structure of legal science. This is because legal liability is a logical consequence arising from a

legal relationship that is manifested in an engagement as a result of legal acts carried out by the parties.

According to the opinion of the Quarterly Point, legal liability must be based on a legal basis that gives rise to a legal right for a person to sue another party, which at the same time gives rise to a legal obligation for that party to fulfill its responsibilities. The State of Indonesia as a state of law provides juridical legitimacy to every legal act that causes legal consequences, as well as the legal relationship between banking institutions and their customers. The concept of legal liability is not singular, but is a concept that is aligned with the tendencies and interests of each field of law. In civil law, this concept is known in the form of the concept of liability, including the concept of fault-based liability and strict liability (Quarterly, 2010).

The concept of fault-based liability is a form of legal responsibility that is determined based on objective standards of behavior that contain elements of fault or negligence. This concept emphasizes that a person's legal responsibility lies in the existence of mistakes or negligence that results in losses, so that negligence is a crucial element that determines the birth of legal responsibility from the perpetrator (Samsul, 2004).

Fault or negligence can be claimed for compensation if it meets the legal criteria, namely there is an act that causes loss and is not in accordance with reasonable prudential standards, it must be proven that the defendant has been negligent in fulfilling its duty of care to the plaintiff, and the act is a factor causing the loss suffered by the victim. This concept is juridically regulated in Article 1365 of the Civil Code (KUHPerdata) which is the adoption of the provisions of Article 1382 of the Napoleon Code of 1804 in France and Article 1401 of the Burgerlijk Wetboek in the Netherlands (Miru, 2004).

The term negligence refers to behavior that is not in accordance with the prevailing standards in society in the face of irrational risks, such as careless or careless actions. This concept is explicitly regulated in Article 1365 jo Article 1367 of the Civil Code, which stipulates that a person can be held legally accountable if there is an element of error or negligence committed by him.

Data leakage is qualified as an event that falls into the category of tortious liability because there is a violation of the customer's legal rights guaranteed by the provisions of laws and regulations due to the occurrence of data leakage. The concept of fault-based liability is in line with the provisions of civil law contained in Article 1365 of the Civil Code, which emphasizes the element of fault as formulated in the provision "Any act that violates the law and brings harm to others." The concept of fault-based liability emphasizes that in order for the customer's claim for compensation to be accepted, it must first be proven that the element of fault is proved, which in this case is the burden of proof for the plaintiff as specified in Article 1865 of the Civil Code.

However, this actually creates an obstacle because the owner of the personal data or the victim does not have the technical ability to access the defendant's technology system thoroughly to prove the existence of errors and a causal relationship between the defendant's actions and the losses experienced by the personal data owner. This situation is an obstacle for customers to fight for their rights within the framework of fault-based liability, because customers must prove all elements in the unlawful act, which is difficult to do due to limited evidence (Claudia, 2023).

Based on the theory of justice put forward by John Rawls, humans are born in different social conditions that affect the social structure of society. The lower middle class is considered to have more limited access to life prospects than the group of people in a higher socioeconomic position, so that justice lies in the equal distribution of the basic structure of society. This difference in social position is also seen in the relationship between business actors and consumers, where business actors have greater economic instruments and power than consumers. Consumers, who are the users of goods and/or services, should obtain legal rights and protection over the dominance of business actors. The provision that consumers must bear the burden of proof is a form of real injustice because it makes it difficult for consumers who are in a weak position to effectively claim their rights.

According to Peter Mahmud Marzuki, legal accountability must be seen from the aspect of fulfilling the rights of legal subjects guaranteed by the legal system. The Personal Data Protection Law (PDP Law) in Article 3 emphasizes that this regulation is formed based on the principle of legal protection, which means that the regulation aims to ensure the fulfillment of the rights and obligations of legal subjects. Through Article 5 of the PDP Law, it is explained that "Personal Data Subjects have the right to obtain information regarding a clear identity, the basis of legal interests, the purpose of using Personal Data, and the accountability of the party requesting Personal Data."

Furthermore, Article 16 paragraph (2) letter d stipulates that the principle of protection must be applied in the processing of personal data that is carried out accurately, completely, not misleading, up-to-date, and accountable. Article 47 emphasizes that "The Personal Data Controller shall be responsible for the processing of Personal Data and demonstrate accountability for the implementation of the principles of Personal Data Protection."

This provision shows that the obligation of responsibility has been inherent from the beginning, even though there have been no legal problems. This is also seen in the obligation of banks to carry out governance that reduces the risk of data leakage as specified in POJK Number 38/POJK.03/2016 concerning the Implementation of Risk Management in the Use of Information Technology by Commercial Banks, Article 2 states that "Banks are obliged to carry out effective governance and risk management in the use of information technology which includes the protection of customer data and information confidentiality."

Based on SEOJK Number 14/SEOJK.03/2017 Article 15, it is stated that "Banks are required to have an information security strategy that includes information security policies, information security risk management, access control, and information security training."

This provision provides a juridical basis that the preparation of regulations is not only to anticipate the risk of data leakage, but also to ensure the full responsibility of business actors, in this case banks, in carrying out the function of protecting personal data. The problem that arises lies in the inability of the customer as a plaintiff to prove an element of error in the unlawful act by the bank. Therefore, the application of the concept of strict liability that does not require the proof of the element of error is a legal solution that makes it easier for customers to claim their rights.

The development of an increasingly complex era requires the renewal of existing legal doctrines to be able to answer the needs of modern society, as stated by Spencer that

the industrial revolution accelerates the dynamics of history and gives birth to various new risks and unpredictable losses (Widiyastuti, 2020).

Therefore, the existence of the concept of unlawful acts based on the element of negligence has begun to be replaced by the concept of strict liability which is a response to the needs of the community. The concept of strict liability replaces the dominance of the element of negligence as the basis for recovering victims' losses. Initially, the concept of negligence was applied to protect the growing industry, but as the industry's dominance increased, it became an obstacle for people who wanted to obtain compensation for losses (Widiyastuti, 2020).

The concept of strict liability is a form of legal liability that does not require any errors, but is based on the responsibility of business actors for losses arising from unlawful acts. Business actors are responsible for the risks of their products or services that can cause losses even if there is no direct fault.

Article 1367 of the Civil Code implicitly regulates the principle of strict liability by stating that "A person is not only responsible for the acts committed by himself, but also for losses caused by the actions of other persons under his or her control, or by objects under his supervision."

The phrase "goods under their supervision" can be interpreted as a determining factor for the occurrence of losses, where all business activities contain risks that must be accounted for by business actors. This concept makes it easier for consumers to demand compensation from business actors who are obliged to uphold business ethics (Arianto, 2021).

Based on the civil law legal system such as the Netherlands, the concept of strict liability is a form of development of liability for tortious liability, which initially required an element of fault (liability based on fault). However, due to difficulties in proving fault by consumers, this legal system developed the principle of presumption of fault, where the burden of proof shifts to business actors (shifting the burden of proof). If the business actor fails to prove that he is innocent, then he is declared absolutely liable to compensate consumers.

The principle of strict liability is a derivative of the concept of tortious liability (Gunawan, 2018).

The main reason for the importance of implementing strict liability can be seen from the aspect of consumer protection. Black's Law Dictionary defines consumer protection as "a statute that safeguards consumer in the use goods and services." Consumer protection is a form of legal protection provided to consumers in meeting their needs and avoiding potential losses. Therefore, consumer protection aims to provide easy access for consumers to enforce their rights.

According to Janus Sidabalok in his book Consumer Protection Law in Indonesia, with the enactment of the concept of absolute liability, the goal of consumer protection can be easier to achieve because consumers can more effectively fight for their rights compared to a mistake-based accountability system that requires consumers to prove the mistakes of business actors.

Although it is not explicitly stated in the considerations or provisions of the Law, the Consumer Protection Law adopts the principle of strict liability as a derivative of the

concept of tortious liability. This principle is reflected in the provisions of Article 19 paragraph (1), which regulates the transfer of the burden of proof from consumers to business actors.

According to John Rawls, the main dimension of justice lies in the basic structure of society, where the main problem of justice focuses on the formulation and provision of legitimacy to normative principles that must be used as the basis for forming a just social order. The basic structure of society includes fundamental rights, individual freedom, authority, power, distribution of opportunities, income, and the level of welfare of the community.

There are two main principles designed as a solution to the problem of injustice in society. The first principle is known as the greatest equal liberty principle or the principle of the broadest and equal liberty for all people, which includes the right to participate in political life (such as the right to vote and be elected), freedom of opinion, freedom of religion and belief, freedom of expression, and the right to private property.

The second principle consists of two important components, namely the difference principle and the principle of fair equality of opportunity. In the principle of difference, it is stated that social and economic inequality can only be justified if the inequality produces the greatest benefit for the most disadvantaged groups of society. This difference leads to inequality in access to welfare components, such as income, position, and economic power as seen in the relationship between consumers and business actors (Fattah, 2013).

The concept of personal data protection requires a regulation that provides strict regulations regarding the mechanism for the use, management, and restrictions on the processing of personal data by institutions, especially banks. Ideally, legal instruments should side with the party in a weak position, namely consumers, by providing a proof mechanism that does not burden them. The application of the principle of strict liability or absolute responsibility will create fair legal protection for consumers, where business actors are legally responsible without the need to prove an element of fault first.

As stated by Otto Baron van Wassennaer van Catwijk, in the consumer protection system in various countries, there has been a paradigm shift from an accountability system based on tortious liability to a strict liability system. This is based on the fact that one of the elements in a lawsuit for unlawful acts, namely the element of error, is the component that is the most difficult for consumers to prove. Therefore, in the application of strict liability, the burden of proof for fault is shifted to the business actor (with the principle of presumption of fault), so that legal liability arises automatically if it is proven that there is a loss on the part of the consumer (Catwijk, 1986).

In order to file a lawsuit for compensation for unlawful acts, the plaintiff only needs to prove three main elements, namely: first, the existence of legal obligations violated by business actors in the management of personal data; second, there are real losses, both material and immaterial, arising from the misuse of personal data; and third, there is a causal relationship between the violation and the losses suffered by consumers. Although Article 1365 of the Civil Code does not explicitly regulate the evidentiary mechanism in consumer cases, in practice, the legal relationship between consumers and business actors or distributors is a legitimate basis for claiming damages.

With the application of the principle of shifting the burden of proof, the defendant (business actor) is obliged to prove that the losses suffered by the plaintiff were not caused by his negligence in managing personal data. The evidence can be in the form of information system audit results or technical documents that show no violations by business actors. The elimination of the obligation to prove the element of negligence on the part of the consumer is intended to provide procedural and substantive justice in the judicial process.

The application of the principle of strict liability in Indonesia is still limited to certain business sectors that meet the criteria for high risk, such as products that are used massively, products with potential dangers, and a high degree of negligence from producers or business actors. The banking industry, which is part of national and international financial services, has high-risk characteristics because it manages personal information that is sensitive and strategic (Arianto, 2021).

Rawls reiterated that efforts to realize substantive justice must be based on two main pillars of justice. The first principle emphasizes that each individual has the right to an equal portion of basic freedoms, as long as those freedoms do not prejudice the freedoms of other individuals. The second principle, namely the principle of difference, requires social reconstruction through the regulation of the socio-economic system so that inequality becomes a means of empowerment for vulnerable and marginalized groups.

The implications of the principle of justice require the strengthening of institutional structures that are able to improve inequality and ensure fair access to economic, social, and political rights. Regulations drafted by the state must function as a corrective-oriented legal tool, that is, directing public policy to protect the interests of the weakest parties in society (Kelsen, 2011).

It is appropriate for the accountability system in data leak cases to use a strict liability approach, so that consumers or customers have a strong legal basis to demand compensation effectively. Therefore, government intervention is needed in formulating implementing regulations that technically regulate the responsibilities of business actors, procedures for claiming compensation, and proof mechanisms in personal data leak cases.

PDP Law sociologically aims to create a balance between the interests of individuals and the interests of the community protected by the state, in order to realize legal order and the advancement of the digital society. The protection of the right to privacy of personal data is an integral part of human rights that must be guaranteed by positive law. The existence of comprehensive regulations will foster public trust in the digitization system, while preventing the misuse of personal data for purposes contrary to the law.

4. Conclusion

Personal data leakage is a form of unlawful act that violates the provisions of both the law and proper decency. The concept of strict liability is in accordance with the liability for data leaks, which does not base its actions on the element of negligence as an element of proof for customers which is in line with consumer protection as a disadvantaged party, according to Jhon Rawls. In claiming compensation in civil court, there is (shifting the burden of proof) in the element of error, the plaintiff only needs to prove the involvement of the bank's responsibility in the protection of personal data, the

existence of material and material losses, and evidence that there is a causal relationship with the bank's actions.

5. References

- Arianto, B. (2021). The Seller's Absolute Responsibility for Hidden Defective Products in the Belidaring Sale Transaction. *Legal Reflections*, 6(1), 111. <https://doi.org/Https://Doi.Org/10.24246/Jrh.2021.V6.I1.P107>
- Arifianto, I. (2023). *The Fate of Semarang State-Owned Bank Customers Bear Rp 3 Billion in Taxes, Capital Profits from E-KTP Data (Online)*. Tribunnews.Com. <https://jateng.tribunnews.com/2023/10/30/Nasib-Nasabah-Bank-Pelat-Merah-Semarang-Nanggung-Pajak-Rp-3-Miliar-Modal-Mencatut-Data-E-Ktp>
- Boeken, J. (2024). From Compliance To Security, Responsibility Beyond Law. *Computer Law And Security Riview*, 3(52), 3. <https://doi.org/Https://Doi.Org/10.1016/J.Clsr.2023.105926>
- Catwijk, O. B. V. W. Van. (1986). Product Liability In Europe. *The American Journal Of Comparative Law*, 34, 124–127.
- Claudia, Z. (n.d.). Vicarious Liability In Personal Data Protection. *Rectsidee*, 12(2), 13. <https://doi.org/Https://Doi.Org/10.21070/Jihr.V12i2.995>
- Diantha, I. M. P. (2016). *Normative Legal Research Methodology in Legal Theory Justification*. Prenada Media.
- Djojodirjo, M. (1979). *Unlawful Acts*. Pranadya Paramita.
- Edbert, F. (2023). Legal Liability for Personal Data Leakage in IT-Based Financial Services Management Companies. *Unes Law Review*, 6(1), 5986. <https://doi.org/10.31933/Unesrev.V6i1>
- Fatmala, D. (2023). Analysis of BSI Customer Protection Against Data Leakage in Using Digital Banking. *Scientific Journal of Economics and Management*, 1(4), 180. <https://doi.org/Https://Doi.Org/10.61722/Jiem.V1i4.331>
- Fattah, D. (2013). The Theory of Justice According to Jhon Rawls. *Jurnal Tapis*, 9(2), 36. <https://ejournal.radenintan.ac.id/Index.Php/Tapis/Article/Viewfile/1589/1324>
- Fuady, M. (2002). *Unlawful Acts: A Contemporary Approach*. Citra Aditya Bakti.
- Gautama, S. (1972). *Definition of the State of Law*. Alumni.
- Gunawan, J. (2018). Strict liability controversy in consumer protection law. *Veritas et Justitia*, 4(2), 302. <https://doi.org/Https://Doi.Org/10.25123/Vej.V4i2.3082>
- Hanifan Niffari. (2020). Protection of Personal Data as Part of the Human Right to Personal Protection (A Comparative Review with Laws and Regulations in Other Countries). *Juridical Journal*, 7(1), 105–109. <https://doi.org/Https://Doi.Org/10.35814/Selisik.V6i1.1699>

- Intan Rahmadiani, H. (2022). Legal protection for notaries based on the principle of based on fault of liability. *Lex Stricta*, 1(2), 106. <https://doi.org/https://Doi.Org/10.46839/Lexstricta.V1i2.10>
- Kelsen, H. (2011). *General Theory Of Law And State*. Nusa Media.
- Made, D. (2020). Accountability of the Board of Directors of a Limited Liability Company who commits unlawful acts. *Journal of Legal Analogy*, 2(1), 15. <https://doi.org/http://Dx.Do.Org/10.22225/.2.1.1608.12-16>
- Makarim, E. (2020). *Legal Liability for Personal Data Leaks*. HukumOnline.Com. <https://www.hukumonline.com/Berita/A/Pertanggungjawaban-Hukum-Terhadap-Kebocoran-Data-Pribadi-Lt5f067836b37ef/?Page=1>
- Miru, A. (2004). *Consumer Protection Law*. King Grafindo Persada.
- Mustabsyir. (2021). Application of Boundaries of Default and Unlawful Acts in an Engagement. *Alaudin Law Development Journal*, 3(2), 254. <https://doi.org/https://Doi.Org/10.24252/Aldev.V3i2.15275>
- Rasjidi, L. (2018). *Introduction to Legal Philosophy*. CV. Mandar Maju.
- Rifka, I. (2023). *Hackers Threaten to Leak Stolen Data of 15 Million BSI Customers and Employees*. Kompas.Com. <https://money.kompas.com/Read/2023/05/13/170000926/-Hacker-Ancam-Bocorkan-Data-15-Juta-Nasabah-Dan-Karyawan-Bsi-Yang-Dicuri-Dirut?Page=All>
- Samsul, N. (2004). *Consumer Protection: Possibility of Absolute Liability Enforcement*. UI.
- Sari, R. P. (2024). *RI Enters Top 10 Data Leaks, Nearly 100 Million Accounts Leaked*. Csirt.Or.Id. <https://csirt.or.id/Berita/Ri-Masuk-10-Besar-Kebocoran-Data>
- Solution, I. T. (2024). *Why Personal Data Protection Services Are Important in the Digital Era (Online)*. <https://shorturl.at/B9bub>
- Trisadini. (2017). *Banking Law*. Gold.
- Quarterly, T. (2010). *Legal protection for patients*. Achievement of the Library.
- Warjiyati, S. (2018). *Understanding the Basics of Law: Basic Concepts of Law*. Prenada Media Group.
- Widiyastuti, S. M. (2020). *Principles of Civil Liability*. Cahaya Atma Pustaka.
- Zainal Asikin. (n.d.). *Civil Procedure Law in Indonesia*. Gold.