

# **Juridical Analysis Of The Misuse Of Personal Data In The Use Of Deepfake According To The Civil Law Perspective**

Iren Tina Ginting<sup>1</sup>, Budiman N.P.D. Sinaga<sup>2</sup>, Samuel F. Boris Situmorang

<sup>1</sup>(Faculty Of Law, University Of HKBP Nommensen, Medan, North Sumatera, Indonesia.)

<sup>2</sup>(Faculty Of Law, University Of HKBP Nommensen, Medan, North Sumatera, Indonesia.)

<sup>3</sup>(Faculty Of Law, University Of HKBP Nommensen, Medan, North Sumatera, Indonesia.)

---

## **Abstract:**

*The development of increasingly sophisticated technology does not close the boundaries for the emergence of artificial intelligence technology added to a system. This AI technology will make the system have an amazing way of working because it can imitate human intelligence. One of these artificial intelligence technologies is deepfake. Deepfake itself is a type of artificial intelligence designed to edit an image, audio, or video to make it look true and real. Initially deepfake was used well in the entertainment world such as in filmmaking but over time its benefits were misused, this certainly has an impact on a person's personal data. Therefore, this research aims to find out how civil law participates in handling this problem by knowing whether the misuse of personal data in deepfake can be categorized as a tort or not in civil law. This research uses normative juridical research methods by examining legal rules in Civil law. The results of this study provide an explanation that the misuse of personal data in the use of deepfake can be categorized as a tort in Civil Law.*

**Key Word:** Civil Law; Deepfake Technology; Personal Data; Wrongful Act.

Date of Submission: 12-02-2025

Date of Acceptance: 22-02-2025

---

## **I. Introduction**

Technology in the current era of globalization cannot be underestimated, the existence of sophisticated technology is visual evidence of generation Z growing up in a very rapidly developing world. According to the **Indonesian Dictionary KBBI** gives an understanding of technology as an applied science that becomes a method in the overall means of providing something needed to fulfill human survival.

The beginning of technology was created to help facilitate all human work, the development of technology, especially information and communication technology, provides openness regarding human relations in every part of the world. This is evident from the easy access to information via the internet from anywhere, technology has become a very broad human connection tool that penetrates the boundaries of distance, space and time.

The presence of technology has greatly facilitated human life. Starting from small children, young people, adults and even parents are users of technology because technology from every aspect has many main functions, such as information and communication functions, education, health, business, entertainment, transportation, scientific research, as well as functions in the fields of government and national defense and security functions.

Speaking of technology, there is currently a popular one called Deepfake which is part of artificial intelligence. Artificial intelligence (AI) is designed to simulate human intelligence by relying on algorithms to get results that may or may not have anything to do with human goals or the means to get those results. Artificial intelligence technology in its design has a special way and approach to develop systems that are able to imitate humans as if thinking and learning, namely machine learning systems, artificial neural network systems, natural language processing systems, and knowledge-based systems that are made to be able to store, analyze and process data and act as helpers in solving problems using a knowledge base.

While deepfake is an artificial intelligence designed to process existing data into new data in the form of images, videos, or audio by giving a touch of variation in edits that make the data look original and real like it's not easy to believe that it's really an edit. Deepfake is a subset of deep learning that features complex artificial neural networks and uses machine learning algorithms to combine and enhance each feature in a file to produce an image, video, or audio. Deepfake is also trained using multiple images or videos to produce edits that look real and is also designed using algorithms that will continue to evolve and become more sophisticated.

There are many applications that can be done using deepfake, including being able to make videos by manipulating the faces in the video by editing to replace the face with another face, can also make synthetic

sounds that sound very similar to a person's original voice (manipulating audio), and can also turn text into video where the editing makes someone in the video say sentences that match the text.

The concept of manipulation in deepfakes dates back decades. Since the 1990s, Adobe Photoshop software has been used by people to edit images. Also, the movie industry used to use visual editing technology to create realistic visual effects in movies, but it was a long process that required a lot of money and good editing skills. Then in the early 2010s, the development of AI in machine learning brought rapid progress, one of which was the Generative Adversarial Networks (GANs) system introduced in 2014 by Ian Goodfellow. GANs is an algorithm designed to allow computers to capture and process patterns from existing data into new data.

The term deepfake itself became popular in 2017, citing The Guardian where a Reddit user uploaded a fake porn video edited by developing a GANs system through TensorFlow software. In this video, the player's face is replaced with the face of someone famous in the entertainment world. In the beginning, the use of deepfakes was intended for entertainment and creativity, such as in filmmaking, deepfakes were used to edit actors' faces mainly for reasons when the original actors were not available and to create cool visual effects in movies or videos. Another example is the use of deepfakes to create parody or comedy videos with other people's faces by adding funny effects.

There are many applications that can be done with the use of this technology, the way it works is amazing, of course this makes it a great opportunity for deepfake abuse, especially since this editing requires images and voices of someone who is the person's personal data. If you pay attention to the rampant cases of misuse of personal data in the use of deepfake. A lot of edited content is found where someone in the edited video is doing or saying something that is not true but seems to be true even though if you look at the original video, the person is not doing or saying what is in the video. That is how this system works by processing existing data to produce new data with edits. This phenomenon provides the fact that the danger of deepfake abuse is very large and broad in the sense that it is able to spread invalid information that can damage a person's reputation, damage his social relationships and even be able to damage his political stability which can be very threatening because every element used is personal data such as images and voices of a person.

There are several studies with similar topics, namely about deepfake. In these studies, some discuss deepfake with a criminal law review, some discuss the scope of abuse of online loan services, some discuss how to present alternative prevention through legal instruments to minimize the spread of deepfake videos, some from a criminological review, and about the role of criminal law in addressing the development and abuse of deepfake. In contrast to these studies, this research will discuss how civil law provides legal protection for the problems that occur in the misuse of personal data in the use of deepfake by categorizing it into a tort.

## **II. Material And Methods**

The author in conducting this research uses a normative legal research method by taking a statutory approach to relate the problem to the governing regulations and conceptual approaches such as how the author analyzes how deepfake works which can be a loophole for committing unlawful acts. This research uses primary legal sources derived from the Act and uses secondary legal sources derived from legal journals and the results of previous legal research that are relevant as references and uses tertiary legal materials in the form of dictionaries and encyclopedias and the author in terms of data collection techniques using literature studies (library research).

## **III. Result**

### **Classification of Personal Data Misuse as a Wrongful Act and the Provisions of Civil Code Regulation**

When viewed from Criminal law and Civil law, unlawful acts have different meanings although they contain the same concept, namely the existence of actions that are considered to violate existing and applicable laws. The Indonesian Wikipedia defines unlawful acts in the civil context as any act that occurs with the result of causing harm to another person who makes him a victim can sue the person who committed the act to obtain a civil remedy by obtaining compensation. Wiryono Prodjodikoro as a legal expert also gives the definition of tort as an act that results in an unstable situation in the pattern of society and even the consequences can hit other aspects if the rules and norms in society are not obeyed.

The definition of unlawful act in the content of **Article 1365 of the Civil Code** is “**Every unlawful act, which brings harm to another, obliges the person who through his fault causes the loss, to compensate for the loss.**” From this, it can be concluded that a person who commits an act that is contrary to the law and makes another person suffer a loss due to this act, then that person is entitled to compensation for the losses experienced.

The category of unlawful acts in the Civil Code is divided into three, namely:

1. Unlawful acts that occur because there is an intention to commit the act intentionally (**Article 1365 of the Civil Code**);
2. Unlawful acts that occur due to the negligence of the acting party even though there is no intention to commit it intentionally (**Article 1366 of the Civil Code**);

3. Unlawful acts that occur without any element of fault such as intentionality or negligence (**Article 1367 of the Civil Code**).

P.N.H. Simajuntak, S.H. in his book entitled “**Indonesian Civil Law**” provides an explanation of the elements that must be met for an act to be considered against the law as follows:

- a) The act must be unlawful, meaning that it is against the legal obligation of the actor and against the property rights of others, as well as against decency and right.
- b) The act must cause loss, the loss in question can be in the form of material loss and immaterial loss which is not only loss to property, but also loss to the physical, mental, and dignity of a person.
- c) The act must be committed with fault, meaning that the act contains fault even if it is due to negligence or intent.
- d) The act must have a causal relationship, meaning that the loss incurred must have a reasonable connection to the act that has been committed.

The categorization of an act to be called an unlawful act must fulfill each of these elements. The misuse of personal data in the use of deepfake is considered an illegal act that violates the law because deepfake in its concept of application uses images, audio, or video belonging to someone. The misappropriating party in this case acts in wrongdoing in violation of its obligations regarding obtaining permission for the collection and use of one's personal data and also violates one's subjective rights regarding the right to protection of one's data.

An act committed by one person against another such as a party who misuses another person's personal data to be edited with deepfake in order to produce an edit that aims to seek personal gain or to defame the person is a tort because it is concluded that the act results in harm to the victim. Loss in civil law is divided into two, namely material loss and immaterial loss. Material loss itself is defined as a loss that can be calculated with a unit of currency while immaterial loss is a loss that cannot be calculated with a unit of currency (priceless). Also because of the causality of the cause and effect relationship between the act of misuse of data in the use of deepfake with the consequences of losses arising after the act.

The increasingly widespread use of deepfakes without proper and good ways, it will provide a serious danger due to the use that is led by false information with a global distribution that has the potential to influence people's views on an issue in the future. This technology converts old data into new data that is so similar that the edits look like the original. This has an impact on society which will find it difficult to believe in something that really happens later because it has indirectly affected human psychology, not only for victims who enjoy the use of this technology but also for victims whose data is used by the abuser by certainly giving feelings of fear, worry, and stressful thoughts to their victims.

The definition of personal data according to **Law Number 27 of 2022 concerning Personal Data Protection** is “**data about individuals who are identified or can be identified individually or combined with other information either directly or indirectly through electronic or non-electronic systems**”. Personal data is something that is the absolute property of every person. **Article 2 of the Civil Code** explains that even a child who is still in the womb of a woman is considered a legal subject who has rights and obligations, which is why personal data is something sensitive to be protected because it has been attached since the beginning in the womb.

In fact, it can be said that personal data is the right to privacy for everyone which makes everyone have authority regarding their personal data such as determining which of their personal data can be shared with the public, determining the limits of using their data, knowing who can access their data, and being authorized to change or delete their data which is deemed inappropriate and this aims to maintain the dignity of each person and is the basis for many human rights. The rapid development of technology plus the internet that supports fast and wide coverage has the potential for many crimes, one of which is the misuse of personal data in the use of deepfake. That is why it is necessary to protect everyone's personal data as a protection of privacy rights.

The right to privacy is a key right that is essential to the autonomy of every person and is the basis on which human rights stand. Privacy allows each person to set limits on the management of his or her data to protect oneself from unwanted intrusions, so that one can determine the identity given when interacting with others. Privacy protection regulations legitimize rights and are essential to protect against overall harm.

**Article 4 paragraph (1) and paragraph (2) of Law Number 27 of 2022 concerning Personal Data Protection** divides personal data into two, namely specific personal data and general personal data. Then there are more parts included in specific personal data which include data and information about health, biometric data, genetic data, crime records, child data, personal financial data, and / or other personal data in accordance with statutory provisions. Then also the type of personal data that is general in nature also has parts in it which include such as full name, gender, nationality, religion, marital status, and/or personal data combined to identify a person.

**Law Number 27 of 2022 concerning Personal Data Protection** explains **Article 4 paragraph (2) letter b** which states, “**What is meant by ‘biometric data’ is data relating to the physical, physiological, or behavioral characteristics of individuals that allow unique identification of individuals, such as facial images or dactyloscopy data. Biometric data also describes the uniqueness and/or characteristics of a**

**person that must be preserved and maintained, including but not limited to fingerprint records, eye retina, and DNA samples**". On this basis, it is concluded that images, audio, or video include biometric data and the misuse of biometric data is a serious violation of a person's privacy. **Law Number 27 of 2022 concerning Personal Data Protection Article 65 paragraph (1)** states, "Every Person is prohibited from unlawfully obtaining or collecting Personal Data that does not belong to them with the intention of benefiting themselves or others which may result in harm to the Personal Data Subject." and **paragraph (3)** states, "Every Person is prohibited from unlawfully using Personal Data that does not belong to them". This means that the law prohibits anyone from taking personal data that does not belong to them without permission and even using it with the aim of gaining profit and harming the person whose data is taken and misused.

Examples of cases of misuse of personal data in the use of deepfake quoted from KOMPAS.com news:

The hoax video of President Prabowo that has been viral on social media since October 02, 2024, states that President Prabowo will distribute aid in the form of fifty million rupiah if you follow his social media account. And it is stated that the condition for claiming the assistance is to pay a sum of money via transfer to the account number given by the perpetrator as an administrative fee for the recipient of the assistance. The perpetrator succeeded in deceiving eleven victims identified by Dittipidsiber Bareskrim Polri and made a profit of thirty million rupiah in the last four months. The hoax video was edited using deepfake which processes data from old videos. In fact, the original video was in 2019 where President Prabowo wished a happy birthday to one of his colleagues who was aired on his personal tiktok account.

Analyzed from the case example above, the actions taken by the perpetrator certainly cause harm to others, including the person whose data is used. In terms of civil law to claim the acquisition of compensation, who can do so only depends on who has intellectual property rights related to copyright in the production of images, audio, or video taken and used by the abuser in editing the deepfake.

As stated by Prof. Tim Lindsey, B.A, LLB, Blitt, Ph.D. and several other legal experts (2011) in his book entitled "**INTELLECTUAL PROPERTY RIGHTS An Introduction**" gives the definition of intellectual property rights as personal property that can be owned and treated the same as other forms of wealth. Intellectual property itself is defined as everything that is the result of the production of human intelligence in the form of technology, science, art, written works, music, designs, inventions and trademarks and regarding copyright, this right is included in one of the branches of IPR. In **Law No. 28 of 2014 on Copyright Article 1 number 1** defines, "**copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a creation is realized in real form without reducing restrictions in accordance with the provisions of the legislation**".

In civil analysis, copyright which is part of the IPR branch can be referred to as property rights. According to Prof. Sri Soedewi Masjchoen Sofwan, property rights is the absolute right of a person to have full power directly over an object where this right should be protected from any interference and anyone. Copyright includes property rights which is a right in civil law that gives full authority over an object that can be defended. The Civil Code does not specifically regulate copyright, but regulates property rights in general which includes property rights. This is supported by **the Civil Code Article 499** which states, "**According to the understanding of the law called property is, every item and every right, which can be controlled by property rights.**" This means that all goods and all rights owned by a person are referred to as property rights.

Also in **Article 500 of the Civil Code** which states, "**Everything that by law of attachment is included in a property, as well as all the results of that property, whether the results of nature, or the results of people's work, as long as the latter are attached to the property like branches and roots adhered to the ground, all of them are part of the property**". This means that whatever is attached and connected to property is automatically called part of that property.

Civil law gives full authority to the owner of the property to have power over the property as long as it does not conflict with laws and regulations and the owner of the property has the right to protect the privacy of his personal data in any way, as supported in the statement of **Law Number 27 of 2022 concerning Personal Data Protection Article 12 paragraph (1)** contains: "**The Personal Data Subject has the right to sue and receive compensation for violations of the processing of Personal Data about him in accordance with the provisions of laws and regulations**".

Legal liability for misuse of personal data in the use of deepfake can be reviewed through the perspective of civil law, especially in the context of unlawful acts as regulated in **Article 1365 of the Civil Code**. Unlawful acts in this context include the unauthorized use of personal data in the use of deepfake which can cause material and immaterial losses including defamation. The law provides protection against defamation by making legal products in the form of the **Civil Code Articles 1372-1380** which regulate compensation for defamation. The purpose of prosecution in the Civil Code in each of these articles is to obtain compensation and restoration to the original.

#### IV. Conclusion

This research answers that the misuse of a person's personal data in the use of deepfake can be reviewed from the application of civil law. This can be seen from how the misuse can be said to be a tort in the Civil Code. This misuse of technology has legal consequences for both the victim whose data is misused and the person who accidentally becomes a direct victim by trusting and consuming edits from artificial intelligence technology. Civil law also provides protection by allowing the victim to sue the perpetrator with the aim of obtaining compensation for material and immaterial losses.

#### References

- [1]. Apriani, T. (2021). Konsep Ganti Rugi Dalam Perbuatan Melawan Hukum Dan Wanprestasi Serta Sistem Pengaturannya Dalam Kuh Perdata. *Ganec Swara*, 15(1), 929-934.
- [2]. Heriyana, I. M., Dewi, A.A.S., & Ujjanti, N. M. P. (2020). Gugatan Ganti Kerugian Dalam Kasus Pencemaran Nama Baik Menurut Undang-Undang Hukum Perdata. *Jurnal Preferensi Hukum*, 1(1), 86-90.
- [3]. [https://id.wikipedia.org/wiki/Perbuatan\\_Melawan\\_Hukum#:~:Text=Yaitu%20perbuatan%20yang%20dilakukan%20bertentangan,Untuk%20memperhatikan%20kepentingan%20orang%20lain](https://id.wikipedia.org/wiki/Perbuatan_Melawan_Hukum#:~:Text=Yaitu%20perbuatan%20yang%20dilakukan%20bertentangan,Untuk%20memperhatikan%20kepentingan%20orang%20lain). Accessed On February 01, 2025.
- [4]. Indonesia, Kementerian Pendidikan Dan Kebudayaan Republik. (2016). Badan Pengembangan Dan Pembinaan Bahasa, Kementerian Pendidikan, Kebudayaan, Riset, Dan Teknologi Republik Indonesia. *The Big Indonesian Dictionary*.
- [5]. Ismail, Dkk. (2024). *Bahaya Deepfake Ai Dan Bagaimana Dampak Negative Di Berbagai Negara*. Jakarta: Tempo Publishing.
- [6]. Khusna, I. H., & Pangestuti, S. (2019). Deepfake, Tantangan Baru Untuk Netizen (Deepfake A New Challenge For Netizen). *Promedia (Public Relation Dan Media Komunikasi)*, 5(2).
- [7]. Civil Law Code
- [8]. Latifiani, D., Azzahra, A. F., & Triwanida, O. (2022). Pentingnya Hak Kekayaan Intelektual Sebagai Hak Benda Bagi Hak Cipta Atau Merk Perusahaan. *Supremasi Hukum. Jurnal Penelitian Hukum* 31.1 (2022): 66-74.
- [9]. Law Number 27 Of 2022 In Personal Data Protection.
- [10]. Law Number 28 Of 2014 Concerning Copyright.
- [11]. Lee, P. Y. K., Ma, N. F., Kim, I. J., & Yoon, D. (2023). Speculating On Risks Of Ai Clones To Selfhood And Relationships: Doppelganger-Phobia, Identity Fragmentation, And Living Memories. *Proceedings Of The Acm On Human-Computer Interaction*, 7(Cscw1), 1-28.
- [12]. Lindsey, T., Em Dr Eddy Damian, S.H., Butt, S., Utomo, T. S., & Sh, L. M. (Eds.). (2022). *Hak Kekayaan Intelektual, Suatu Pengantar Edisi Kedua*. Penerbit Alumni.
- [13]. Novyanti, H., & Astuti, P. (2021). Jerat Hukum Penyalahgunaan Aplikasi Deepfake Ditinjau Dari Hukum Pidana. *Novum: Jurnal Hukum*, 31-40.
- [14]. Rifky, S., Kharisma, L. P. I., Afendi, H. A. R., Napitupulu, S., Ulina, M., Lestari, W. S., ... & Rizal, A. A. (2024). *Artificial Intelligence: Teori Dan Penerapan Ai Di Berbagai Bidang*. Pt. Sonpedia Publishing Indonesia.
- [15]. Santoso, J. T. (2023). *Kecerdasan Buatan (Artificial Intelligence)*. Semarang: Yayasan Prima.
- [16]. Sari, E. W., (2022). *Tinjauan Yuridis Perbuatan Melawan Hukum Dalam Perjanjian Jual Beli Tanah*. Skripsi, Fakultas Hukum, Universitas Islam Sultan Agung.
- [17]. Shen, T., Liu, R., Bai, J., & Li, Z. (2018). 'Deep Fake' Using Generative Adversarial Networks (Gan). *Noiselab, University Of California, San Diego*.
- [18]. Simajuntak, P. N. H., (2015). *Hukum Perdata Indonesia*. Jakarta: Pt Kharisma Putra Utama, Prenamedia Group.
- [19]. Sofwan, S. S. M., & Perdata, H. (1981). *Hukum Benda Cet. Ke-4. Liberty*, Yogyakarta.
- [20]. Suharyanti, N. P. N., & Sutrisni, N. K. (2021). Urgensi Perlindungan Data Pribadi Dalam Menjamin Hak Privasi Masyarakat. In *Prosiding Seminar Nasional Fakultas Hukum Universitas Mahasaraswati Denpasar 2020 (Vol. 1, No. 1, Pp. 119-134)*.
- [21]. Untung, B., (2012). *Hukum Dan Etika Bisnis: Dilengkapi Studi Kasus Dan Uu*.
- [22]. Wojewidka, J., (2020). The Deepfake Threat To Face Biometrics. *Biometric Technology Today*, 2020(2), 5-7.