
PERSONAL DATA LEGAL PROTECTION POLICY IN INDONESIA

Moh. Indra Bangsawan¹, Dewi Kusuma Diarti², Bambang Sukoco³¹ Muhammadiyah University of Surakarta (mib136@ums.ac.id)² Muhammadiyah University of Surakarta (ddiarti@gmail.com)³ Muhammadiyah University of Surakarta (bs180@ums.ac.id)

ABSTRACT

The 1945 Constitution of the Republic of Indonesia Article 28 G paragraph (1) emphasizes that every person has the right to personal protection, family, honor, dignity and property under his control, as well as the right to a sense of security and protection from the threat of fear. to do or not do something that is a human right. This research aims to 1). Describe the threat to data resources after the Covid-19 pandemic 2). Describe the personal data protection policy in Indonesia. This research is normative legal research carried out by examining library materials or secondary data. The approaches used are the statutory approach and the conceptual approach to data resource management. The type of study in this research is more descriptive, because it aims to clearly describe various things related to the object being studied. The policies offered in the research are policies carried out using descriptive analysis. The identification process is carried out by looking for the root causes that influence the lack of optimal legal protection of data resources after the Covid-19 pandemic.

Keywords: Policy, Personal Data Protection.

INTRODUCTION

New crimes that are developing in society can be interpreted as an increase in criminal activities and attitudes that in the past were simple, changing to patterns that are no longer simple. In implementing and enforcing the law, we must respect human rights while continuing to carry out our obligations without exception (Teenager, 2018).

Globalization has penetrated almost all areas of people's lives, be it economics, politics, science and technology (IPTEK), culture, education, etc. (Suryani, 2016). Access to general information and population data to intelligence data can be obtained through technology, and this must be watched out for and considered carefully because this is one way to bring down a country (Azizah, 2020). Laws, one of whose functions is to ensure the smooth process of national development, must be able to protect the rights in the field of technology, especially internet service users (Arifah, 2011). The development of science and technology goes hand in hand with human development. This development causes significant changes for humans. Media is used as a learning forum. Media has become a basic (primary) need for humans. In its development, electronic media has metamorphosed into the virtual world (Anshori, 2018).

The number of internet users in Indonesia is predicted to continue to increase in line with various government programs that strive for all Indonesians to be internet literate. The large number of internet users in Indonesia has encouraged the government to try to transform the old system with a system that uses digital technology. Data obtained from Internet World Statistics shows that the number of internet users in Indonesia in 2016 has reached 132 million people and is ranked third in Asia after China and India. Meanwhile, according to a survey from We Are Social, data on internet users in Indonesia in January 2016 reached 88.1 million, with 79 million of them being active social media users, 15% of whom were active Facebook users and almost 50% users are teenagers aged 13-29 years (Marwan, 2018).

The government has previously designed laws and regulations that can accommodate existing needs in controlling internet use. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, hereinafter abbreviated to the ITE Law, regulates all aspects of the information cycle and electronic transactions. However, regarding the protection of

personal data, the ITE Law still implicitly regulates the understanding regarding the protection of the existence of general electronic data or information and the ITE Law does not yet contain regulations regarding the protection of specific personal data. Currently, the Government has issued Law Number 27 of 2022 concerning Personal Data Protection (PDP). This law is a legal consequence of the Indonesian government's ratification of four international conventions, namely the Universal Declaration on Human Rights; International Covenant on Civil and Political Rights; Convention on the Rights of the Child; and the International Convention on the Protection of All Migrant Workers and Members of Their Families.

RESEARCH METHODS

This research is based on legal research conducted with a doctrinal approach. The type of study in this research is more descriptive, because it aims to clearly describe various things related to the object under study, namely data resource law. The data collection method was carried out by literature study according to the research problem.

RESULTS AND DISCUSSION

The world is currently facing the 4th industrial change or what is known as Industry 4.0. Based on an analysis by the McKinsey Global Institute, Industry 4.0 will have a very large and widespread impact, especially on the employment sector, where robots and machines will eliminate many jobs in the world. For this reason, industry players must respond to this era of industrial revolution wisely and carefully. Industry 4.0 does offer many benefits, but it also has challenges that must be faced (Syasmita, 2019). In the era of information and globalization, information technology has become very important in people's daily lives. Information technology has become part of human life, apart from being the result of human work, it also aims to improve human welfare (Mahfudz, 2005). The trend towards continued development of technology certainly brings various implications that must be immediately anticipated and also watched out for. These efforts have now given birth to a legal product in the form of Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). However, with the birth of the ITE Law, not all problems related to ITE issues have been resolved. This problem is due to several reasons, namely:

First, with the enactment of Law Number 11 of 2008 concerning Information and Electronic Transactions, this Law is not only known to the public who use information technology and legal practitioners; Second, various forms of technological development that give rise to new operations and services must be identified in order to anticipate solutions to various technical problems that are considered new so that they can be used as material for the preparation of various Implementing Regulations; Third, the enrichment of sectoral areas of law (new legal regime) will further add to the vibrancy of legal dynamics which will become part of the national legal system (Ramli, 2014).

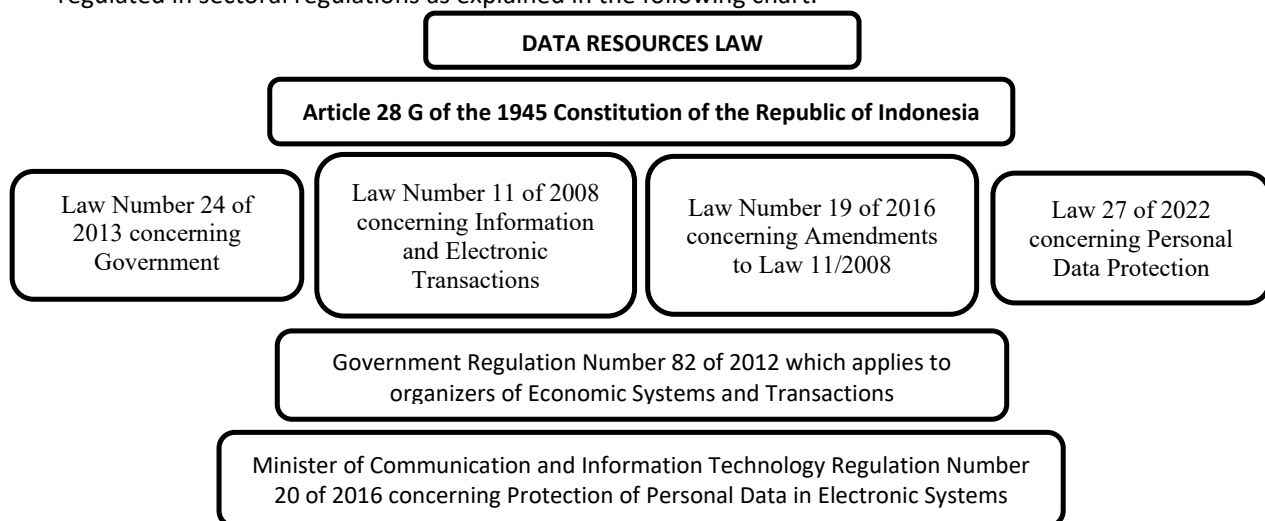
Technology and law are two elements that influence each other and these two things can also influence society. Heidegger has argued that on the one hand we can see technology as a means of achieving certain goals and on the other hand technology can also be seen as a human activity. So, basically we can see the nature of the interplay between technology and law that each technology is developed to meet certain needs and through this technology provides benefits and services for humans, including increasing work coefficients and effectiveness. Laws are also restrictions on behavior and violations are subject to coercive sanctions by the highest authority in a country (Sitompul, 2012). Law is used as a means to achieve certain goals, or in other words law is used as a political means (means of political engineering). Law is defined as a political category and as a tool to enforce shared life fairly, in the society aimed at by law (Siregar, 2018).

Efforts to present a legal instrument that is in line with developments in the world of information and telecommunications are something that is non-negotiable. Experience in a number of democratic countries shows that positive law and jurisprudence regarding privacy emerged long before privacy

became an integral part of the international human rights legal regime. The UN Human Rights Council has adopted Resolution 68/167 concerning the protection of the right to privacy in the digital era. One of the clauses emphasizes that the same rights for everyone when they are offline must also be protected when they are online, including the right to privacy (Indriani, 2017). The basis for the principles of legal protection in Indonesia is Pancasila as the state ideology and philosophy. The concept of legal protection for people in the West originates from the concepts of *Rechtsstaat* and Rule of the Law. Using western conception as a framework for thinking, with a Pancasila foundation on Pancasila. The principle of legal protection in Indonesia is the principle of recognition and protection of human dignity which is based on Pancasila. The principle of legal protection against government actions relies on and originates from the concept of recognition and protection of human rights because historically in the West, the emergence of concepts of recognition and protection of human rights was directed at limiting and placing obligations on society. and government (Puspitasari, 2018).

One important aspect that needs special attention is when personal data turns into Big Data after an organization has succeeded in collecting large amounts of data. A large amount of this personal data is collected from users like you and me. Names, personal cell phone numbers, birthdays, nationalities, addresses, shopping habits, and even what medicines we buy online become part of the internet ecosystem and are able to create economic profits for such organizations. Based on this, concerns arise about how personal data is used. Therefore, a data protection regime to regulate the collection, use and disclosure of personal data is very necessary to overcome these concerns and maintain public trust in organizations and governments that organize, store and deal with this data (Anggraeni, 2018).

The Indonesian government itself, through the Ministry of Information and Communication, works with all stakeholders (individuals or groups who have an interest in decisions and organizations) and the University is trying to make this dream come true. Finally, through very tough discussions, a law that specifically questioned and discussed the issue of electronic information and transactions was promulgated on April 21 2008, which became known as Law Number 11 of 2008 concerning Information and Electronic Transactions (Maskun, 2013). In its development until now, this Law has been changed to Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions which has been implemented in society until now. The current laws and regulations available in Indonesia regarding personal data protection do not comprehensively provide sufficient protection for personal data. The Law on Electronic Information and Electronic Transactions (UU ITE) only touches on the subject of personal data protection without any further provisions regarding the details of implementing this protection. The facts show that regulations regarding data protection are regulated in sectoral regulations as explained in the following chart:



Overview 1. Legal Regulation of Data Resources

Based on the picture above, the legal basis for data resources has been regulated separately in several regulations according to sectoral interests, such as:

1. 1945 Constitution of the Republic of Indonesia

Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that every person has the right to personal protection, family, honor, dignity and property under his control, and has the right to a sense of security and protection from the threat of fear. to do or not do something that is a human right.

2. Law Number 24 of 2013 concerning Population Administration

Article 84 of this regulation regulates data protection for citizen registration in the context of population administration, such as: 1). Information about physical and/or mental disabilities; 2) Fingerprint; 3) Iris of the eye; 4) Signature; and e) Any other element that constitutes a person's disgrace.

3. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions.

The ITE Law emphasizes that personal data is part of protected personal rights. The explanation of Article 26 Paragraph (1) of Law 19/2016 regulates that personal rights include the following: 1) Personal rights are the right to enjoy private life and be free from any influence; 2) Personal rights are the right to communicate with other people without interference; 3) Personal rights are the right to gain access to information relating to a person's personal life and data.

The laws available for victims of violations of privacy rights are in accordance with Indonesian legal regulations based on Law Number 18 of 2008 concerning ITE and PP Number 28 of 2012 concerning PSTE. They can file a civil lawsuit for damages, meaning that the legal mechanism demands compensation from online users to e-providers. In commerce, a new mechanism for requesting civil compensation is available. Even though this data privacy violation is broad in nature and is not limited to civil elements alone, there needs to be more specific legal regulations and expand the legal efforts taken for consumers whose privacy rights are violated (Indriani, 2017).

Article 27 paragraph 3 of the ITE Law, both in the 2008 concept and the 2016 concept, there are no meaningful or significant differences, it's just that in the 2008 concept of the ITE Law, before it was judicially reviewed by the Indonesian Constitutional Court, it was not clear whether it included a complaint offense or an ordinary offense. Meanwhile, in the norms of Article 27 paragraph 3 of the 2016 ITE Law, the concept of the offense is clear, namely the complaint offense and this only accommodates the judicial review decision of the Indonesian Constitutional Court No. 50/PUU-VI/2008 (Gumbira, 2019).

4. Government Regulation no. 82 of 2012 which applies to Electronic System and Transaction Operators.

5. Law Concerning Personal Data Protection

Personal Data Protection is aimed at guaranteeing citizens' rights to personal protection and increasing public awareness and ensuring recognition and respect for the importance of personal data protection. The author hopes that the Personal Data Protection Law which has now been passed will become a mature legal basis for implementing better personal data protection in Indonesia in the future.

CONCLUSION

Threats to data resources increase every year along with the increase in the number of internet users, resulting in quite a few problems with personal data protection. Based on data from the National Cyber and Crypto Agency, throughout 2020, there were almost 190 million attempted cyber attacks in Indonesia, an increase of more than four times compared to 2019 at around 39 million cyber attacks. In response to this, the government needs to design laws and regulations that can accommodate existing needs in protecting personal data and controlling internet use.

The current personal data protection policy is based on Law Number 22 of 2022 concerning Personal Data Protection. The hope is that at the level of implementation it will run optimally so that it can guarantee citizens' rights to personal protection and increase public awareness and guarantee recognition and respect for the importance of protecting personal data.

REFERENCES

1. Anggraeni, S. F. (2018). Polemik Pengaturan Kepemilikan Data Pribadi: Urgensi Untuk Harmonisasi Dan Reformasi Hukum Di Indonesia. *Jurnal Hukum & Pembangunan*, 48 (4), 814-825.
2. Anshori, S. (2018). Pemanfaatan teknologi informasi dan komunikasi sebagai media pembelajaran. *Civic-Culture: Jurnal Ilmu Pendidikan Pkn dan Sosial Budaya*, 2(1).
3. Arifah, D. A. (2011). Kasus Cybercrime di Indonesia. *Jurnal Bisnis dan Ekonomi*, 18 (2).
4. Azizah, N., & Aquarisma, C. (2020). Diskursus Kebebasan Berpendapat dalam Ranah Publik Studi Kasus: Penerapan UU ITE Terhadap Kasus Ahmad Dhani. *Communitarian*, 2 (2).
5. Bambang Poernomo dalam Gumbira, S. W. (2019). Problematika Implementasi Undang-Undang Informasi dan Transaksi Elektronik dalam Menanggulangi Cyberbullying di Sosial Media Pasca Judicial Review Mahkamah Konstitusi RI. *Jurnal Pro Justice: Kajian Hukum dan Sosial*, 1(1).
6. Basyarahil, A. (2011). Kebijakan Publik Dalam Perspektif Teori Siklus Kebijakan. *Publika: Jurnal Ilmiah Administrasi Negara*. Tahun II, Nomor, 2, 3-18.
7. Fisabilillah, L. W. P., & Hanifa, N. (2021). Analisis pengaruh fintech lending terhadap perekonomian Indonesia. *Indonesian Journal of Economics, Entrepreneurship, and Innovation*, 1(3), 154-159.
8. Gani, H. A., & Gani, A. W. (2019). Penyelesaian Kasus Kejahatan Internet (Cybercrime) dalam Perspektif UU ITE No. 11 TAHUN 2008 dan UU No. 19 Tahun 2016. In *Seminar Nasional LP2M UNM*.
9. Gumbira, S. W. (2020). Problematika Implementasi Undang-Undang Informasi Dan Transaksi Elektronik Dalam Menanggulangi Cyberbullying Di Sosial Media Pasca Judicial Review Mahkamah Konstitusi RI. *Jurnal Pro Justice: Kajian Hukum dan Sosial*, 1(1), 50-71.
10. Indriani, M. (2017). Perlindungan Privasi Dan Data Pribadi Konsumen Daring Pada Online Marketplace System. *Justitia Jurnal Hukum*, 1 (2)
11. Indriani, M. (2017). Perlindungan Privasi Dan Data Pribadi Konsumen Daring Pada Online Marketplace System. *Justitia Jurnal Hukum*, 1 (2).
12. Kompas, (2020). Kejahatan Naik Empat Kali Lipat Selama Pandemi, (online), (<https://tekno.kompas.com/read/2020/10/12/07020007/kejahatan-siber-di-indonesia-naik-4-kali-lipat-selamapandemi>), di akses pada 2 September 2023)
13. Kriswibowo, A., & Utomo, S. A. P. (2020). *Ekonomi Politik Indonesia Di Tengah Pandemi Covid-19*. Penerbit Cakradewa Ilmu.
14. Mahfudz, S., & Nasution, M. K. (2005). Konsep hukum untuk teknologi informasi. *Al-Khawarizmi: Journal of Computer Science*, 1(1).
15. Marwan, M. R., & Ahyad, A. (2016). Analisis penyebaran berita hoax di Indonesia. *Jurusan Ilmu Komunikasi, Fakultas Ilmu Komunikasi Universitas Gunadarma*.
16. Maskun, S. H. (2014). *Kejahatan Siber (Cyber Crime) Suatu Pengantar*. Prenada Media.
17. Moonti, R. M. (2012). Pengaruh Internet dan Implikasinya terhadap perjanjian jual beli. *Jurnal Legalitas*, 5 (01).
18. Nurhayati, N., & Bangsawan, M. I. (2019). The Sustainable Development Licensing Policy Of Creative Industry In The Era Of Asean Economic Community (AEC) In Surakarta, Indonesia. *Humanities & Social Sciences Reviews*, 7(3), 25-31..
19. Olisias dalam Sinaga, E. M. C., & Putri, M. C. (2020). Formulasi Legislasi Perlindungan Data Pribadi dalam Revolusi Industri 4.0. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 9(2).
20. Palinggi, S., & Limbongan, E. C. (2020, January). Pengaruh Internet Terhadap Industri Ecommerce Dan Regulasi Perlindungan Data Pribadi Pelanggan Di Indonesia. In *Semnas Ristek (Seminar Nasional Riset*

- Dan Inovasi Teknologi) (Vol. 4, No. 1).
21. Petrus Reinhard Golose dalam Mufid, F. L. (2018). Kebijakan Integral Hukum Pidana dengan Technology Prevention dalam Upaya Pencegahan Kejahatan Cyberbullying. *Jurnal Rechtsens*, 7(2).
 22. Puspitasari, I. (2018). Pertanggungjawaban Pidana Pelaku Tindak Pidana Penipuan Online Dalam Hukum Positif Di Indonesia. *Humani (Hukum dan Masyarakat Madani)*, 8 (1), 1-14.
 23. Rahmad, N. (2019). Kajian Hukum terhadap Tindak Pidana Penipuan Secara Online. *Jurnal Hukum Ekonomi Syariah*, 3(2), 103-117..
 24. Ramli, A. M. (2018). Dinamika Konvergensi Hukum Telematika dalam Sistem Hukum Nasional. *Jurnal Legislasi Indonesia*, 5(4).
 25. Remaja, I. N. G. (2018). Penerapan Asas Praduga Tak Bersalah Bagian dari Perlindungan Hak Asasi Manusia yang Harus Dijamin oleh Negara. *Kertha Widya*, 6(1).
 26. Satya, V. E. (2018). Strategi Indonesia Menghadapi Industri 4.0. *INFO Singkat*.
 27. Sinaga, E. M. C., & Putri, M. C. (2020). Formulasi Legislasi Perlindungan Data Pribadi dalam Revolusi Industri 4.0. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 9(2), 237.
 28. Siregar, K. M. (2018). Integrasi Politik Hukum Terhadap Tindak Pidana Pemberitaan Palsu (Hoax) Di Indonesia. *FITRAH: Jurnal Kajian Ilmu-ilmu Keislaman*, 4(2), 227-242.
 29. Sitompul, J. (2012). *Cyberspace, cybercrimes, cyberlaw: tinjauan aspek hukum pidana*. PT Tatanusa.
 30. Suryani, M., & Mashdurohatun, A. (2016). Penegakan Hukum Terhadap Eksistensi Becak Bermotor Umum (Bentor) Berdasarkan Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan. *Jurnal Pembaharuan Hukum*, 3(1), 21-38.
 31. Syasmita, I. (2019). Pendekatan etnopedagogi upaya membangun dunia pendidikan di era revolusi 4.0.