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# Civil Liability of Digital Platforms for Consumer Losses Resulting from Personal Data Breaches

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## Abstract:

The rapid expansion of digital platforms in Indonesia has transformed personal data into a strategic economic asset while increasing the risk of large-scale data breaches affecting consumers. Although Law No. 27 of 2022 on Personal Data Protection has been enacted, the civil liability framework governing digital platforms remains fragmented and doctrinally unclear. This article aims to reconstruct the civil liability model applicable to digital platforms for consumer losses arising from personal data breaches within the Indonesian private law system. This research employs a normative juridical method using statutory, conceptual, and comparative approaches, integrating the Civil Code, the Consumer Protection Law, the Electronic Information and Transactions Law, and the Personal Data Protection Law, complemented by a comparative analysis with the GDPR. The study concludes that digital platforms cannot be regarded merely as neutral intermediaries due to their structural control over data processing and economic exploitation of personal data. The traditional fault-based liability regime under Article 1365 of the Civil Code is insufficient to address evidentiary imbalance and systemic digital risks. This article proposes a reconstructed liability framework based on a risk-based or quasi-strict liability approach, while affirming that limitation-of-liability clauses contradicting mandatory consumer protection norms are legally invalid. The novelty lies in repositioning personal data as a protected civil legal interest and integrating classical private law principles with contemporary digital regulation.

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## Introduction

The digital transformation of commerce and services in Indonesia has fundamentally reshaped the structure of legal relationships between business actors and consumers (Alexander et al., 2025). Digital platforms—including e-commerce

marketplaces, financial technology providers, ride-hailing services, and social commerce intermediaries—no longer operate solely as transactional facilitators (Wahid et al., 2025). They function as data-driven infrastructures whose primary economic value derives from the systematic collection, processing, storage, and commercialization of personal data (Alhiniti et al., 2025). Consequently, personal data has emerged as a strategic intangible asset, embodying both economic significance and a protected legal interest (Pasaribu et al., 2024).

However, the exponential expansion of data-based transactions has intensified systemic vulnerabilities within the digital ecosystem. Large-scale personal data breaches affecting millions of Indonesian consumers reveal a structural imbalance: consumers must surrender personal information to access services, yet they hold minimal bargaining power regarding its management and security (Wilson et al., 2025). When breaches occur—whether due to cyberattacks, negligence, internal misconduct, or inadequate safeguards—the resulting harm transcends financial loss and includes reputational damage, identity misuse, and enduring privacy risks (Deepanshu et al., 2026). These conditions raise a fundamental civil law question: to what extent should digital platforms bear responsibility for consumer losses arising from personal data violations? (Satria et al., 2025).

Indonesian law presents a fragmented normative framework. The Civil Code establishes doctrines of contractual liability and tort liability. The Consumer Protection Law emphasizes accountability and balance (Fathur, 2020). The Electronic Information and Transactions Law regulates electronic systems, while the Personal Data Protection Law reinforces data processing obligations. Yet, none provides a coherent civil liability model tailored to digital platforms as data controllers and economic intermediaries. The coexistence of these regimes generates doctrinal ambiguity regarding the appropriate legal basis of responsibility (Putri, 2021).

Prior scholarship has predominantly examined personal data protection from regulatory and administrative perspectives, focusing on compliance and state supervision. Limited attention has been devoted to civil responsibility and compensatory justice, particularly concerning the tension between limitation-of-liability clauses in platform contracts and mandatory consumer protection norms (Zainutdinova, 2025). Traditional civil liability doctrines, developed in an era of bilateral negotiation and tangible harm, require reconstruction to address algorithmic governance and systemic digital risk (Wilson et al., 2025).

This research reconstructs the civil liability framework applicable to digital platforms in cases of consumer losses caused by personal data breaches. Its novelty lies in repositioning personal data as a protected civil legal interest, critically assessing fault-based liability, exploring risk-based alternatives, and evaluating the enforceability of contractual limitation clauses. Through doctrinal integration and qualitative normative analysis, this study seeks to bridge classical private law principles with contemporary digital realities .

Accordingly, this research addresses the following questions: (1) How should civil liability of digital platforms be constructed under Indonesian private law when consumer losses arise from personal data breaches? (2) Is the fault-based liability regime sufficient, or is a risk-based or strict liability approach more appropriate to ensure legal certainty and effective consumer protection within the digital platform ecosystem?.

## Methods

The research adopts a statutory approach by examining primary legal sources, including the Civil Code (KUHPerdata), the Consumer Protection Law, the Electronic Information and Transactions Law, and Law No. 27 of 2022 on Personal Data Protection (Alam et al., 2022). These instruments are analyzed to identify the existing foundations of contractual liability, tort liability, and statutory obligations concerning personal data processing and consumer protection. In addition, a conceptual approach is applied to explore theoretical constructions of civil liability, particularly fault-based liability, strict liability, and risk-based liability within the context of digital platform governance (Saharany, 2025). This approach enables a critical assessment of whether traditional private law doctrines remain adequate in addressing systemic digital risks and asymmetrical information structures (Bidasari et al., 2025).

The study is further complemented by a comparative approach, referencing principles embodied in the General Data Protection Regulation (GDPR) to evaluate alternative models of accountability and compensation. Comparative analysis is used not for transplantation purposes but to enrich doctrinal reconstruction within the Indonesian legal framework. Legal materials are analyzed qualitatively through systematic interpretation, doctrinal synthesis, and normative argumentation. The outcome of this method is the formulation of a reconstructed civil liability model that integrates contractual, tort, and statutory dimensions in responding to personal data breach disputes within the digital platform ecosystem (Sinduningrum et al., 2023).

## Results

### 1. Civil Liability Construction of Digital Platforms in Personal Data Breach Cases

This study establishes that digital platforms cannot be positioned merely as passive or neutral intermediaries. Their operational architecture—characterized by algorithmic governance, centralized data control, and standardized contractual frameworks—generates inherent systemic risks to personal data security (Pardede et al., 2024). Within the Indonesian legal system, such structural control must be interpreted in light of Article 1365 of the Civil Code concerning unlawful acts, as well as Article 19 of Law No. 8 of 1999 on Consumer Protection, which obligates business actors to compensate consumer losses. Moreover, Law No. 27 of 2022 on Personal Data Protection (PDP Law) imposes explicit duties upon data controllers to ensure confidentiality, integrity, and availability of personal data (Latumahinna, 2014). Although the PDP Law strengthens regulatory accountability, it does not fully articulate the civil liability consequences of data breaches. This research therefore argues that the dominant position and infrastructural control exercised by digital platforms justify an expanded attribution of civil responsibility beyond classical fault-based doctrines. Unlike prior studies that emphasize administrative compliance, this research centers civil remedies as the primary mechanism of consumer protection (Sitorus et al., 2025).

### 2. Harmonization of Civil Code, Consumer Protection Law, and PDP Law

- **Contractual Liability (Wanprestasi)**

Articles 1239 and 1243 of the Civil Code provide that failure to fulfill contractual obligations gives rise to liability for damages. Digital platforms commonly promise data protection through privacy policies and terms of service. Failure to implement adequate safeguards may therefore constitute breach of contract (wanprestasi) (Najah et al.,

2025). However, standardized contracts and unilateral drafting create structural imbalance. This study finds that contractual autonomy under Article 1338 of the Civil Code must be interpreted consistently with Article 18 of the Consumer Protection Law, which invalidates exoneration clauses limiting business liability (Sirait et al., 2025).

- **Tort Liability (Perbuatan Melawan Hukum)**

Article 1365 of the Civil Code offers an alternative basis for claims where unlawful conduct causes harm. In data breach cases, inadequate cybersecurity, failure to supervise third-party processors, or delayed notification may satisfy the elements of unlawful act. Compared to earlier research focusing predominantly on contractual analysis, this study highlights the strategic importance of tort-based claims, particularly when harm exceeds contractual boundaries (Wahid et al., 2025).

- **The PDP Law as a Normative Reinforcement**

While primarily regulatory, the PDP Law establishes statutory duties that may function as benchmarks for assessing negligence in civil proceedings. Breach of these statutory obligations strengthens arguments under Article 1365. This integrative approach differs from previous scholarship that treated data protection law as detached from civil doctrine (Susianto et al., 2025).

## 3. Evaluation of the Appropriate Liability Model

- **Limitations of Pure Fault-Based Liability**

Exclusive reliance on fault-based liability presents evidentiary obstacles. The technological opacity of digital systems places consumers at a disadvantage in proving negligence. Such imbalance undermines the protective objectives of consumer law (Ferdiansyah et al., 2025).

- **Justification for Risk-Based Liability**

Given that platforms economically benefit from personal data exploitation, a risk-based or quasi-strict liability approach is doctrinally justified. Those who create and control systemic risk should bear its consequences. This reconstruction advances beyond prior literature by proposing liability irrespective of fault in cases of systemic data governance failure (Rumbruren et al., 2025).

## 4. Invalidity of Limitation-of-Liability Clauses

Article 18 of the Consumer Protection Law prohibits clauses that eliminate or transfer responsibility. Limitation clauses frequently embedded in digital contracts must therefore be deemed null and void when contradicting mandatory consumer protection norms. Contractual freedom cannot supersede statutory safeguards (Sirait, 2025).

## 5. Policy Implications

Regulatory harmonization under the PDP Law should clarify civil consequences of data breaches. Adoption of a presumption of liability mechanism would address evidentiary asymmetry. Judicial guidelines from the Supreme Court could ensure doctrinal consistency. Furthermore, mandatory cybersecurity standards should be linked to potential civil exposure (Deepanshu et al., 2026).

## 6. Doctrinal Contribution

This research advances beyond compliance-oriented studies by placing civil liability at the center of digital consumer protection (Saharany, 2025). By integrating

Articles 1338 and 1365 of the Civil Code, the Consumer Protection Law, the Electronic Information and Transactions Law, and the PDP Law into a unified doctrinal framework, this study contributes to the modernization of Indonesian private law (Sinduningrum et al., 2023). The proposed risk-based reconstruction aligns legal development with technological transformation, reinforcing substantive justice, legal certainty, and effective consumer protection within the digital economy (Alam et al., 2022).

## Conclusion

This research sought to reconstruct the civil liability regime governing digital platforms when consumers suffer losses due to personal data breaches within the Indonesian private law system. Through doctrinal harmonization of the Civil Code, the Consumer Protection Law, and the Personal Data Protection Law, the study establishes that digital platforms cannot be treated as passive intermediaries in the digital ecosystem. Their structural dominance over data processing infrastructures and their economic reliance on personal data exploitation warrant the imposition of direct civil responsibility. Although Article 1365 of the Civil Code provides a foundation for fault-based liability, its traditional formulation is inadequate to respond to the systemic, technological, and infrastructural risks inherent in platform governance. Information asymmetry and evidentiary imbalance further weaken consumers' ability to seek redress. Accordingly, this study argues for a reconstructed liability model grounded in a risk-based or strict liability approach, supported by statutory obligations under the Personal Data Protection Law and mandatory consumer protection norms.

Moreover, limitation-of-liability clauses frequently incorporated into platform contracts cannot supersede mandatory statutory protections. Contractual freedom under Article 1338 of the Civil Code must be exercised within the boundaries of consumer protection principles, rendering exoneration clauses legally invalid where they diminish accountability for data breaches. From a comparative standpoint, principles reflected in the GDPR—particularly accountability, controller responsibility, and effective remedies—confirm that civil liability constitutes a core enforcement mechanism in modern data protection regimes. Indonesian private law, through doctrinal reconstruction, possesses the normative capacity to adopt a similarly protective orientation while maintaining its civil law foundations. Ultimately, a hybrid liability framework integrating contractual, tort, and statutory elements, reinforced by a presumption or risk-based model, is essential to ensure effective consumer protection, legal certainty, and doctrinal coherence in the digital economy.

## Suggestion

Building upon the doctrinal reconstruction and comparative insights developed in this study, several strategic measures are proposed to reinforce civil liability mechanisms applicable to digital platforms in personal data breach cases.

1. First, legislative refinement is required to clarify the civil consequences under Law No. 27 of 2022 on Personal Data Protection. Implementing regulations should expressly affirm the right of data subjects to seek compensation and establish clearer parameters regarding burden of proof, categories of compensable damages—including non-material harm—and the distribution of liability between data controllers and processors. Such regulatory precision would strengthen legal certainty and minimize divergent judicial interpretations.
2. Second, policymakers should consider adopting a rebuttable presumption of

liability for digital platforms. Given the platforms' superior technical knowledge and control over data infrastructures, shifting the evidentiary burden would enhance procedural fairness and align liability with principles of risk allocation. This approach preserves the opportunity for defense while requiring platforms to demonstrate compliance and due diligence.

3. Third, the Supreme Court (Mahkamah Agung) should formulate judicial guidelines to harmonize the interpretation of Article 1365 of the Civil Code, Articles 18 and 19 of the Consumer Protection Law, and relevant provisions of the PDP Law. Consistent interpretative guidance would promote doctrinal coherence and reduce inconsistency in adjudicating digital data disputes.
4. Fourth, regulatory authorities should link administrative compliance standards with potential civil liability exposure. Clearly defined cybersecurity benchmarks, transparent breach notification obligations, and documentation requirements would not only prevent harm but also serve as evidentiary standards in litigation.
5. Fifth, digital platforms should strengthen internal governance through rigorous data protection impact assessments, independent audits, and transparent contractual practices. Eliminating unfair limitation clauses and providing accessible dispute resolution mechanisms would mitigate legal risk and enhance consumer trust.

Collectively, these recommendations seek to establish a balanced liability framework that sustains digital innovation while ensuring robust and enforceable consumer protection. Through coordinated legislative, judicial, and regulatory reform, Indonesia can modernize its civil law doctrine to effectively address the structural risks inherent in data-driven platform economies.

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