

## The Efforts in Law Enforcement for Personal Data Protection

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**Abstract.** *The concept of the rule of law is crucial for the proper functioning of any state, ensuring that governance operates within the framework of legal regulations. This principle, outlined in Hans Nawiasky's Theory of Legal Norm Hierarchy, prevents the abuse of power and guarantees that authority is exercised under legal oversight. Key features of the rule of law, such as legal certainty, equality before the law, and human rights protection, contribute to the creation of a just society. In the context of Indonesia, which is a constitutional state as per Article 1(3) of the 1945 Constitution, legal provisions such as the Personal Data Protection Law (UU PDP) are introduced to protect citizens' personal data, particularly within the rapidly growing digital financial services sector. Indonesia's advancement into Industry 4.0 and the rise of financial technology (FinTech) have made data protection more urgent, especially in a digital economy where data sharing occurs across borders. The government's legal response includes laws and regulatory frameworks that aim to safeguard users' personal data while addressing challenges like low digital literacy, weak compliance, and cross-border data flows. This paper explores the implementation of these laws, examines the challenges in enforcing them, and proposes improvements for ensuring effective protection of personal data in Indonesia's digital financial services.*

**Keywords:** *Data; Digital; Financial; Personal; Protection; Services.*

### 1. Introduction

The concept of the rule of law refers to how a country implements law through established regulations that are passed and enforced to apply to citizens. The country operates within the framework of the law and will be held accountable if it exceeds the limits established by regulations (Muhammad, 2004). A functioning rule of law prevents abuse of power, ensuring that authority is exercised under legal oversight. This principle, outlined in Hans Nawiasky's Theory of Legal Norm Hierarchy (Soekanto & Mamudji, 2013), serves as a foundation for law formation and is essential for a just society. Key features of the rule of law include the legality principle, ensuring legal certainty; supremacy of law, which ensures no arbitrary governance with punishments only for legal violations; equality before the law, which ensures equal treatment for all citizens; human rights protection, safeguarding fundamental rights; separation of powers, dividing government into legislative, executive, and judicial branches; independent

judiciary, ensuring courts are free from influence; and freedom of expression, which allows citizens to freely express themselves within legal bounds (Soekanto, 2006).

As stated in Indonesia's Constitution (Article 1(3) of the 1945 Constitution), Indonesia is a rule of law state, meaning all state activities must follow the law. The Anglo-Saxon concept of the rule of law is referred to as "the rule of law, not of man," meaning governance is by a legal system, not individual rulers (Cubbon, n.d.; Edison & Lestari, 2020). This concept influences all aspects of state life, including economics, social, politics, and technology. With rapid advancements in information technology, all areas of human life are interconnected through digital platforms (Google et al., 2022). This technology facilitates easier communication and enables the creation, exchange, and deletion of both public and private information (Mertokusumo & Pitlo, 1993; Nopirin, 2008).

In the context of digital financial services, Indonesia has entered the era of Industry 4.0, where entities can communicate in real-time through the internet (Schwab, 2024). This facilitates new value creation and the development of cyber-physical systems, thus starting the revolution of Industry 4.0. Technological advances play a critical role in economic development and are crucial for the future success of Indonesia (Bank, n.d.). In response to these advancements, the government has introduced the Personal Data Protection Law (UU PDP) in 2022 to protect user data in this digital era (Al Ghani, 2022). Before the UU PDP, Indonesia lacked specific regulations on personal data protection, although general data privacy provisions existed, such as in the Population Administration Law (UU No. 24/2013). The Personal Data Protection Law now provides a legal framework to protect personal data and aligns with constitutional principles, specifically Article 28G of the 1945 Constitution.

As part of the revolution in financial services, Indonesia has embraced Financial Technology (FinTech), transforming traditional financial services into efficient, transparent, and inclusive digital services. The introduction of laws such as Law No. 4/2023 regarding financial sector development and strengthening, and regulatory bodies like OJK (Financial Services Authority), ensure the safety and confidentiality of user data. In Industry 4.0, technological advances such as artificial intelligence (AI), robotics, nanotechnology, and quantum computing are leading to transformative changes in various sectors, including finance. Indonesia's "Making Indonesia 4.0" roadmap supports these advancements by encouraging digital transformation through AI, IoT, and robotics in key industries like food, automotive, and electronics.

The rapid growth of digital transactions in Indonesia has made the need for robust data protection laws more urgent. Indonesia is one of the largest digital transaction markets globally, and as data sharing increases across borders, especially with agreements like the Indonesia-US Data Transfer Agreement, ensuring data protection remains crucial. The establishment of a Data Protection Authority (LP PDP) is vital to provide oversight and ensure that data processing aligns with privacy laws. In summary, the integration of law with technology is critical for creating a trustworthy and efficient digital financial system, which plays an essential role in supporting Indonesia's digital economy and ensuring the protection of citizens' personal data.

## **2. Research Methods**

Legal research is an important tool used for the development of law, policy reform, and a better understanding of law and legal systems (Soekanto & Mamudji, 2013). In relation to the discussion of legal research types, this study also employs data collection techniques through library research, which involves searching for legal materials through written sources and the internet related to the issues being studied (Suteki & Taufani, 2018). The data used in this study consists of secondary data that can be found and analyzed through the exploration of primary legal materials, secondary legal materials, tertiary legal materials, and non-legal sources (Marzuki, 2017; Soekanto, 2006). Efforts to search for legal materials are carried out by accessing legal sources through the internet and websites related to the discussed topic. After the data is collected, the data analysis method will be implemented in a structured manner, followed by descriptive and evaluative presentation (Soekanto, 2006). Subsequently, all the collected data will be qualitatively analyzed to obtain a comprehensive understanding of the urgency and the ideal form of the establishment of the Data Protection Authority (LP PDP).

### **1. Type of Research**

This research uses a qualitative analytical research type, which emphasizes the process of deductive and inductive reasoning as well as the analysis of the dynamics of the relationship between the issues raised using scientific logic. It is expected to provide an explanation of a phenomenon and eventually construct a legal regulation and/or theory related to that phenomenon.

### **2. Research Specification**

This research applies a normative-empirical legal research method (applied law research). Normative-Empirical research refers to the legal norms found in legislation, legal norms, and the legal behaviors present in society. The core of the study is the implementation or factual application of positive legal provisions and contracts in specific legal events in society to achieve predetermined goals, supported by empirical data.

Normative-Empirical is an approach in legal research that combines the analysis of ideal legal norms with empirical observations of how those laws are applied in practice. The aim is to understand, evaluate, and improve the factual application of the law in the daily lives of society and its norms. The normative method is chosen because the object of study concerns the principles and foundations of law, legal rules, theories, and doctrines of legal experts. The results of this research can be concluded that normative research (doctrinal), refers to research on laws conceptualized and developed based on doctrines. This method is understood as legal research on norms, principles, theories, philosophies, and legal rules to find solutions or answers to problems such as legal gaps, conflicts of norms, or norm biases. Meanwhile, empirical legal research is non-doctrinal, conducted through field data collection. In this research, data is gathered and processed using appropriate analytical techniques, presented descriptively to

obtain the actual state of law as a social reality, and expected to provide added value for lawmaking or legal reconstruction to support existing regulations.

### 3. Type and Data Collection Techniques

In normative-empirical research, secondary data is usually emphasized, including primary legal materials, secondary legal materials, and tertiary legal materials. The secondary data is then explained further or supported by primary data.

Primary legal materials are those that contain the most up-to-date scientific knowledge. These include:

- The Constitution of the Republic of Indonesia
- Law No. 8 of 1999 on Consumer Protection
- Law No. 27 of 2022 on Personal Data Protection
- Law No. 4 of 2023 on the Development and Strengthening of the Financial Sector
- OJK Regulation No. 22 of 2023 on Consumer Protection in the Financial Services Sector.

Secondary legal materials used in this study consist of books related to legal protection, legal theory, legal research methods, legal philosophy, and other books related to the objectives of this study, as well as laws, POJK, legal journals, and other relevant sources.

Tertiary legal materials serve as supplementary sources that provide additional explanations or clarifications of primary and secondary legal materials, obtained directly from their original sources, through journals, academic papers, news, etc., aimed at testing initial hypotheses formulated by the researcher using secondary data.

Library Research: Through this approach, the author aims to answer the problem formulation raised. In library research, the author examines various written sources from scholars such as law books, law magazines, law journals, and materials related to the topic, as well as relevant laws and regulations.

### 4. Research Approach

The analysis in this research uses a descriptive-qualitative approach. Descriptive qualitative research is a problem formulation that guides the study to explore or capture social situations comprehensively, broadly, and deeply. Descriptive qualitative research is typically used to analyze phenomena, events, or social conditions. The objective of descriptive qualitative research is to understand the experiences of research subjects, such as behavior, perceptions, and actions, to gain a comprehensive picture of the urgency and the ideal form of the formation of the LP PDP in a holistic manner, using descriptive and narrative forms within a specific natural context and applying various scientific methods.

## 5. Data Analysis Technique

The data analysis in this research uses the Futuristic Interpretation - Legal Construction method, which involves explaining laws based on the power of draft laws that do not yet have binding force. Legal construction refers to interpretation aimed at ensuring that court decisions in concrete cases can meet justice and provide benefits to those seeking justice.

Futuristic interpretation and legal construction highlight the importance of legal adaptation to social dynamics. By combining anticipatory interpretation and legal construction oriented toward justice, we can create a legal system that is more responsive and relevant to societal needs. The law should function not only as a regulatory tool but also as an instrument that protects and ensures justice for all parties. Through this approach, it is hoped that the law can be more effective in achieving social justice and creating harmony in society.

## 3. Results and Discussion

### 3.1. Analysis of the Rule of Law in Providing Legal Protection for Personal Data of Digital Financial Service Users

This analysis examines the legal frameworks regarding personal data protection and their implementation in the practice of digital financial services. From the perspective of the rule of law (Rechtsstaat), Indonesia has a constitutional obligation to guarantee the right to self-protection and personal data protection as mandated by Articles 28G, paragraph (1) and 28H, paragraph (4) of the 1945 Constitution of the Republic of Indonesia (Muthiah, 2018). The enactment of the Personal Data Protection Law (UU PDP), the Electronic Information and Transactions Law (UU ITE), and the regulations governing the financial services sector set forth by the Financial Services Authority (OJK), along with other relevant legal provisions, form the legal instruments aimed at providing legal certainty and safeguarding the rights of data subjects (Tanya et al., 2013).

These regulations impose obligations on digital financial service providers to maintain the confidentiality, integrity, protection, and security of data. They also emphasize and provide concrete measures for the rights of data subjects, such as access to their personal data, the right to correct data, the right to delete data, and the protection of their data through administrative, civil, or criminal sanctions (Bredemeier, 1962).

#### 1. Key Points of the Legal Framework:

2. Constitutional Guarantees: As part of the rule of law, Indonesia's Constitution guarantees the right to personal data protection under Articles 28G and 28H, ensuring that every citizen has the right to protection of their personal information.

3. Legal Instruments for Data Protection: The Personal Data Protection Law (UU PDP) specifically regulates the protection of personal data, ensuring that personal information is handled appropriately by service providers. In addition, the UU ITE regulates electronic transactions and online communication, which also includes provisions on the security and

integrity of personal data. Moreover, the OJK's regulations for the financial sector add another layer of control to protect users' data in digital financial services.

4. **Obligations of Digital Financial Service Providers:** Service providers are obligated to implement appropriate safeguards for data protection, including encryption, secure storage, and limiting access to data. They must also inform users of their rights and how their data will be used, ensuring transparency and accountability.

5. **Rights of Data Subjects:** These legal provisions guarantee the rights of individuals to access, correct, and delete their personal data. Additionally, individuals can seek legal remedies if their rights are violated, including administrative, civil, or criminal sanctions against service providers who fail to comply with the regulations.

6. **Challenges and Implementation Issues:**

Despite the existence of legal regulations, the implementation of personal data protection in the digital financial services sector still faces several challenges:

1. **Low Digital Financial Literacy:** Many users are still unaware of their rights concerning data privacy. The lack of adequate education on digital financial literacy results in users not fully understanding the risks of data exposure or how to exercise their rights effectively.

2. **Weak Compliance by Some Providers:** There are instances of non-compliance or weak enforcement among certain digital financial service providers, which undermines the protection of personal data.

3. **Ineffectiveness in Oversight and Law Enforcement:** The effectiveness of regulatory oversight and law enforcement remains limited. The regulatory bodies, while established, still face difficulties in fully enforcing the law and monitoring all digital financial service providers.

4. **Cross-Border Data Flows:** The issue of cross-border data flows is another challenge. Personal data is often transferred to other countries, which may not have the same level of data protection standards, complicating the enforcement of local data protection laws.

7. **Gaps Between Legal Norms and Practice:**

The gap between legal norms and practice is evident in the ongoing difficulties in implementing the legal framework effectively. While the regulations provide the necessary legal structure, their application in real-world scenarios is hindered by the challenges mentioned above. This gap illustrates that the existence of legal regulations alone is insufficient to ensure effective legal protection for personal data as a fundamental right. A robust institutional support system, effective inter-agency coordination, and active public engagement are necessary to bridge this gap.

### **3.2. Further Discussion on Legal Protection of Personal Data in Digital Financial Services**

In the context of the rule of law (*Rechtsstaat*), the protection of personal data in Indonesia, especially in the realm of digital financial services, has evolved into a significant area of concern. While there has been considerable progress with the enactment of several laws such as the Personal Data Protection Law (UU PDP), the Electronic Information and Transactions Law (UU ITE), and financial service regulations enforced by the Financial Services Authority (OJK), there



is still much to be developed in terms of ensuring that legal protections are fully realized. The following aspects merit further development and deeper exploration:

### 1. Strengthening the Public's Digital Literacy

One of the foundational issues hindering effective data protection in digital financial services is the public's relatively low digital literacy. Many users of digital financial services are unaware of the potential risks associated with data collection and the use of their personal information. To address this, more comprehensive digital financial literacy programs are needed to educate users about their rights under the law, as well as the steps they can take to protect their data.

Governments, educational institutions, and digital financial service providers need to collaborate to create accessible platforms, materials, and workshops aimed at educating the public. Additionally, it is crucial to address the broader context of digital literacy, which goes beyond understanding basic technology use and extends into an understanding of privacy risks, cybersecurity, and the concept of personal data as an asset that needs protection.

### 2. Enhancing Enforcement Mechanisms

Although Indonesia has enacted legal frameworks to protect personal data, a significant challenge remains: enforcement. Legal provisions and regulatory oversight bodies, such as the OJK, need to be empowered with more resources and tools to monitor and enforce compliance effectively. The existing sanctions, both administrative and criminal, must be implemented consistently to ensure that service providers understand the consequences of non-compliance.

A specialized data protection authority, independent from other regulatory bodies, could provide focused oversight and enforcement of the Personal Data Protection Law. This would ensure that the implementation of regulations is uniform and transparent, with an increased ability to investigate data breaches and impose penalties. Furthermore, the collaboration between different law enforcement agencies, such as those responsible for cybersecurity, consumer protection, and financial regulation, should be enhanced to tackle violations more efficiently.

### 3. Addressing Data Sovereignty and Cross-Border Data Flows

As digital financial services increasingly rely on cloud computing and cross-border data exchange, the challenge of data sovereignty has become a pressing issue. Many digital financial service providers store user data in servers located abroad, subjecting it to foreign laws and regulations that may not offer the same level of protection as Indonesian laws.

To safeguard data sovereignty, Indonesia should consider revising its data protection regulations to impose stricter requirements on cross-border data transfers. This could include establishing agreements with countries that handle Indonesian data to ensure that they meet

or exceed domestic privacy standards. Additionally, Indonesia might explore developing its own domestic data centers and cloud infrastructures to encourage local data storage and reduce reliance on foreign data centers.

#### 4. Improving the Legal Framework for Data Subject Rights

While the Personal Data Protection Law guarantees certain rights for data subjects—such as the right to access, correct, and delete personal data—the practical application of these rights is still an area for improvement. Many users are unaware of how to exercise their rights, and service providers may not have efficient systems in place for handling requests related to data access, correction, and deletion.

The legal framework must be improved to establish clear, standardized procedures that are easily accessible to users. For instance, regulations could mandate that service providers develop user-friendly platforms for submitting data-related requests and ensure that these requests are handled in a timely manner. Additionally, penalties for failure to comply with user requests should be strengthened to ensure that data subjects' rights are respected.

#### 5. Building Public Trust Through Transparency

Transparency is a key element in building public trust in the protection of personal data. Digital financial service providers should not only comply with the law but should also go beyond the minimum requirements by providing users with clear, understandable information about how their data is collected, used, and protected.

Regulatory frameworks can further promote transparency by requiring companies to provide users with easy-to-understand privacy notices, opt-in consent mechanisms, and clear explanations of how their data is shared with third parties. Regular audits, public reporting on data protection practices, and third-party certifications could also help improve the transparency of these services and build greater consumer confidence.

**Table 1.** Transparency in digital financial services regarding personal data protection and building public trust

Aspect	Description	Recommended Transparency Practices	Benefits to Consumers and Providers	Implementation Challenges
Legal Compliance	Providers must comply with existing data protection laws and regulations	Provide clear, understandable information on data collection, usage, and protection	Builds user trust through legal assurance and clarity	Varying legal frameworks and interpretations across regions
Privacy Notices	Clear, easy-to-understand privacy notices	Use plain language and standardized formats delivered before data collection	Helps users understand rights and data management processes	Balancing detail and simplicity to avoid confusing users



Opt-in Consent Mechanisms	Explicit user consent required before data collection or sharing	Clear "opt-in" processes with unambiguous consent options	Empowers users with control over their personal data	Avoiding coercive consent or uninformed agreement
Regular Audits and Public Reporting	Perform routine audits and disclose data protection practices publicly	Publish audit results and data security policies regularly	Enhances accountability and demonstrates commitment to security	Audit costs and resources may be substantial
Third-Party Certifications	Obtain certifications from independent bodies (e.g., ISO 27001)	Display certification badges and compliance reports	Increases credibility and consumer confidence	Certification process complexity and financial costs

#### 4. Conclusion

The implementation of legal protection for personal data in the digital financial services sector faces various hurdles. A mere normative examination of the legal framework is not enough; an evaluative approach is required to assess the effectiveness of these laws in practice. The rule of law plays a crucial role in ensuring that personal data protection is not just a theoretical right but a practical, enforceable protection for citizens. A strong institutional framework, coordinated action across government agencies, and greater public awareness are essential to ensuring that personal data protection becomes a reality in digital financial services, in line with constitutional values and human rights principles.

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