PROBLEMS OF LEGAL CERTAINTY IN THE USE OF ARTIFICIAL INTELLIGENCE IN BUSINESS PRACTICES

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Abstract

The use of Artificial Intelligence (AI) in business brings many benefits, such as increased efficiency and innovation, but also presents challenges related to legal certainty, which has not yet been comprehensively regulated in Indonesia. This research aims to analyze the legal certainty of AI use in business practices in Indonesia based on SE Menkominfo 9/2023, and to evaluate the implications of the unclear regulations in the circular on AI implementation in Indonesia's business sector. This research uses normative legal methods with a legislative and conceptual approach through literature studies and descriptive-analytical qualitative analysis of primary, secondary, and tertiary legal materials. The research findings indicate that the regulatory framework for AI implementation in Indonesian business practices. While the circular provides basic guidelines for data protection and mandates compliance with Personal Data Protection Law, it fails to comprehensively address crucial aspects such as legal liability for AI-related errors, industry-specific regulations for sectors like banking and finance, and clear ethical guidelines for AI implementation. These regulatory gaps create multiple implications, including business uncertainty, potential innovation barriers, increased risks of AI misuse, challenges in personal data protection, complications in legal enforcement, and obstacles for multinational companies operating in Indonesia.

Keyword: *Artificial Intelligence, Business, Regulation, Implementation, Protection.*

A. INTRODUCTION

The development of information and communication technology has brought significant changes in various aspects of human life, including in the business world. One of the technological innovations that is currently in the spotlight is Artificial Intelligence (AI).[1] AI has changed the way companies operate, make decisions, and interact with their customers. This technology offers great potential to increase efficiency, productivity, and business

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[1] Vasile-Daniel Păvăloaia, and Sabina-Cristiana Necula, "Artificial intelligence as a disruptive technology—a systematic literature review," *Electronics* 12, no. 5 (2023): 1102.

competitiveness in the digital era.[2] However, behind the great potential offered, the use of AI in business practices also raises various challenges and problems, especially in terms of legal certainty.

Artificial Intelligence, as a technology that can mimic human intelligence, has developed rapidly in recent decades.[3] AI's ability to analyze large amounts of data, recognize patterns, and make predictions has made this technology a very valuable tool for the business world.[4] Companies in various sectors, from banking, retail, to manufacturing, have adopted AI to optimize their operations, improve customer service, and develop innovative products.[5] For example, in the banking sector, AI is used to detect fraud, assess credit risk, and provide investment recommendations. In the retail sector, AI helps in personalizing customer shopping experiences and optimizing supply chains.[6] However, along with the widespread use of AI in business practices, various legal issues have emerged that have not been fully resolved. One of the main issues is the legal uncertainty related to the use of AI.[7]

This is caused by several factors, including: the lack of specific regulations governing AI, the ambiguity regarding legal responsibility for decisions made by AI, and the potential for privacy and data security violations that may occur in the use of AI.[8] In Indonesia, efforts to regulate the use of AI in business practices have begun with the issuance of Circular Letter of the Minister of Communication and Information Technology Number 9 of 2023 concerning the Responsible Utilization of Artificial Intelligence in Indonesia (SE Menkominfo 9/2023). This circular letter is the government's initial step in providing guidance and direction regarding the responsible use of AI.

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[2] Siti Masrichah, "Ancaman dan peluang artificial intelligence (AI)," *Khatulistiwa: Jurnal Pendidikan dan Sosial Humaniora* 3, no. 3 (2023): 91.

[3] Ahmed Mohammed Moneus, and Yousef Sahari, "Artificial intelligence and human translation: A contrastive study based on legal texts," *Heliyon* 10, no. 6 (2024): 28106.

[4] Christopher Collins, Denis Dennehy, Kieran Conboy, and Patrick Mikalef, "Artificial intelligence in information systems research: A systematic literature review and research agenda," *International journal of information management* 60 (2021): 102383.

[5] Tajudeen Alaburo, and Rofiat Bolanle Tajudeen Abdulsalam, "Artificial Intelligence (AI) in the banking industry: A review of service areas and customer service journeys in emerging economies," *Business & Management Compass* 68, no. 3 (2024): 34.

[6] Esmat Almustafa, Ahmad Assaf, and Mahmoud Allahham, "Implementation of artificial intelligence for financial process innovation of commercial banks," *Revista de Gestão Social e Ambiental* 17, no. 9 (2023): 12.

[7] I. G. B. Y., A. A. A. N. S. R. Swastika, Gorda, A. N. T. R. Gorda, and I. Gede Agus Kurniawan, "Misuse of Personal Data as a Crime from a Cyber Law Perspective," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 2 (2023): 89.

[8] Tegar Raffi Putra Jumantoro, "Menilik Pro dan Kontra Pemanfaatan dan Penetapan Status Hukum Artificial Intelligence (AI) dalam Hukum Positif Indonesia," *Journal of Analytical Research, Statistics and Computation* 3, no. 1 (2024): 63.

However, this circular also raises new questions regarding its effectiveness in providing legal certainty for business actors who use AI.[9]

One of the main issues in the use of AI is the lack of clarity regarding legal liability. In addition, the use of AI in business also raises issues related to privacy and data protection.[10] AI requires large amounts of data to function optimally, and this data often includes customers' personal information.[11] Furthermore, AI also has the potential to cause unintentional discrimination. AI algorithms trained on historical data can inherit biases present in that data, which can result in discriminatory decisions. For example, in the context of credit scoring, AI may be more likely to reject applications from certain minority groups because of biases in historical data.

SE Menkominfo 9/2023 attempts to provide guidance on these issues. This circular emphasizes the importance of transparency, accountability, and non-discrimination in the use of AI. However, as a circular, this document does not have binding legal force like laws or government regulations. This raises questions about the extent to which this circular can provide legal certainty for business actors who use AI.[12]

Legal uncertainty in the use of AI can have a negative impact on the development of technology and innovation in Indonesia. Business actors may hesitate to adopt AI technology because they are worried about unclear legal implications.[13] This can hinder the competitiveness of Indonesian companies in the increasingly competitive global market.[14] On the other hand, the absence of clear regulations can also open up opportunities for misuse of AI technology. Without clear boundaries and standards, there is a risk that AI can be used in ways that are detrimental to consumers or society in general. For

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[9] Albandari Alshahrani, Anastasia Griva, Denis Dennehy, and Matti Mäntymäki, "Artificial intelligence and decision-making in government functions: opportunities, challenges and future research," *Transforming Government: People, Process and Policy* 18, no. 4 (2024): 687.

[10] Thomas Graham, Kathiravan Thangavel, and Anne-Sophie Martin, "Navigating AI-lien Terrain: Legal liability for artificial intelligence in outer space," *Acta Astronautica* 217 (2024): 197-207.

[11] Abdulaziz Aldoseri, Khalifa N. Al-Khalifa, and Abdel Magid Hamouda, "Re-thinking data strategy and integration for artificial intelligence: concepts, opportunities, and challenges," *Applied Sciences* 13, no. 12 (2023): 7082.

[12] Yogesh K. Dwivedi, Laurie Hughes, Abdullah M. Baabdullah, Samuel Ribeiro-Navarrete, Mihalis Giannakis, Mutaz M. Al-Debei, Denis Dennehy et al., "Metaverse beyond the hype: Multidisciplinary perspectives on emerging challenges, opportunities, and agenda for research, practice and policy," *International journal of information management* 66 (2022): 102542.

[13] I. G. B. Y., A. A. A. N. S. R. Swastika, Gorda, A. N. T. R. Gorda, and I. Gede Agus Kurniawan, "Misuse of Personal Data as a Crime from a Cyber Law Perspective," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 2 (2023): 90.

[14] Kirana Rukmayuninda Ririh, Nur Laili, Adityo Wicaksono, and Silmi Tsurayya, "Studi komparasi dan analisis swot pada implementasi kecerdasan buatan (Artificial Intelligence) di Indonesia," *J@ ti Undip: Jurnal Teknik Industri* 15, no. 2 (2020): 125.

example, the use of AI for price manipulation or to exploit consumer weaknesses.[15]

The issue of legal certainty in the use of AI is also closely related to ethical issues. AI has the ability to make decisions that can significantly affect human life.[16] Therefore, it is important to ensure that the use of AI is in line with the ethical and moral values that apply in society. SE Menkominfo 9/2023 has tried to touch on this ethical aspect by emphasizing the importance of "responsible" AI. However, the definition and implementation of "responsible AI" still require further elaboration.[17]

The issue of legal certainty in the use of AI also has an international dimension. Given the cross-border nature of AI, regulations made by one country may not be enough to address all the issues that arise.[18] International cooperation is needed to develop global standards and norms related to the use of AI in business.[19] In addition, the very rapid development of AI technology also poses its own challenges for regulation. Laws and regulations often lag behind technological developments.[20]

Circular Letter of the Minister of Communication and Information 9/2023 has attempted to provide an initial framework for the responsible use of AI in Indonesia. However, as a circular, this document has limitations in providing the necessary legal certainty.[21] Further steps are needed to develop more comprehensive and legally binding regulations. In this context, it is important to conduct an in-depth study of the problems of legal certainty in the use of AI in business practices in Indonesia.[22] This study needs to consider

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[15] M. Mufti, Wildan, M. Hiroshi Ikhsan, Rafif Sani, and M. Fauzan, "Urgensi Pembentukan Peraturan Perundang-Undangan Teknologi Berbasis Artificial Intelligence," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 1, no. 11 (2024): 139.

[16] Rowena Rodrigues, "Legal and human rights issues of AI: Gaps, challenges and vulnerabilities," *Journal of Responsible Technology* 4, (2020): 100005.

[17] Anak Agung Istri Ari Atu Dewi, Ni Ketut Supasti Dharmawan, Anak Agung Istri Eka Krisnayanti, Putu Aras Samsithawrati, and I. Gede Agus Kurniawan, "The role of human rights and customary law to prevent early childhood marriage in Indonesia," *Sriwijaya Law Review* 6, no. 2 (2022): 276.

[18] Bernd Carsten Stahl, Rowena Rodrigues, Nicole Santiago, and Kevin Macnish, "A European Agency for Artificial Intelligence: Protecting fundamental rights and ethical values," *Computer Law & Security Review* 45 (2022): 105661.

[19] Nabila Fitri Amelia, Diva Maura Marcella, Hening Jiwa Semesta, Sabrina Budiarti, and Saskiana Fitra Usman, "Implementasi Artificial Intelligence (AI) Dalam Pembentukan Peraturan Perundang-Undangan Di Indonesia," *Eksekusi: Jurnal Ilmu Hukum dan Administrasi Negara* 2, no. 1 (2024): 60.

[20] Lalu Adi Adha, "Digitalisasi industri dan pengaruhnya terhadap ketenagakerjaan dan hubungan kerja di Indonesia," *Jurnal Kompilasi Hukum* 5, no. 2 (2020): 278.

[21] Fradhana Putra Disantara, "The Implementation Of Diplomatic Legal Principles: German Embassy Staff Visiting Islamic Defenders Front (Fpi) Headquarters Case," *International Journal of Law Reconstruction* 5, no. 1 (2021): 14.

[22] Ardian Dwi Cahya Firza, Kevin Samudera, Aurellia Saphira, and Muhammad Syafiq Hidayat, "Legal Arrangement of Artificial Intelligence in Indonesia: Challenges and Opportunitiesa," *Jurnal Peradaban Hukum* 1, no. 2 (2023): 16.

various aspects, from technical, ethical, to legal. The results of this study can be the basis for developing more comprehensive and effective regulations in regulating the use of AI in Indonesia.

Based on the background outlined in the introduction, this study aims to explore the topic of "Problems of Legal Certainty in the Use of Artificial Intelligence in Business Practices: Review of SE Menkominfo 9/2023." The primary focus is on examining the challenges in legal clarity regarding AI use in Indonesian business contexts, as guided by SE Menkominfo 9/2023. Key issues addressed in this study include understanding the degree of legal certainty provided by SE Menkominfo 9/2023 regarding AI utilization in business and analyzing the broader implications of its regulatory ambiguities on AI-related business activities within Indonesia. This exploration highlights the gaps in current regulations and considers the effects on legal accountability, data privacy, and potential impacts on industry innovation and competitiveness.

B. RESEARCH METHODS

This study uses a normative legal research method, which focuses on the study of applicable legal norms, especially in the context of the use of Artificial Intelligence (AI) in business practices in Indonesia. The normative legal research method was chosen because this study aims to analyze and evaluate the existing legal framework, especially SE Menkominfo 9/2023, in providing legal certainty regarding the use of AI in the business sector. In conducting this research, two main approaches will be used, namely the statute approach and the conceptual approach. The statute approach involves a thorough review of legal documents, including SE Menkominfo 9/2023, the Personal Data Protection Law, and other relevant regulations that influence AI usage in business. This approach helps in understanding the legal structure, consistency, and principles within the Indonesian legal system. This approach is important to understand the hierarchy, consistency, and legal principles contained in the various existing regulations.[23]

Meanwhile, the conceptual approach is used to understand legal concepts related to the use of AI in business practices, as well as the principles of legal certainty. This approach involves an analysis of legal doctrines, expert views, and theoretical concepts relevant to the issues being studied. Through a conceptual approach, this study will explore various legal thoughts and theories that can help in understanding and evaluating the problems of legal certainty in the context of the use of AI. The conceptual approach delves into

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[23] I. Gede Agus Kurniawan, Lourenco de Deus Mau Lulo, and Fradhana Putra Disantara, "IUS Constituendum of expert advisor in commodity futures trading: A legal certainty," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (2023): 35.

the theoretical aspects of legal certainty and AI regulation. It examines legal doctrines, expert opinions, and theoretical constructs to contextualize the issues surrounding AI's legal implications in business. The research focuses on SE Menkominfo 9/2023, which provides initial guidelines for AI's responsible use in Indonesia. Additionally, it evaluates related regulations such as the Personal Data Protection Law and international standards to offer a comparative perspective. This combination helps in identifying regulatory gaps and proposing more robust legal frameworks for AI governance.

The sources of legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations, especially SE Menkominfo 9/2023, as well as other regulations relating to information technology, data protection, and business regulations in Indonesia. Secondary legal materials include legal textbooks, scientific legal journals, academic articles, legal research results, and comments from legal experts relating to the research theme. While tertiary legal materials include legal dictionaries, legal encyclopedias, and other reference sources that can provide additional understanding of the legal concepts used in the study.

The data collection technique in this study was carried out through library research. This process involves searching and collecting relevant legal materials from various sources, including physical and digital libraries, online legal databases, and academic repositories. In addition, documentation techniques are also used to collect and organize legal documents, government reports, and other official publications related to the use of AI in business practices and its regulations in Indonesia.

The analysis uses qualitative descriptive methods, organizing and categorizing legal materials into relevant themes. This involves interpreting legal texts within their historical, philosophical, and sociological contexts. Comparative analysis with international legal standards further enriches the study by highlighting best practices and lessons applicable to the Indonesian context. The analysis process begins by organizing and categorizing the collected data based on themes relevant to the formulation of the research problem. Furthermore, interpretations are made of the existing legal materials, taking into account the historical, philosophical, and sociological contexts of the regulations being studied.

In the analysis process, researchers will compare the provisions in SE Menkominfo 9/2023 with generally applicable legal principles and international standards in AI regulation. The analysis will also include an evaluation of the adequacy and effectiveness of SE Menkominfo 9/2023 in providing legal certainty for the use of AI in business practices. Regulatory gaps and areas requiring further development will be identified and critically analyzed.

The results of the analysis will be presented in a comprehensive narrative form, which not only describes the research findings, but also provides in-depth legal interpretation and argumentation. Conclusions will be drawn based on the results of this analysis, taking into account the theoretical and practical implications of the research findings. Finally, recommendations will be formulated for the development of a more comprehensive and effective legal framework in regulating the use of AI in business practices in Indonesia.

C. DISCUSSION

1. Legal Certainty of the Use of Artificial Intelligence (AI) in Business Practices in Indonesia

The use of Artificial Intelligence (AI) in various business sectors has become an inevitable trend along with the development of digital technology in Indonesia and the world. As a technology that can increase efficiency and effectiveness in business operations, AI plays an important role in data processing, task automation, and data-based decision making. [24]However, the use of AI raises various legal challenges, especially related to legal certainty and regulations governing its use in business practices. One of the policies issued by the government to answer these challenges is through the Circular Letter of the Minister of Communication and Informatics (SE Menkominfo) Number 9 of 2023.[25]

SE Menkominfo 9/2023 is the initial step by the Indonesian government to provide guidance on the use of AI in business practices in Indonesia. In general, this Circular Letter contains administrative and operational guidelines for the use of AI, both for large companies and MSMEs that are starting to use AI to support their business activities. This regulation is not only intended to regulate the use of AI in accordance with applicable legal standards, but also aims to protect consumer rights and ensure that the use of this technology does not violate ethical principles.[26]

However, SE Menkominfo 9/2023 still has several limitations, especially in terms of comprehensive legal certainty regarding technical aspects and legal responsibilities of the use of AI. One important point of concern is whether the regulation is sufficient to provide clarity for business actors regarding their rights, obligations, and responsibilities when using AI technology in company

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[24] Enni Soerjati Priowirjanto, "Urgensi Pengaturan Mengenai Artificial Intelligence Pada Sektor Bisnis Daring Dalam Masa Pandemi Covid-19 Di Indonesia," *Jurnal Bina Mulia Hukum* 6, no. 2 (2022): 267.

[25] Tegar Raffi Putra Jumantoro, "Menilik Pro dan Kontra Pemanfaatan dan Penetapan Status Hukum Artificial Intelligence (AI) dalam Hukum Positif Indonesia," *Journal of Analytical Research, Statistics and Computation* 3, no. 1 (2024): 65.

[26] Eduardo Sanchez-Garcia, Javier Martinez-Falco, Bartolome Marco-Lajara, and Encarnacion Manresa-Marhuenda, "Revolutionizing the circular economy through new technologies: A new era of sustainable progress," *Environmental Technology & Innovation* 33 (2024): 103509.

operations.[27] This is important because AI not only affects the company's internal processes, but can also have an impact on consumers and other third parties.[28]

Legal certainty is one of the fundamental elements in every policy issued by the government. In the context of using AI in business, legal certainty refers to the clarity of rules and regulations that provide a sense of security for business actors regarding what is allowed and prohibited when using AI technology.[29] This legal certainty covers various aspects, ranging from intellectual property rights, data security, user privacy, to legal responsibility in the event of errors or losses caused by AI.[30]

Circular Letter of the Minister of Communication and Information 9/2023 seeks legal certainty through a number of guidelines related to data protection and privacy, two important elements that are often in the spotlight in the use of AI. The document states that every business actor who uses AI is required to comply with the provisions of the Personal Data Protection Law and ensure that the AI system used does not violate consumer privacy rights. This is a positive step in providing legal certainty regarding data protection, considering that AI often works by processing big data, most of which is personal and sensitive.

However, this Circular Letter of the Minister of Communication and Information does not specifically regulate legal liability if AI causes losses, for example in the case of prediction errors or decisions made by the AI system used in business processes. This creates uncertainty for business actors, especially regarding legal risks if products or services that use AI cause losses to third parties. In this case, business actors may have to seek guidance from other regulations or conduct further legal consultations to understand their responsibilities in using AI.[31]

One of the main weaknesses of SE Menkominfo 9/2023 is the absence of a clear legal framework regarding legal responsibility for the use of AI in

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[27] Lottie Lane, "Artificial intelligence and human rights: Corporate responsibility in AI governance initiatives," *Nordic Journal of Human Rights* 41, no. 3 (2023): 315.

[28] Washington Simanjuntak, Agus Subagyo, and Dadang Sufianto, "The Role of Government in the Implementation of Artificial Intelligence (AI) at the Ministry of Communication and Information of the Republic of Indonesia (Kemenkominfo RI)," *Journal of Social and Economics Research* 6, no. 1 (2024): 7.

[29] Ambar Rani Priyanjani, Farah Fadillah, Alfazrryan Ghalib, Endang Sutrisno, and Deni Yusup Permana, "Legal protection for personal data in the world of work in the era of digitalization of technology and information," *Journal of Social Science (JoSS)* 3, no. 6 (2024): 1407.

[30] Hannah Ruschemeier, "AI as a challenge for legal regulation–the scope of application of the artificial intelligence act proposal," In *Era Forum*, vol. 23, no. 3, (Berlin/Heidelberg: Springer Berlin Heidelberg, 2023): 369.

[31] Daeheon Choi, Chune Young Chung, Thou Seyha, and Jason Young, "Factors affecting organizations' resistance to the adoption of blockchain technology in supply networks," *Sustainability* 12, no. 21 (2020): 8882.

certain contexts. For example, in the case of an error made by an AI system, who should be held responsible? Is it the AI software manufacturer, the user (company), or the AI operator? This ambiguity raises concerns for business actors, especially those who rely on AI to run crucial processes in business operations.

In addition, SE Menkominfo 9/2023 also does not explicitly regulate the use of AI in digital transactions, which are increasingly widespread in Indonesia. Many business actors have begun to utilize AI technology in terms of digital signing, identity verification, and customer service automation. However, there is no legal certainty that explains the mechanism for protecting consumers if errors occur in these processes, for example errors in identity verification that can lead to financial losses or data theft.

From the perspective of business actors, this regulation still requires further elaboration that is specific in nature. [32]For example, in the banking or financial industry, where AI is used for risk analysis and credit decision making, can the results produced by AI be used as a valid legal basis for making business decisions? What if there is an error in the decision and it causes major losses for the company or consumers? These questions require more concrete and measurable legal certainty.

Although SE Menkominfo 9/2023 provides sufficient initial guidelines for business actors who are starting to adopt AI, more comprehensive and detailed regulations are still needed to address the specific challenges that arise from the use of this technology. Indonesia needs to follow in the footsteps of developed countries such as the European Union which have begun to develop a specific legal framework related to AI. In the European Union, for example, there is a Draft Law on Artificial Intelligence (Artificial Intelligence Act) which explicitly regulates various aspects related to the use of AI, including AI risk classification, legal responsibilities, and technology security standards.

In the Indonesian context, the government needs to consider developing a more comprehensive legal framework that is not only limited to administrative guidelines, but also provides strong legal certainty for business actors. [33]This is important to encourage innovation and optimal use of AI technology without neglecting aspects of consumer protection and legal certainty for all parties involved.

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[32] Sulistyowati Sulistyowati, Yayuk Sri Rahayu, and Chifni Darun Naja, "Penerapan artificial intelligence sebagai inovasi di era disrupsi dalam mengurangi resiko lembaga keuangan mikro syariah," *Wadiah: Jurnal Perbankan Syariah* 7, no. 2 (2023): 128.
[33] Fakhry Amin, Riana Susmayanti, Femmy Silaswaty Faried, Muhammad Aziz Zaelani, Asri Agustiwi, Deni Yusup Permana, Dika Yudanto et al. *Ilmu Perundang-Undangan*. (Banten: PT. Sada Kurnia Pustaka, 2023), 7.

The government also needs to work with various stakeholders, including academics, industry players, and non-governmental organizations (NGOs), to ensure that the regulations made truly cover various aspects related to AI in business practices. The development of AI regulations cannot be done partially or in a hurry, because this technology has very broad and complex implications, both from a technical, legal, and ethical perspective.[34] Overall, it can be understood that SE Menkominfo 9/2023 is a good initial step in providing guidance for the use of AI in business practices in Indonesia. However, in terms of legal certainty, this regulation still has many shortcomings, especially regarding the aspects of legal responsibility and consumer protection faced by business actors. The ambiguity in several important points such as legal responsibility in the event of errors in AI decisions and consumer protection in digital transactions shows that this regulation still requires further development.[35]

In the face of rapid technological developments, Indonesia needs more comprehensive and specific regulations related to the use of AI in business practices. This is important to ensure that AI technology can be optimally utilized by business actors without creating excessive legal risks or harming consumers.[36] In addition, the government needs to prioritize cooperation with various parties in drafting regulations that are inclusive, progressive, and able to keep up with the ever-growing technological developments.

The research indicates that SE Menkominfo 9/2023 provides foundational guidelines for AI's responsible use in Indonesian business sectors, emphasizing transparency, accountability, and data protection. However, these guidelines lack the binding legal force necessary to establish clear legal liability and protect consumer rights effectively. The absence of specific regulations for AI liability, especially in cases where AI-driven decisions might lead to financial or reputational harm, exposes businesses to potential legal ambiguities. This regulatory gap is particularly concerning in industries such as finance, where AI is often deployed for high-stakes decision-making, and any errors or bias in these processes could have significant consequences for consumers and organizations alike.

Additionally, while SE Menkominfo 9/2023 touches on privacy concerns, it does not adequately address AI's potential for discrimination or privacy

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[34] Athanasios Polyportis, and Nikolaos Pahos, "Navigating the perils of artificial intelligence: a focused review on ChatGPT and responsible research and innovation," *Humanities and Social Sciences Communications* 11, no. 1 (2024): 9.

[35] Stefany Ismantara, and Wilma Silalahi, "The Lawfulness of Using Copyrighted Works for Generative AI Training: A Case Study of a US Lawsuit against OpenAI and Perplexity AI," *Justisi* 11, no. 1 (2025): 134.

[36] Aulia Anugrah Intani and Fauza Annisa, "Legal Analysis of Artificial Intelligence Technology Development in Healthcare Industry in Indonesia," *South-East Asian Journal of Advanced Law and Governance (SEAJ ALGOV)* 1, no. 1 (April 30, 2024): 12.

breaches, which can occur through algorithmic bias or unauthorized data usage. As the framework stands, Indonesian businesses face challenges in AI implementation without clear guidance on liability, ethical standards, or consumer protection. This lack of comprehensive, enforceable regulations may inhibit AI innovation and adoption within the country, as companies remain wary of the risks posed by legal uncertainties.

2. Unclear Regulations on the Use of Artificial Intelligence in the Business Sector in Indonesia

The implications of the unclear regulations in the Circular Letter (SE) of the Minister of Communication and Information 9/2023 concerning the use of Artificial Intelligence (AI) in the business sector in Indonesia have a significant impact on various aspects. As a rapidly developing technology, AI has become an important component in various business lines, from data analysis to process automation. However, the lack of legal certainty in the regulations governing its use has caused confusion among business actors, regulators, and the wider community. This ambiguity creates a legal vacuum that can ultimately lead to various risks, both for companies that utilize AI and for users or consumers affected by AI-based decisions.[37]

First, this ambiguity has the potential to create uncertainty in terms of legal liability. In many cases, AI works automatically based on pre-programmed algorithms and data. However, if there is an error in decision-making or a violation of rights, it is difficult to determine who is responsible.[38] For example, in situations where AI is used to determine creditworthiness or in decision-making related to public services, errors can occur if the data used is inaccurate or the algorithm applied is biased. Thus, if existing regulations do not provide clarity regarding who is responsible in such situations, whether the AI developer, service provider, or end user, then the potential for legal disputes will increase.[39]

In addition, unclear regulations can also have a negative impact on innovation and development of AI technology in Indonesia. The technology sector always needs a clear legal framework to provide certainty for investors and business players. If regulations do not provide clear guidelines on how AI can be used, companies may hesitate to invest further in this technology.

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[37] Hadi Purnomo, "Criminal liability for the use of artificial intelligence in Indonesia," *Jurnal Info Sains: Informatika dan Sains* 13, no. 03 (2023): 1110.

[38] Araz Taeihagh, "Governance of artificial intelligence," *Policy and society* 40, no. 2 (2021): 147.

[39] Hannah Ruschemeier, "AI as a challenge for legal regulation–the scope of application of the artificial intelligence act proposal," In *Era Forum*, vol. 23, no. 3, (Berlin/Heidelberg: Springer Berlin Heidelberg, 2023): 369.

[40]This could hinder Indonesia's progress in the technology-based industry, which could ultimately leave the country lagging behind other countries that have clearer and more supportive regulations. In the long term, this ambiguity could reduce Indonesia's global competitiveness in terms of technological innovation.[41]

On the other hand, legal uncertainty can also lead to misuse of AI technology. Without clear regulations, companies may feel freer to use AI without considering its ethical or legal implications. For example, AI can be used to monitor employees or consumers without adequate consent, violating individuals' privacy rights. [42]In a business context, AI used for customer profiling or other automated decision-making can result in unfair discrimination if there are no clear guidelines on its use. This will create inequities among consumers and workers, and increase the risk of human rights violations.[43]

The unclear regulation in SE Menkominfo 9/2023 can also have an impact on data protection. AI relies heavily on data in its operations, and often requires access to large amounts of personal data. In Indonesia, personal data protection is regulated in the Personal Data Protection Law (UU PDP), but if regulations related to AI are not synchronized with this law, it will be difficult to ensure that personal data used by AI systems is properly managed and protected. [44]Companies using AI can face legal risks if they do not comply with data protection principles, but without clear guidelines from SE Menkominfo, there may be ambiguity about how AI should be managed in the context of data protection. This can ultimately harm consumers, as their data can be misused or processed unlawfully.[45]

One of the most important implications of this regulatory ambiguity is the uncertainty regarding the ethical boundaries in the use of AI. Around the world, the use of AI has raised various ethical questions, ranging from

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[40] Tegar Raffi Putra Jumantoro, "Menilik Pro dan Kontra Pemanfaatan dan Penetapan Status Hukum Artificial Intelligence (AI) dalam Hukum Positif Indonesia," *Journal of Analytical Research, Statistics and Computation* 3, no. 1 (2024): 67.

[41] Dóra Horváth, and Roland Zs Szabó, "Driving forces and barriers of Industry 4.0: Do multinational and small and medium-sized companies have equal opportunities?," *Technological forecasting and social change* 146, no. 23 (2019): 123.

[42] Miriam uiten, Alexandre De Streel, and Martin Peitz, "The law and economics of AI liability," *Computer Law & Security Review* 48 (2023): 105794. https://doi.org/10.1016/j.clsr.2023.105794.

[43] Alina Köchling, and Marius Claus Wehner, "Discriminated by an algorithm: a systematic review of discrimination and fairness by algorithmic decision-making in the context of HR recruitment and HR development," *Business Research* 13, no. 3 (2020): 828.

[44] Joy Phillip Nehemia and Muhammad Rifky Hendrayana, "Challenges and Benefits of AI in Office Data Protection: Optimizing Information Security," *Journal of Digital Business Transformation (Jutrabidi)* 1, no. 3 (2024): 32.

[45] Kirana Rukmayuninda Ririh, Nur Laili, Adityo Wicaksono, and Silmi Tsurayya, "Studi komparasi dan analisis swot pada implementasi kecerdasan buatan (Artificial Intelligence) di Indonesia," *J@ ti Undip: Jurnal Teknik Industri* 15, no. 2 (2020): 127.

algorithmic bias to issues of transparency in decision-making. If SE Menkominfo 9/2023 does not clearly regulate the ethical principles that must be followed by companies using AI, then there will be a gap in terms of ethical responsibility.[46] Without clear guidance, companies may not consider the ethical impacts of using AI, which can lead to social injustice or human rights violations.[47] For example, AI used in employee recruitment could discriminate against candidates based on gender or race if the algorithm used is not neutral or has bias embedded in it. In this case, regulations are needed that not only focus on the technical aspects, but also the ethical aspects of the use of AI.[48]

The legal uncertainty caused by SE Menkominfo 9/2023 also impacts the litigation and law enforcement process. When legal issues related to the use of AI arise, judges and lawyers may have difficulty in determining the right rules to apply.[49] Without clear regulations, the law enforcement process will be slow and complicated, because there are many aspects to consider without any definite reference. This has the potential to prolong the litigation process, increase legal costs, and cause further uncertainty for the parties involved. In addition, because AI is still a relatively new technology, courts may lack legal precedents that can be used as a basis for deciding AI-related cases, which ultimately worsens the situation of legal uncertainty.[50]

The unclear regulation in SE Menkominfo 9/2023 also poses a challenge for multinational companies operating in Indonesia. Many of these companies may already comply with international regulations regarding the use of AI, such as the General Data Protection Regulation (GDPR) in the European Union, which provides clear guidelines regarding the use of such technology. [51]However, if Indonesia does not have equivalent or synchronized regulations, multinational companies will face difficulties in adjusting their operations to local standards. This could lead to delays in the implementation of AI

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[46] Ciro Mennella, Umberto Maniscalco, Giuseppe De Pietro, and Massimo Esposito, "Ethical and regulatory challenges of AI technologies in healthcare: A narrative review," *Heliyon* 10, no. 4 (2024): 239.

[47] Ayang Ayu Taufitra, and I. Gede Agus Kurniawan, "Hak Kepemilikan Komunal dalam Indikasi Geografis: Suatu Tinjauan Globalisasi Hukum," *JUSTISI* 9, no. 2 (2023): 175-189.

[48] Anna Lena Hunkenschroer, and Alexander Kriebitz, "Is AI recruiting (un) ethical? A human rights perspective on the use of AI for hiring," *AI and Ethics* 3, no. 1 (2023): 203.

[49] Gio Arjuna Putra, Vicko Taniady, and I. Made Halmadiningrat, "Tantangan Hukum: Keakuratan Informasi Layanan AI Chatbot Dan Pelindungan Hukum Terhadap Penggunanya," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 12, no. 2 (2023): 543.

[50] Imam Sukadi, "Matinya hukum dalam proses penegakan hukum di indonesia," *Risalah Hukum* (2011): 43.

[51] Washington Simanjuntak, Agus Subagyo, and Dadang Sufianto, "The Role of Government in the Implementation of Artificial Intelligence (AI) at the Ministry of Communication and Information of the Republic of Indonesia (Kemenkominfo RI)," *Journal of Social and Economics Research* 6, no. 1 (2024): 7.

technology, or even discourage foreign companies from operating in Indonesia due to regulatory uncertainty.[52]

On the other hand, the lack of clarity in these regulations can also provide a loophole for uncontrolled innovation. In some cases, overly strict regulations can hinder the development of new technologies. However, without adequate regulation, the risk of misuse of technology becomes greater. Therefore, it is important for governments to find a balance between supporting innovation and ensuring that there is a legal framework that protects individual rights and the public interest. Clear regulations will allow innovation to thrive in a responsible manner, where companies can use AI in a safe and ethical manner.[53]

Overall, it can be understood that the implications of the unclear regulations in SE Menkominfo 9/2023 regarding the use of AI in the business sector in Indonesia are very broad and complex. Legal uncertainty can cause doubts in terms of responsibility, hinder innovation, increase the risk of misuse of technology, and create challenges in data protection and law enforcement. Therefore, concrete steps are needed from the government to clarify regulations related to AI, both in terms of technical and ethical aspects, so that the use of this technology can provide maximum benefits for the Indonesian people and economy without sacrificing legal certainty and individual rights. In an increasingly competitive global context, regulatory certainty regarding AI will be one of the key factors in determining Indonesia's competitiveness in the future.

D. CONCLUSION

Based on the Circular of the Minister of Communication and Information 9/2023, legal certainty regarding the use of AI in business practices in Indonesia is still not comprehensive and has several limitations. Although this circular provides initial guidelines regarding data protection and privacy, and requires business actors to comply with the Personal Data Protection Law, there are still many aspects that have not been clearly regulated. The main weakness lies in the lack of clarity regarding legal responsibility in the event of errors or losses due to the use of AI, especially in the context of digital transactions, identity verification, and AI-based decision-making. In addition, this regulation does not provide a specific legal framework for certain industries such as banking or finance that use AI for risk analysis and credit

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[52] Kirana Rukmayuninda Ririh, Nur Laili, Adityo Wicaksono, and Silmi Tsurayya, "Studi komparasi dan analisis swot pada implementasi kecerdasan buatan (Artificial Intelligence) di Indonesia," *J@ ti Undip: Jurnal Teknik Industri* 15, no. 2 (2020): 129.

[53] Dikha Anugrah, Bias Lintang Dialog, and Suwari Akhmaddhian, "Pengaruh Regulasi Hukum Terhadap Inovasi Produk dan Layanan Perusahaan," *Fundamental: Jurnal Ilmiah Hukum* 13, no. 1 (2024): 168.

decisions. As a result, business actors still face legal uncertainty in several important aspects of the use of AI, which can hinder innovation and optimal adoption of this technology in business practices in Indonesia.

The unclear regulation in SE Menkominfo 9/2023 regarding the use of Artificial Intelligence in the Indonesian business sector has several serious implications. First, it creates uncertainty in terms of legal liability in the event of errors or violations of rights resulting from AI decisions. Second, it can hinder innovation and investment in AI technology because companies may be hesitant to develop it without a clear legal framework. Third, it increases the risk of misuse of AI technology, such as privacy violations or discrimination, due to the lack of clear ethical guidelines. Fourth, it raises challenges in personal data protection due to the lack of clarity on how AI should be managed in the context of the PDP Law. Fifth, it complicates the litigation and law enforcement process due to the lack of clear precedents and rules. Finally, it creates obstacles for multinational companies operating in Indonesia in adjusting their practices to local standards. All of this has the potential to reduce Indonesia's competitiveness in global technological innovation and hinder the optimal use of AI in the business sector.

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