

Misuse of Personal Data for Commercial Purposes on Facebook Social Media as a Digital Crime and Legal Certainty for Users

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Abstract

This research is a qualitative descriptive study that aims to determine student perceptions related to personal data violations for commercial purposes on social media Facebook as a digital crime and legal certainty for users. This research was conducted in Ambon City, Maluku. Data collection was carried out through interviews with a number of informants who were considered to be directly involved, namely those who had been victims of personal data attacks on Facebook social media. The results of the study show that several forms of personal data attack have been experienced by Facebook users, namely, hacking with malicious intent (cracking), malicious software attacks (malware), identity theft (identity theft), and fraud by fraudsters (fraudsters), causes of data theft. These individuals exist purely because of the intent of the perpetrator or are also responsible and careless of the owner (subject) of the personal data. Laws and regulations discuss rights and obligations, prohibitions, sanctions and punishments, but cannot automatically protect personal data so that public education on the importance of protecting personal data will support the personal data it protects.

Keywords: Personal Data, Digital Crime, Legal Certainty



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INTRODUCTION

Digital crime (cybercrime) in the form of active misuse of personal data occurs because advances in information and communication technology make privacy boundaries thinner so that various personal data becomes easier to spread. Normand (in Rumulus & Hartadi, 2020: 286). In addition, digital application users consciously fill in personal data when registering accounts, such as social media registration, bank applications, online transportation and so on, experience violations of privacy, especially misuse of personal data. Social media users themselves have a greater potential for. This is influenced by the behavior or culture of people who like to share data and information. Sharing information on social media account profiles such as date of birth, telephone number, place of residence, personal photos and even personal issues on social media. (Rumulus & Hartadi, 2020:290).

Misuse of personal data for commercial purposes through social media, especially Facebook, is a complex problem that Facebook users sometimes underestimate because of low digital literacy and awareness to protect and not just spread the data. Crimes related to misuse of personal data such as identity theft, namely stealing and using other people's personal data, both general and specific personal data, fake Facebook accounts are often found using other people's names, photos and addresses. This crime of data theft can also lead to fraud to gain profit which is called imposter scams. Through personal data obtained on social media, both general personal data and specific personal data, digital criminals can easily make profits by selling photos and videos, creating fake social media accounts, making online loans with other people's data, and breaking down savings and information. ATM.

In Indonesia, legal protection and sanctions related to partial and sectoral misuse of personal data were covered by several legal regulations prior to the promulgation of Law No.

27 of 2022 concerning Personal Data Protection (UU PDP), among others, Law no. 7 of 1992 concerning Banking, Law no. 36 of 1999 concerning Telecommunications, Law no. 23 of 2006 concerning Population Administration, Law no. 11 of 2008 concerning Information and Electronic Transactions, Minister of Communication and Informatics No. 20 of 2016 concerning Protection of Personal Data in Electronic Systems and Government Regulation no. 71 of 2019 concerning Implementation of Electronic Systems and transactions.

This study focuses on how the influence of misuse of personal data for commercial purposes on social media Facebook? And what are the legal protection efforts for victims of personal data abuse on Facebook social media? In order to approach these three problems, Warren and Brandies' theory is used (in Djafar 2019: 3) which states the right to privacy as The right to be let alone or the right to be left alone, based on consideration of personal honor and values of individual dignity, autonomy, and personal independence. Privacy can be said as a claim, an individual's right to determine any information about himself and his boundaries with other people. Limitations and arrangements for personal life include information about himself, the confidentiality of his personal identity and permission for access by others to him.

Rebovich, Allen, & Platt, (in Mahmud 2019: 1) stated that identity theft aims to seek economic profit by using other people's data, such as names, addresses, telephone numbers, SIM numbers, photos or other identity information. which can be used to disguise identity. The perpetrators of crimes enjoy the results of their crimes and the owners of the data (victims) are ultimately terrorized or their dignity is attacked.

RESEARCH METHODS

This research was conducted in a descriptive qualitative manner to determine the value of the independent variable, either one variable or more (independent) without making comparisons or linking it with other variables. Cooper (in Sudaryono, 2018: 82). In determining research subjects, the authors used a purposive sampling technique, that is, the determination of research subjects was based on certain objectives and considerations first. Yusuf (2019:369). Departing from the technique used, the authors will examine twenty-five (25) Facebook users who are victims of personal data abuse.

RESEARCH RESULTS AND DISCUSSION

Effects of Misuse of Personal Data for Commercial Purposes on Facebook Social Media

General and specific personal data is collected, and used to carry out malicious purposes with the not far-reaching aim of gaining economic advantage. Misuse of personal data (personal data) on Facebook social media is causing trouble for the owner (subject) of personal data mentally but also materially. Researchers have interviewed several informants who are victims of personal data misuse on Facebook social media regarding the forms of personal data abuse they have experienced. The following are the results of the interview.

Interview with Gilberth Likumahua, on 5 February 2023, the results are as follows: "Based on personal experience, someone uploaded a post on my Facebook homepage about winning the cellphone lottery on behalf of me and my Facebook account, then said there if anyone is interested in participating in the lottery. you can whatsapp directly, that's ultimately fraud. And the researcher's interview with JT on February 5, 2023, the results were as follows: "My ex-boyfriend and I met on Facebook, we had video call sex, he often asked me for some money, there was a time when I didn't have money, at that time I being threatened that we would share our VCS recordings, that was the most difficult time and it was an experience, since then I have been very careful with foreigners who pay more attention".

From the results of the interview above, it can be analyzed that several forms of personal data abuse have been experienced by several Facebook users who live in Ambon City, namely hacking with negative purposes (cracking) spreading of malicious software (malware), such as malware through online advertising (malvertising).) and via the link (link). Delivered by Gunawan and Ratmono (2022: 8), that financial reasons are a common reason someone hacks (hacking/cracking), and hackers (hackers/crackers) see a higher probability of success if they hack accounts with many friends or followers.

Other forms of abuse are also based on the carelessness of the owner (subject) of personal data, which easily disseminates or provides data, as stated by several informants above, namely sharing or providing photos and telephone numbers, via uploads or private messages. Presented by (Rumlus & Hartadi, 2020: 290) misuse in the form of burglary or theft of personal data is influenced by the behavior or culture of people who like to share data and information.

Personal data in the digital era can be likened to the "clothing" of its owner, maintaining the confidentiality of personal data is the same as keeping yourself safe. Data such as full name, telephone number, address, date of birth and age that were previously considered normal to know now need to be protected, especially when surfing social media, this is due to the rise of identity theft, fraud (imposter scams), hacking for the purpose of evil (cracking) which harms both mentally and materially. Various impacts of misuse of personal data are experienced by Facebook users. The following are interviews with several informants regarding the impact of misuse of personal data.

Researcher interview with J Mezach, on 3 February 2023, the results were as follows: "I once participated in a giftaway that was uploaded by a FB friend, he said from Baim Wong, he said I won 10 million Rupiah and then was asked for 750 thousand Rupiah as tax, after I was sent the money, my phone number was blocked, I was conned. The researcher interviewed Army Reresy in an interview on 6 February 2023, the results were as follows: "I felt mentally at a loss, my data was used for borrowing money, then I was terrorized many times, I blocked the number but it was still there, so at that time I think just change the phone number.

From a psychological perspective, victims (owners of personal data) feel uncomfortable, worried, afraid because their personal data is stolen and used illegally, terrorized and blackmailed, and their reputation is tarnished. This is in accordance with what was conveyed by Pangestuti et al., (2020: 64) that misuse of personal data such as identity theft and extortion affects the mental development of victims, namely suffering from depression, excessive anxiety, discomfort in interactions, and other psychological disorders. From a financial point of view, the losses suffered were not small, as one informant said that he had been deceived for up to millions of rupiah. Perpetrators of personal data abuse hide and benefit behind other people's data, while the owner (subject) of personal data bears the negative impact. As Gunawan and Ratmono (2022: 8) say in their book that commercial (business and financial) purposes are the most prominent goals in misusing personal data, perpetrators take advantage of identity theft, account duplication, hacking), to fundraising scams.

Perpetrators of misuse of personal data use other people's data, enjoy the benefits, and wash their hands, while the victim must bear losses for actions that he did not commit. To find out the steps taken by victims to deal with the problem of misuse of personal data on Facebook social media, the following are interviews with several informants. Researcher interview with Yola Ubat, on February 2023, the results were as follows: "Not much was done either, only when I returned to surfing on Facebook, I was more careful about foreign advertisements and links, both via the homepage and messenger chat, because through -

Things that were previously considered trivial were personal data that could be stolen. Interview with Army Reresy, on February 2023, the results are as follows: "If I already know who stole my personal data, I will be sued under the provisions of the ITE Law, regarding the act of collecting and using other people's personal data without permission for profit." Then an interview with JT, on February 2023, the results were as follows: "I dared to cut off contact with him who wanted to share the screenshots of my video call sex, so that I would no longer be blackmailed and threatened, looking for a priest for counseling so that I can be mentally stable, thankfully after a few days he no longer bothered me. I thought about reporting to the police, but I didn't dare because I didn't understand the law, and I was afraid of being judged or the problem going unresolved."

From the results of the interviews above, it can be analyzed that there are victims of misuse of personal data who see it as common for misuse of personal data so that no meaningful preventive or remedial action is taken. This shows the minimal level of awareness of personal data protection (security awareness) and legal literacy, according to Chris, et al (2016: 174) that security awareness enables someone to apply security behavior when using social networks and can understand the importance of protecting privacy data in using social networking sites, also according to Subiakto, (2021:46) that one of the causes is low public awareness of the importance of protecting personal data.

Besides that, there are several steps taken by victims (owners of personal data) when their data is misused for commercial purposes, namely, for victims of identity theft, uploading clarifications and notifications on Facebook social media that all forms of indecent and detrimental acts on behalf of the victim and his personal data is not a victim. This is in accordance with the submission (Ningtias et al., 2017: 121) that clarification on social media can form a positive image and influence public opinion. Victims can also take legal action to follow up on crimes of stealing, collecting and using other people's personal data for profit. Stealing digital personal data is the same as stealing physical objects, which benefits the perpetrator and harms other people (victims). So the act of stealing and using other people's personal data is also a crime and the victim has the right to report to the authorities. This is regulated in the Data Protection Act. Private (Law No. 27 of 2022).

In the researcher's interviews with informants who are victims of personal data abuse for commercial purposes on Facebook social media, it is mentioned things that need to be done and avoided when using social media to prevent personal data from being stolen and misused, the results are as follows: Researcher interview with Irfan Assel on February 2023, the results are as follows: "All you need to do is accept friend requests from people you know and what you need to avoid is logging into your personal account via a friend's computer or cellphone." The researcher interviewed Meike Ahab on February 2023, the results were as follows: "Don't post sensitive information including our children's info, don't tell the age, location and names of parents, especially for foreigners and try not to use full names as usernames." Researcher interview with Eci Sedubun on February 2023, the results are as follows: "Be careful with social media friends who pay more attention to asking questions up to personal matters, including asking for addresses, email addresses with telephone numbers, then if they bother you, you can block them. or report to the platform, sometimes without realizing that person is collecting our data"

Data that is important to protect is also mentioned in Law Number 27 of 2022 concerning Protection of Personal Data (UU PDP), which based on the nature of Personal Data is divided into two types, namely Personal Data that is specific in nature and Personal Data that is general in nature. Specific Personal Data includes: health data and information; biometric data; genetic data; crime record; child data; personal financial data; and/or other

data in accordance with the provisions of laws and regulations. General Personal Data includes: full name; gender; religion; marital status; and/or Personal Data combined to identify an individual. (UU/27/2022).

Legal Protection Efforts for Victims of Misuse of Personal Data for Commercial Purposes on Facebook Social Media

Safeguarding and protecting personal data (personal data) is part of the protection of human rights which is also stipulated in the 1945 Constitution of the Republic of Indonesia (1945 Constitution), namely in Article 28G "Every person has the right to protect himself/herself, family, honor, dignity and property under his control as well as the right to a sense of security and self-protection from the threat of fear to do or not do something is a human right".

Legislation that regulates legal protection for victims of misuse of personal data for commercial purposes on social media in Indonesia is Law Number 27 of 2022 Concerning Personal Data Protection (UU PDP). Before the PDP Law was promulgated on October 17 2022, rules regarding the protection of personal data were regulated partially and sectorally in several regulations, including Law no. 10 of 1998 concerning Amendments to Law no. 7 of 1992 concerning Banking, Law no. 36 of 1999 concerning Telecommunications, Law no. 23 of 2006 concerning Population Administration, Law no. 11 of 2008 concerning Information and Electronic Transactions, Minister of Communication and Informatics No. 20 of 2016 concerning Protection of Personal Data in Electronic Systems and Government Regulation no. 71 of 2019 concerning Implementation of Electronic Systems and transactions.

The rules have been promulgated and the important part now is legal knowledge, so the following are interviews with several informants to find out legal knowledge related to personal data protection. Researcher interview with Nur Huath on 6 February 2023, the results are as follows: "ITE Law". Interview with Eno Jadera on February 2023, the results are as follows: "I never knew that there was a law governing the misuse of personal data". Interview with Yoke Dorkas on February 2023, the results are as follows: "When my personal data is used by another person, I am so angry that I can threaten that person back with Minister of Communication and Informatics Regulation No. 20 of 2016 concerning protection of personal data in electronic systems.

Based on the results of the interviews above, it can be analyzed that some victims of personal data misuse do not know that there are laws that can protect their personal data in digital media. Jannah (2022) also conveyed that digital developments gave birth to new cultures and behaviors, namely uploading various things on social media and making transactions, but this was not balanced with legal literacy regarding the importance of protecting personal data, which resulted in bullying, threats, fraud, and account breaches.

Law Number 27 of 2022 concerning Personal Data Protection contains 16 Chapters and 76 Articles with material including:

- a. Chapter I General Provisions
- b. Chapter II Principles
- c. Chapter III Types of Personal Data
- d. Chapter IV Rights of Personal Data Subjects
- e. Chapter V Processing of Personal Data
- f. Chapter VI Obligations of Personal Data Controllers and Personal Data Processors in the Processing of Personal Data
- g. Chapter VII Transfer of Personal Data
- h. Chapter VIII Administrative Sanctions

- i. Institutional Chapter IX
- j. Chapter X International Cooperation
- k. Chapter XI Community Participation
- l. Chapter XII Dispute Resolution and Procedure Law
- m. Chapter XIII Prohibitions on the Use of Personal Data
- n. Chapter XIV Criminal Provisions
- o. Chapter XV Transitional Provisions
- p. Chapter XVI Closing Provisions

The Personal Data Protection Law summarizes the needs of Indonesian citizens for the protection of their personal data, particularly the rights of Subjects (owners) of Personal Data in Articles 4 to 14 of the Personal Data Protection Law. Researcher interviews with several informants regarding their views on the legal rules for Personal Data Protection on social media, the results are as follows: Researcher interview with JK on February 2023, the results are as follows: our rights are protected, there are obligations attached to the controllers and processors of our data, but it is necessary to pay attention to continuous updating because every time this digital crime comes in various new forms. Researcher interview with Mince Ratuhanrasa on February 2023, the results are as follows: "With the rule of law, it gives awareness to the public of the importance of protecting personal data on social media and can reduce digital crime because there are sanctions and penalties, but hackers can always hack, criminals can always way, so that we as data owners have to be more concerned with our respective data." The researcher interviewed Marina Souhoka, on 8 February 2023, the results were as follows: "Even though the rules are as complete as they are, if the people are not educated, it's still the same. That is, if a criminal knows that a cellphone number can immediately break into an account, let alone Facebook, mobile banking can also do that, social media style that shares everything, for example, posting 'share your WA number please', 'add a contact' is dangerous".

Based on the results of the interview above, it can be analyzed that the laws and regulations governing Personal Data Protection in Indonesia are good enough to meet the legal needs of the community, especially with the promulgation of Law Number 27 of 2022 concerning Personal Data Protection, especially for data subjects (owners) , as regulated in Chapter IV Article 5 to Article 14 of the Personal Data Protection Act. However, the promulgation and enactment of a law does not automatically protect personal data. In interviews with researchers, informants said that education and literacy are the most important, considering that prevention is better than cure. According to Chris, et al (2016: 174) that security awareness enables someone to implement security behavior when using social networks and can understand the importance of protecting privacy data when using social networking sites, also according to Subiakto, (2021: 46) that one of the causes is the low public awareness of the importance of personal data protection.

CONCLUSION

From the results obtained by researchers in the research on Personal Data Misuse for Commercial Purposes on Facebook Social Media as a Digital Crime and Legal Certainty for Users, it can be concluded that: Effects of personal data abuse for commercial purposes on Facebook social media: Several forms of personal data abuse Facebook users have experienced, namely hacking with malicious intent (cracking), malicious software attacks (malware), identity theft, and fraud by fraudsters (imposter scams). or also the negligence and carelessness of the owner (subject) of the personal data. Misuse of personal data has a negative impact financially which can also have an impact on the psychology of the victim,

because they experience intimidation, extortion, damage to their image and reputation. There are two main reasons why victims of personal data misuse do not take any action, namely due to low security awareness or awareness of the importance of protecting personal data, as well as low legal literacy. There are steps taken by the victim, including clarification to restore good name, form a positive image and influence public opinion for victims of theft and falsification of identity on behalf of themselves (victims); seek guidance from spiritual leaders or psychologists for victims who experience intimidation and extortion; and take legal action in accordance with the legal provisions in force in Indonesia. Protecting personal data is key in being careful about sharing information, especially sensitive information that can be used as a unique sign to identify the owner's personal identity, used by digital criminals for profit or for business.

Legal protection efforts for victims of personal data misuse on social media Facebook: Not all victims of personal data abuse are aware of the existence of rules and legal steps that can be taken to protect their personal data, while some of the victims know one or two rules regarding personal data protection, for example the Law Information and Electronic Transaction Law, Ministry of Communication and Informatics Regulation, and Personal Data Protection Act. Laws and regulations discuss rights and obligations, prohibitions, sanctions and penalties, cannot automatically protect personal data so that public education on the importance of protecting personal data will support the protection of personal data.

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