

Civil Liability for Losses Resulting From the Use of Artificial Intelligence

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Abstract. This study aims to discuss whether Artificial Intelligence (AI) can be held liable for causing harm, and to explore the civil liability mechanisms applicable in such cases. The research method used is normative legal research with a legislative and conceptual approach. Legal materials were collected through a literature review of relevant laws, regulations, and legal documents, and the data was analyzed using qualitative descriptive data analysis methods. The results of the study show that that AI cannot be held liable, as it is not a legal subject but a legal object. Civil liability is imposed on the owner or party controlling the AI based on Articles 1365 and 1367 of the Civil Code. This liability can be imposed absolutely (strict liability). This study suggests that the government needs to immediately formulate specific regulations governing the use of AI and accountability for losses caused by Artificial Intelligence technology, and that users and owners of AI technology need to be more careful and wiser in using artificial intelligence technology.

Keywords: Artificial Intelligence, civil liability, legal object, loss, strict liability

Abstrak. Penelitian ini bertujuan untuk membahas mengenai apakah Artificial Intelligence (AI) dapat dimintai pertanggungjawaban apabila menimbulkan kerugian, serta bagaimana mekanisme tanggung jawab perdata terhadap kerugian tersebut. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Teknik pengumpulan bahan hukum dilakukan melalui studi pustaka terhadap peraturan perundang-undangan, literatur, dan dokumen hukum yang relevan, data dianalisis dengan menggunakan metode analisis data deskriptif kualitatif. Hasil penelitian menunjukkan bahwa AI tidak dapat dimintai pertanggungjawaban karena tidak termasuk subjek hukum, melainkan objek hukum. Pertanggungjawaban perdata dikenakan kepada pemilik atau pihak yang mengendalikan AI berdasarkan Pasal 1365 dan Pasal 1367 KUHPerdata. Tanggung jawab ini dapat dikenakan secara mutlak (strict liability). Saran dari penelitian ini Pemerintah perlu segera merumuskan regulasi khusus yang mengatur tentang penggunaan AI, serta Pengguna dan pemilik teknologi AI perlu untuk bersikap lebih berhati-hati dan bijak dalam menggunakan teknologi kecerdasan buatan.

Kata kunci: Artificial Intelligence, pertanggungjawaban perdata, objek hukum, kerugian, strict liability.

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INTRODUCTION

Artificial intelligence originated from computer science that aims to develop systems and machines that can perform their tasks systematically based on data input by programmers, as well as incorporating algorithmic and mathematical systems that enable Artificial Intelligence to analyze and make its own decisions beyond the data input by Artificial Intelligence programmers.¹ Artificial intelligence has the ability to change the way we live, interact, and work. In Indonesia itself, AI technology is already widely used in various sectors. For example, PT Telkom Indonesia has implemented AI in customer service through chatbots that can handle various questions and complaints. In addition, companies such as Gojek use AI to optimize transportation and delivery services.² This technology not only improves efficiency and productivity in various sectors but also raises complex legal challenges. The use of Artificial Intelligence technology itself raises many legal issues, both in terms of legal norms and positive law in various countries, as well as international law involving several sub-branches such as human rights, criminal law, personal data protection law, international trade, transportation law, labor law, humanitarian law, etc³, especially in terms of civil liability. In situations where Artificial Intelligence can cause losses, both material and immaterial, it is important to understand how existing legal principles can be applied.

Artificial Intelligence can do acts like humans do even though it is limited to certain acts, where the acts performed can cause losses. In civil law, the person who can be held responsible is the person or legal entity that is the subject of the law. The requirements for being a legal subject are to have an identity and domicile as well as legal skill. Artificial Intelligence does not qualify as a legal subject, and in Indonesia

¹ Paulus Wisnu Yudoprakoso, “Kecerdasan Buatan (Artificial Intelligence) Sebagai Alat Bantu Proses Penyusunan Undang-Undang dalam Upaya Menghadapi Revolusi Industri 4.0 di Indonesia”, *Simposium Hukum Indonesia*, Vol.1 No.1, 2019: 454.

² Arie Lukihardianti, *PT Telkom Buat BigAssistant Jadi Solusi Chatbot AI Ciptakan Interaksi Lebih Efisien*, <https://rejabar.republika.co.id/berita/skqdig512/pt-telkom-buat-bigassistant-jadi-solusi-chatbot-ai-ciptakan-interaksi-lebih-efisien>, last accessed on Januari 15, 2025.

³ Joao Paulo De Almeida Lenardon, “The regulation of Artificial Intelligence”, *Thesis*, Master Hukum, (Tilburg Institute for Law, Technology and Society, Tilburg University, Tilburg, 2017): 11

Artificial Intelligence is considered a tool that helps human activities, so Artificial Intelligence is more appropriately included in the category of legal objects.

The legal principles of liability based on negligence and strict liability are relevant in the context of Artificial Intelligence. Their application becomes complicated when Artificial Intelligence operates without human intervention. If used in Indonesia, the possibility of losses caused by the use of AI is very likely, considering that AI is a human creation that is not immune to potential errors. Although AI is designed to improve efficiency and provide smart solutions in various sectors, errors in algorithms or their application can result in losses for both individuals and society. One example of losses caused by AI technology in Indonesia is a case of fraud involving Deepfake AI technology. In this case, the perpetrator used Deepfake technology to manipulate the faces and voices of state officials for the purpose of fraud. In January 2025, a Deepfake-based fraud case occurred in Indonesia, causing losses of up to tens of millions of rupiah.

This act was carried out through the dissemination of a manipulated video that made it appear as if President Prabowo Subianto was delivering information about a government financial assistance program.⁴ Deepfake is AI-based technology that allows someone to create fake videos or audio that are very similar to the original, so that they can be used to deceive others.⁵ This issue is increasingly complex. Although on a national scale there are still very few problems related to AI, when enlarged to an international scale, cases related to AI are quite significant and need to be resolved immediately. Therefore, there are specific regulations in the European Union that govern the development and use of artificial intelligence in the European Union. This law takes a risk-based approach to regulation, applying different rules to Artificial Intelligence systems according to the threats they pose to health, safety, and human

⁴ Deepfake di Indonesia: Prabowo dan Jokowi jadi Korbannya, <https://verihubs.com/blog/kasus-deepfake-indonesia>, last accessed on Maret 12, 2025.

⁵ *Tim Siber Ungkap Teknologi Deepfake Catut Nama Pejabat Negara*, https://pusiknas.polri.go.id/detail_artikel/tim_siber_ungkap_teknologi_deepfake_catut_nama_pejabat_negara, last accessed on February 3, 2025.

rights.⁶ Unlike the European Union, the United States has adopted a more flexible approach to regulating Artificial Intelligence. The United States' approach to Artificial Intelligence ethics tends to be more decentralized, with a focus on developing sectoral guidelines and encouraging innovation.

This raises the question of who should be held responsible in cases of harm caused by AI. Is it the developers who created the AI system, the users who employed the technology, or even the AI system itself, which can operate autonomously? This ambiguity can cause difficulties for parties seeking compensation and create legal uncertainty that could hinder technological development.

The losses referred to in the Civil Code may arise from default as stipulated in Article 1238 of the Civil Code in conjunction with Article 1243 of the Civil Code and unlawful acts as stipulated in Article 1365 of the Civil Code. Liability for damages can only be imposed on legal subjects, which include individuals and legal entities as entities that can acquire, possess, or bear rights and obligations.⁷ This situation can become problematic if technology that is similar to human intelligence and is autonomous, such as Artificial Intelligence, causes damage. Autonomous Artificial Intelligence is artificial intelligence that has been designed to operate independently without continuous human intervention. Article 1367 paragraph (1) of the Civil Code stipulates that a person is not only liable for losses caused by their own actions, but also for the actions of persons under their responsibility or items under their supervision. This raises the question of whether the items described in Article 1367 of the Civil Code include autonomous artificial intelligence technology. If so, this raises new questions about who should be held responsible for the losses incurred, given the involvement of various parties such as programmers, data analysts, and users in the context of artificial intelligence.

Indonesian artificial intelligence regulations are still under development. This has led to a lack of legal certainty in Indonesia. Therefore, this study examines the elements

⁶ Matt Kosinski, *Apa yang dimaksud dengan Undang-Undang Kecerdasan Buatan Uni Eropa (EU AI Act)*, <https://www.ibm.com/id-id/topics/eu-ai-act>, last accessed on Desember 9, 2024.

⁷ Sudikno Mertokusumo, *Mengenal Hukum Suatu Pengantar*, (Yogyakarta: Penerbit Cahaya Atma Pustaka, 2010): 94.

of civil liability related to losses caused by artificial intelligence with the following questions: Can Artificial Intelligence be held accountable if it causes losses? and how does civil liability apply to losses caused by the use of Artificial Intelligence?

This study differs from previous research in that it focuses more specifically on civil liability for damages caused by AI technology, whereas previous studies have focused on narrower or more context-specific issues. Previous studies have primarily addressed topics such as economic crimes involving AI, the liability of specific companies (e.g., Nodeflux), or specific issues like online gender-based violence and the use of open-source software.

METHODOLOGY

This type of research is normative legal research that collects data through examination of literature and/or secondary data. This research uses a legislative approach, a conceptual approach, and a comparative approach. The comparative approach in this study aims to compare the legal framework governing civil liability for losses caused by Artificial Intelligence in Indonesia with the laws applied in the European Union and the United States. The selection of these two countries is based on several reasons. First, the European Union has developed and implemented comprehensive regulations on the use of artificial intelligence, particularly through the Artificial Intelligence Act (AI Act), which establishes clear rules for regulating the application of artificial intelligence across all European Union member states. Second, as a country with the most advanced technology industry, the United States has also adopted a highly innovative approach.

The object of this research is civil liability in the context of the development of Artificial Intelligence technology, and the research object is analyzed based on several regulations and proposals that discuss and regulate Artificial Intelligence. Secondary data in the form of primary, secondary, and tertiary legal materials related to civil liability for losses caused by Artificial Intelligence was obtained through a literature

study. The data obtained was then analyzed using qualitative descriptive data analysis methods.

RESULT AND DISCUSSION

Artificial Intelligence cannot be held liable if it causes harm

Current technology is a necessity for society, making it very important to regulate. This regulation is inseparable from several reasons, including the fact that Artificial Intelligence continues to be a point of great attention in today's digital age, such as providing convenience for humans to interact and search for information, with boundaries and time seemingly disappearing with the existence of artificial intelligence. The development of AI has created opportunities for irresponsible parties.⁸ There have been many cases of crime involving AI, which has become a concern for Indonesians in using AI, even though on the other hand, the majority of Indonesians use AI to support their activities and even consider it a daily necessity that can help them with their tasks and work.⁹

In law, there are two legal subjects: humans and legal entities. Based on the definition of legal subjects, humans are legal subjects in the sense that they are biological beings with reason, feelings, and will. Meanwhile, legal entities are legal subjects in the juridical sense as human creations based on law that are given rights and obligations.¹⁰

According to Indonesian law, legal subjects are humans and legal entities. This is confirmed in Article 1 paragraph (1) of the Civil Code, which states that enjoying citizenship rights does not depend on state rights. The meaning contained in this article is that the status of humans (citizens) as legal subjects is not determined by conditions set by the state. Humans are recognized as legal subjects from birth until death. In Indonesian law, as explained in Article 1654 of the Civil Code, a legal entity

⁸ Muhammad Irfan Fatahillahi, "Gagasan Pengaturan Artificial Intelligence Terhadap Pertanggungjawaban Pidana Di Indonesia", *Suara Keadilan*, Vol. 24 No. 1, 2023: 39.

⁹ Donovan Tyhano Rachmadie, "Penerapan Artificial Intelligence Pada Tindak Pidana Malware dan Penyimpangan Berdasarkan Undang-Undang Nomor 19 Tahun 2016" *Recidive* Vol.9 No. 2, 2020: 132.

¹⁰ Salim H.S, *Pengantar Hukum Perdata Tertulis (BW)*, Cet.12, (Jakarta: Sinar Grafika, 2019): 23.

is defined as a legal association, similar to private individuals, with the authority to perform civil acts, without prejudice to legislation, in cases where authority has been changed, restricted, or subordinated. Some examples of legal entities include limited liability companies (PT), state-owned enterprises (PN), foundations, government agencies, and others.¹¹

There are two theories of legal subjects. The first is the theory of natural law, which is based on the principle that human rights and existing laws must be based on human nature itself. According to the law, every human being is a legal subject by nature or by birth. Meanwhile, the theory of positive law focuses on the view of law as a product of the state or the authorities. In this theory, legal subjects are defined as persons or entities recognized by positive law or applicable laws. In other words, legal subjects are persons or entities that are given rights and obligations related to their legal status.¹²

Artificial Intelligence is not a living being; it does not have free will, reason, or consciousness. Artificial Intelligence cannot be held morally or ethically responsible, which is the basis for the recognition of legal subjects in natural law theory because this theory only recognizes humans as natural legal subjects. However, in positive law, Artificial Intelligence has the potential to be included in positive law if it meets the requirements and is considered a legal subject, namely if the Indonesian state establishes regulations that recognize Artificial Intelligence as a limited legal subject and there are detailed mechanisms for responsibility and legal status.

In general, AI is currently seen as a legal object, not a legal subject, because AI is a device or tool created by its creator, used to achieve certain goals. There are several regulations that regulate the legal status of AI, including the European Union Artificial Intelligence Act 2024 (AIA 2024), which is a law enacted in the European Union that regulates the use of AI. AIA 2024 aims to ensure the transparent, safe, and

¹¹ Tim Hukum Online, *Mengenal Subjek Hukum Perdata, Pidana, dan Internasional*. <https://www.hukumonline.com/berita/a/macam-macam-subjek-hukum--perdata--pidana--dan-internasional-lt6203d4c585cb0/>, last accessed on February 23, 2025.

¹² KlikLegal.com, *Kedudukan Hukum Artificial Intelligence: Tantangan dan Perdebatannya*, <https://kliklegal.com/kedudukan-hukum-artificial-intelligence-tantangan-dan-perdebatannya/>, last accessed on Maret 20, 2025

responsible use of AI to avoid risks that can arise from its use. Several articles of AIA 2024 affirm the use of AI, including Article 14 paragraph (1) of AIA 2024 stipulates that AI systems must be under human supervision. The provision aims to ensure that any important decisions made by AI remain monitored and controlled by humans as AI managers. This shows that AI is under full control by humans. Article 57 paragraph (12) of the AIA 2024 stipulates that legal responsibility for losses caused by AI remains with the developer, operator, or party controlling the AI, not with the AI itself. This confirms that even if the losses are caused by AI, the responsibility still falls on the human entity or legal entity as the controller or operator of the AI.¹³

There are two main consequences of the statements mentioned in this Article. First, it supports the view that AI cannot be considered a legal subject because AI itself does not have the ability to be legally responsible. In the applicable legal system, legal subjects are considered as human beings or legal entities that have the ability to bear rights and obligations. Because AI lacks the awareness, desire, or ability to make moral decisions, it cannot be held accountable for the harm it causes. Second, responsibility is clearly given to developers, operators, or parties who control AI. These parties can be individuals, companies, or institutions. So that if AI causes losses such as errors in autonomous systems such as self-driving cars or errors in financial decision-making, the legal responsibility remains with the party who holds control or authority over the operation of AI.

Then in the United States itself also issued a regulation, namely the Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence. The Biden administration's executive order on AI is a simple and pragmatic step forward in coherent and connected technology policy. The existence of this regulation is for AI to be safer, more protected, and more trustworthy.¹⁴ Then there is also the Blueprint for an AI Bill of Rights, which is a collaborative document between OSTP, academics, human rights

¹³ Ahmad M. Ramli, Artificial Intelligence (AI): Subjek Hukum atau Objek Hukum?, <https://www.hukumonline.com/klinik/a/ai-subjek-hukum-atau-objek-hukum-lt670eca701fc74/>, last accessed on April 12, 2025.

¹⁴ *Atlantic Council Expert, Experts react: What does Biden's new executive order mean for the future of AI?*, <https://www.atlanticcouncil.org/blogs/new-atlanticist/experts-react/experts-react-what-does-bidens-new-executive-order-mean-for-the-future-of-ai/>, last accessed on Maret 5, 2025.

groups, the public, and even large companies such as Microsoft and Google. The protection of personal data and the privacy rights of individuals are one of the important elements set out in this Blueprint. Blueprint demands that AI developers ensure that the technology they develop does not infringe on individuals' privacy rights. However, the Blueprint for an AI Bill of Rights is not a legally enforceable and military document. Rather, the document is a set of recommendations on the use of AI.¹⁵ The Executive Order and Blueprint explicitly emphasize the need for clear responsibility on the part of developers and operators of AI technologies in managing the risks posed by these technologies. It focuses on the obligation to ensure that the AI developed does not harm users, society, or the rights of individuals.

Regulations relating to the use of Artificial Intelligence in Indonesia, when viewed as a whole, have not yet been fully regulated. However, if we look at the big picture, Artificial Intelligence can be linked to Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, which we can refer to as the ITE Law, namely in Article 21 paragraph 3, which states:

“If losses from Electronic Transactions are caused by the failure of an Electronic Agent to operate due to direct actions by a third party against the Electronic System, all legal consequences shall be the responsibility of the Electronic Agent operator.”

Positive law in Indonesia does not yet recognize the term Artificial Intelligence as a legal subject, but only as a tool. A legal subject here means that it can perform legal actions, namely actions of the legal subject concerned that are carried out intentionally and result in rights and obligations.¹⁶ According to the ITE Law, an electronic agent is a part of electronics that has the task of performing actions on electronic information automatically obtained from every person. As a derivative, Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Transaction Systems, hereinafter referred to as PP 71 of 2019, was issued. This regulation specifically

¹⁵ Ellen Glover, *AI Bill of Rights: What You Should Know*, <https://builtin.com/artificial-intelligence/ai-bill-of-rights>, last accessed on Maret 10, 2025.

¹⁶ R. Soeroso, *Pengantar Ilmu Hukum*, (Jakarta: Sinar Grafika, 2011): 291

regulates electronic agents, which in this case include Artificial Intelligence. The regulation also further regulates the responsibilities of electronic agents with a special emphasis on electronic agent operators. This is explicitly regulated in Article 31 of PP 71 of 2019, which states:

“Electronic System Operators are required to protect users and the general public from losses caused by the electronic systems they create or operate.”

Article 21 paragraph 3 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions means that if there is a failure in the function of electronic agents, including Artificial Intelligence, the organizer, namely the party that creates, develops, or operates Artificial Intelligence, is legally responsible. This applies even if the failure is caused by a third party, as long as the Artificial Intelligence is under the management of the operator. Then, because the public as users do not have direct control over algorithms or autonomous Artificial Intelligence actions, the provisions of Article 31 of Government Regulation No. 71 of 2019 ensure that operators are responsible for the legal consequences of using electronic systems, including Artificial Intelligence.

Artificial Intelligence can do acts like humans do even though it is limited to certain acts, where the actions done can cause losses. In civil law, the person who can be held responsible is the person or legal entity that is the subject of the law. The requirements for being a legal subject are to have an identity, domicile and legal skills. A name is the identity of a human being or a legal entity as a legal subject. In addition to the name, what is quite important in the law is the issue of residence or domicile regulated in Articles 17 to 25 of the Civil Code. Domicile is the place of residence of a person if there the person is considered to be always present in connection with the exercise of his rights, even if he lives in another place. The legal place of residence is generally the same as the actual place of residence, but it does not have to be so.¹⁷ The competence of the legal subject in this case as the ability to act or legal competence

¹⁷ R. Soetojo Prawirohamidjojo & Asis Safioedin, *Hukum Orang dan Keluarga*, (Bandung: Alumni, 1986): 8

(rechtsbekwaamheid) and the competence of the legal subject, namely the authority to act (rechtsbevoegheid).¹⁸

Artificial Intelligence does not meet the requirements to be categorized as a legal subject under the Indonesian positive law system. In civil law doctrine, legal subject status is naturally only given to humans from birth and ends when they die. As a legal subject, a person has a legal identity in the form of a name and domicile, which serves as the basis for determining their legal rights and obligations, as well as for determining where legal claims can be filed, as stipulated in Articles 17 to 25 of the Civil Code. Therefore, Artificial Intelligence cannot be considered a legal subject because, in essence, Artificial Intelligence is only a man-made technological product without a personal identity, place of residence, free will, and moral and legal responsibility.

Artificial Intelligence not only lacks the biological existence that allows it to acquire rights or bear obligations naturally, but also lacks legal competence or the ability to be held accountable for its actions normatively. Therefore, Artificial Intelligence is better placed as a legal object, namely a tool or means used by legal subjects to perform certain legal actions. So that if losses are incurred by Artificial Intelligence due to its use, Artificial Intelligence cannot be held responsible, the party that can be held responsible is a human or legal entity as an entity that develops and operates Artificial Intelligence, because Artificial Intelligence can run because of the operational orders of humans or legal entities.

Civil Liability for losses caused by Artificial Intelligence

Unlawful acts are generally regulated in Articles 1365 and 1366 of the Civil Code. Article 1365 of the Civil Code provides provisions on unlawful acts, stating that “every unlawful act that causes loss to another person obliges the person who caused the loss to compensate for it.” Another provision is contained in Article 1366 of the Civil Code, which states that “every person is liable not only for losses caused by their actions, but

¹⁸ Imelda Martinelli, Joko Priyono & Yunanto, “Konsep Kecakapan Subjek Hukum dalam Kewenangan Bertindak dalam Hukum Perkawinan di Indonesia dalam Perspektif Psikologis”, *Jurnal Hukum & Pembangunan* Vol. 53 No. 2 (2023): 318

also for losses caused by their negligence or carelessness.”¹⁹ An act is declared unlawful if it fulfills the following four elements:²⁰

- a. The act must be unlawful (*onrechtmatige*).

An unlawful act begins with an action taken by the perpetrator. The act in question can be an action or an omission. The perpetrator has an obligation to avoid doing something or should have done something.

- b. Committed with fault

The unlawful act must have occurred due to the fault of the perpetrator, who is a legal subject, one of which is a person. The fault can be intentional or negligent.

- c. There must be harm to the victim.

The act can be active or passive, causing harm to the victim. The harm caused can be material or immaterial.

- d. There must be a causal relationship between the harm and the act.

An act can be considered unlawful if it causes harm.

A legal subject whose actions fulfill these four elements is considered to have committed an unlawful act. In the case of deepfake-based fraud, the perpetrator creates and disseminates fake videos using Artificial intelligence that display the faces and voices of state officials as if they were making statements about providing social assistance. The fake video is then used to deceive the public, who believe the content of the video to be true. Ultimately, they lose money by transferring it to the perpetrator. As this constitutes a form of digital manipulation that violates the rights to identity, reputation, and economic security of others, the act is clearly unlawful.

The elements of the offense are fulfilled because the perpetrator deliberately created and disseminated a fake video with the aim of misleading and profiting from the deceived party. In this case, the material loss is in the form of money lost due to being

¹⁹ Soesilo dan Pramudji R, *Kitab Undang-Undang Hukum Perdata*, Cetakan Pertama, (Surabaya: Rhedbook Publisher, 2008): 306.

²⁰ Abdulkadir Muhammad, *Hukum Perdata Indonesia*, (Bandung: PT Citra Aditya, 2011): 260.

deceived by deepfake content. A causal relationship exists between the act of creating and distributing deepfakes and the financial loss suffered by the victim, because without the video, the victim would not have transferred money to the perpetrator. The legal subject who committed this act must be held accountable.

Articles 1365 to 1380 of the Civil Code contain the forms of liability for unlawful acts. A general explanation of unlawful acts is regulated in Article 1365 of the Civil Code, which states that any act that is contrary to the law and causes loss to another person must be compensated. In general, legal subjects who act unlawfully can be held liable. As mentioned earlier, liability arises because the legal subject commits a wrongful act that causes harm, and the legal subject is responsible for the harm they cause. A general explanation of unlawful acts is regulated in Article 1365 of the Civil Code, which states that any act that is contrary to the law and causes harm to another person must be compensated.

Article 1365 of the Civil Code only applies to harm caused by legal subjects themselves, namely individuals or legal entities. AI is not a legally recognized legal entity, so it is not appropriate to hold it accountable. If “something” has the same rights and obligations as humans as legal entities, then “something” that has rights and obligations is included in the category of legal entities that belong to the legal entity group.²¹

Articles 1365 and 1366 of the Indonesian Civil Code regulate unlawful acts. “Any unlawful act that causes loss to another person obliges the person who, through their fault, caused the loss to compensate for it.” Meanwhile, Article 1366 of the Civil Code emphasizes that legal liability arises not only from intentional acts, but also from negligence or lack of due care. In the context of Artificial intelligence technology development, one form of act that can cause harm is the use of deepfake technology. If deepfake is used irresponsibly, for example to spread false content that damages a person's reputation, it can be considered an unlawful act because it fulfills the elements of Article 1365 of the Civil Code. Deepfake is an artificial intelligence-based

²¹ M. Yahya Harahap, *Hukum Perseroan Terbatas*, (Jakarta: Sinar Grafika, 2016): 53.

technology that allows visual manipulation, such as images or videos, to make it appear as if someone did something that they never actually did.

Liability without fault is known as the principle of strict liability, which is regulated in Article 1367 Paragraph (1) of the Civil Code. It is stipulated that every person is liable for their own actions, the actions of others under their responsibility, and for damages arising from items under their supervision. This principle imposes liability regardless of whether a person is guilty of fault or negligence.²²

The two forms of strict liability based on Article 1367 of the Civil Code are:

a. The existence of losses arising from the actions of persons under their responsibility

A person is any party that has legal authority.²³ In this case, Artificial intelligence is not included as a person or legal entity, so it does not fulfill the element of “the existence of losses arising from the actions of persons under their responsibility.”

b. The existence of losses caused by goods under their supervision

According to Article 1367 of the Civil Code, the second form of liability is liability for losses caused by goods under the supervision of a legal subject. This form of liability has several elements, one of which is the existence of losses caused by these goods and under the supervision of a legal subject.²⁴

The elements of Article 1367 of the Civil Code are described as follows:

1) The existence of damage

As mentioned earlier, the party whose rights and interests have been violated suffers damage, both material and immaterial. An example of this is a case of fraud involving Deepfake AI technology.

2) Caused by goods

²² R. Subekti dan R. Tjitrosudibio, *Kitab Undang-Undang Hukum Perdata*, (Jakarta: PT Balai Pustaka, 2014): 346.

²³ Van Apeldoorn, *Pengantar Ilmu Hukum*, (Jakarta: Penerbit Pradnya Paramita, 1983): 203.

²⁴ Apeldoorn.

The damage suffered by a person, as mentioned earlier, is caused by goods. In this case, Artificial intelligence falls under the goods referred to.

3) Is a legal object

A legal object is anything that can be controlled so that it has a use for the legal subject and becomes the subject of a legal relationship.²⁵ Artificial intelligence is a technology that was created by taking inspiration from human intelligence, which is expected to assist in the course of human activities. The parties involved in the creation of Artificial Intelligence include data scientists, strategic consultants, domain experts, software developers, and business experts. Therefore, AI fulfills the first element of an intangible object.

4) Economic value

Artificial intelligence has economic value. The development and implementation of Artificial intelligence requires significant costs depending on the Artificial intelligence model used. Maintaining Artificial intelligence systems also requires ongoing costs. Artificial intelligence models must be regularly updated with new data to ensure they remain accurate. In addition, these models must also be continuously monitored to detect and address issues such as bias or decision-making errors. All of this requires trained experts and a significant budget.²⁶

5) Ownable

According to the law, objects are anything that can be owned or possessed by people, so anything that cannot be owned by people is not included in the definition of objects according to the Civil Code (BW) (book II), such as the moon, stars, sea, air, and so on.²⁷

Artificial intelligence is a technology that mimics human intelligence and is created by humans, so according to the Copyright Law in Indonesia, the creator is “a person” or “several people” who produce the work, which means a human or legal entity, not

²⁵ Titik Triwulan Tutik, *Pengantar Hukum Perdata Di Indonesia*, (Jakarta: Penerbit Prestasi Pustaka, 2006): 153.

²⁶ Pabila Syaftahan, *Kelemahan Kecerdasan Buatan: Tantangan dan Risiko di Era AI*, <https://aihub.id/pengetahuan-dasar/tantangan-dan-risiko-ai>, last accessed on Maret 2, 2025.

²⁷ Riduan Syahrani, *Seluk–Beluk dan Asas–Asas Hukum Perdata*, (Bandung: Alumni, 1992): 116.

Artificial intelligence.²⁸ Therefore, the copyright for works produced by Artificial intelligence is usually given to the party that develops or operates the Artificial intelligence.

6) No Body/Not Tangible

Based on Article 503 of the Civil Code, intangible objects are defined as objects that have no body. According to Munir Fuady, intangible objects are all objects that have no physical form, where the physical form cannot be seen or touched.²⁹

When related to Artificial intelligence, Artificial intelligence has no real form or physical shape. The existence of Artificial intelligence cannot be perceived by human senses. Although its function is to assist human performance, Artificial intelligence only exists in the virtual world. Therefore, Artificial intelligence fulfills the element of having no body/being intangible.

7) Under supervision

Liability in the Civil Code is not only for one's own mistakes, but also for mistakes made by others under certain conditions. As stipulated in Article 1367 paragraph (1) of the Civil Code, which reads:

“A person is not only responsible for losses caused by their own actions, but also for losses caused by the actions of people under their responsibility or caused by items under their supervision.”

Basically, Artificial intelligence remains under human supervision even though it can operate independently within certain limits. The purpose, function, and limitations of Artificial intelligence are determined by the people who develop, own, or use it, which in this case are humans.

Based on the description in Article 1367 of the Civil Code, it can be concluded that in the event of losses resulting from the use of Artificial intelligence, legal liability can be

²⁸ Zaldy Salim Mhd. Hamid dan Rianjani Rindu R, *Reformasi Undang-undang hak cipta: Tantangan dan Peluang Era Kecerdasan Buatan*, <https://lk2fhui.law.ui.ac.id/portfolio/reformasi-undang-undang-hak-cipta-tantangan-dan-peluang-era-kecerdasan-buatan/>, last accessed on Maret 2, 2025.

²⁹ Munir Fuady, *Konsep Hukum Perdata*, PT. (Jakarta: Rajagrafindo persada, 2015): 30.

imposed based on these provisions. The owner or party responsible for Artificial intelligence may be held liable for the damages caused, considering that Artificial intelligence is regarded as an intangible object that can have legal consequences. Thus, the owner of Artificial intelligence is responsible for any damages caused by the use or negligence involving this technology.

Civil liability or liability for damages caused by the use of Artificial intelligence is governed by Articles 1365 and 1367 of the Civil Code based on the provision that a person can be held liable for damages caused by goods under their control. Civil liability may be imposed on the owner or party controlling the Artificial intelligence technology if the Artificial intelligence causes damage. This is because Artificial intelligence fulfills the elements of a legal object, namely as an intangible object that has economic value, can be owned, is under supervision, and can have legal consequences. Liability can still be imposed absolutely (strict liability) on the party supervising or owning it without the need to prove fault. Thus, the owner or user of Artificial intelligence is liable for losses arising from the use or failure of Artificial intelligence, as regulated in the framework of absolute liability in Indonesian civil law.

CONCLUSION

Artificial Intelligence cannot be held liable if it causes harm because AI cannot be considered a legal subject and AI does not meet the necessary conditions to be categorized as a legal subject. Therefore, what can be held accountable if AI causes losses is the owner of the AI itself because AI is a legal object, which is a tool or means used by legal subjects to carry out certain legal actions. Thus, civil liability or liability for damages caused by the use of Artificial Intelligence is governed by Articles 1365 and 1367 of the Civil Code, based on the provision that a person can be held liable for damages caused by goods under their control. Civil liability can be imposed on the owner or party controlling the Artificial Intelligence technology if the Artificial Intelligence causes damage. This is because Artificial Intelligence fulfills the elements of a legal object, namely as an intangible object that has economic value, can be owned,

is under supervision, and can have legal consequences. Liability can still be imposed absolutely (strict liability) on the party who supervises or owns it without the need to prove fault. Thus, the owner or user of Artificial Intelligence is liable for losses arising from the use or failure of Artificial Intelligence, as regulated in the framework of absolute liability in Indonesian civil law.

As a recommendation to prevent further losses from the use of artificial intelligence, the government needs to immediately formulate specific regulations governing the use of AI and accountability for losses caused by Artificial Intelligence technology. Given that Artificial Intelligence is not a legal subject, clarity on who is responsible in cases of harm is essential to provide legal certainty and protection for society. In addition, the government needs to be more active in educating the public about the use of technology, including Artificial Intelligence, to build a comprehensive understanding of the benefits, risks, and legal responsibilities that may arise. This education is important to encourage the wise use of technology and create a safe environment for innovation. Furthermore, users and owners of Artificial Intelligence technology need to be more careful and wise in using artificial intelligence technology. This is important considering that Artificial Intelligence can have legal implications in the event of malfunction or misuse. In addition, Artificial Intelligence owners or users must ensure that the technology used meets ethical, safety, and applicable legal standards.

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COMPETING INTEREST

There is no conflict of interest in the publication of the article.

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