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Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Legal Efforts to Protect Privacy in Cyberspace Against the Surge in Personal Data Cases

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Abstract. *Efforts are being taken to protect privacy in cyberspace, especially in the face of a surge in personal data cases. In the ever-evolving digital era, challenges related to data privacy are increasingly complex and increasing. One of the most popular and used digital platforms today is social media. One of the negative impacts is the occurrence of data leaks or privacy violations of social media users' personal data, which is caused by certain supporting factors. The aim of this research is to understand how existing regulations and law enforcement have contributed to protecting user privacy in the digital environment, especially in the face of increasing cases of personal data breaches. The research method used is a normative legal method using library sources. enforcement and collaboration between governments, legal institutions, technology companies and society are essential to creating a safer digital environment. Existing regulations need to continue to be updated and adapted to the ever-changing developments in information technology. With strong collaboration between the government and increased awareness from the public, legal efforts to protect privacy in cyberspace will become more effective in dealing with the surge in personal data cases in this digital era.*

Keywords: *Legal measures; Personal Data; Privacy.*

1. Introduction

In the digital era, rapid technological advances and the proliferation of the internet have changed the way we live, work and interact. While these developments have brought many benefits, such as increased access to information, improved communications, and new economic opportunities, they have also raised significant challenges, particularly in the area of

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personal data protection. One country facing this challenge is Indonesia, a country that has experienced a surge in digitalization but at the same time also faces important problems related to data privacy and security. Strong government regulations and enactment of the Personal Data Protection Bill to protect individuals' personal information.¹

The manifestation of personal data protection is also closely related to the duties of Electronic System Operators in collecting personal information users, both online and offline. Furthermore, the task in question is that every Electronic System Operators are required to have internal rules regarding personal data protection as an effort to prevent misuse in operations. However, the reality on the ground is that a lot of digital data belonging to users is bought and sold without permission or misused use purpose illegal (outside of providing administrative equipment), until it is stolen by a third party. This misuse of personal data indicates that there are weaknesses in the system in terms of public legal awareness, lack of effective regulations, less strict supervision and law enforcement practices. resulting in losses for the individual concerned.²

This technology has changed the lives of its users from various aspects starting from the way communication, social methods, ways of thinking, economic systems and other forms of life. The conveniences received have made everything more efficient and effective. As a result, many people pay less attention to one important aspect surfing in this digital era, one of which is data privacy. The privacy of social media users' data privacy is both a threat and an impact technology is bad if it cannot be maintained properly or there is a data leak caused by human error, system damage, or someone else's intention. Usage Social media has spread to all sides of society, from children to the elderly. Matter It is important to pay attention to the security of the social media used . This security can be influenced by several factors, one of which is the self Alone. How about yourself maintain data privacy, confirm periodically to ensure data security, do not disclose matters related to privacy to other people even family or close friends or even

¹ Naylawati Bahtiar , DATA LEAKAGE EMERGENCY: DEADLINE WITH GOVERNMENT REGULATION, DPMR Journal Volume 2 Issue 1, June 2022, p. 87.

² Muhammad Fikri, Shelvi Rusdiana , *SCOPE OF PERSONAL DATA PROTECTION: A STUDY OF INDONESIAN POSITIVE LAW*, GANESHA LAW REVIEW , Journal Volume 5 Issue 1, May 2023, p. 43.

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boyfriends. There are several important reasons why Privacy data on social media must be protected, one of which is to prevent criminal acts .³

Social media platforms in the era of society digital was once considered a political force revolutionary. With all forms of interaction can be done on the internet and social media, almost there are no restrictions for deep internet users upload, send and exchange content photos, videos and other forms in unlimited quantities limited and not limited by distance and time. The freedom that can be done on the internet has a bad side that can be detrimental social media users in this era of globalization. With all the convenience in accessing all the features in social media, just like everything else evolve and develop, it will definitely give rise to new problems, one of which is cyber violence.⁴

The most cases of cyber attacks are in the field of personal data security society. This is because government regulations are still weak to protect things the. Until now, there is still no cyber defense policy in Indonesia, the government still using alternative policies which of course these policies are not capable of cover many cybercrime incidents. Currently the government only uses the Criminal Code Law, ITE Law, Banking Law, Telecommunications Law, Consumer Protection Law, etc. Naturally The policy is not specific in dealing with difficult cybercrime cases, so it is deep handling cyber crime cases will tend to be slow.⁵

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. Personal self-protection as stated in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia above is closely related to the protection of personal rights or private rights. Data protection is also a fundamental human right, a number of countries have recognized data protection as a constitutional right or in the

³Sevia Diah Pratiwi, Muhammad Irwan Padli Nasution , *Law Enforcement Against Privacy Data Security on Social Media in Indonesia*, SAMMAJIVA Journal of Business and Management Research Vol.1, No.3 September 2023, p. 36.

⁴Alifia Michelle Aisyah Usman , Rosalia Dika Agustanti, *Criminal Law Policy in Eradicating the Crime of Non-Consensual Pornography in Indonesia* , Perspective Journal Volume 26 Number 3 of 2021 September Edition, p. 164.

⁵Mohammad Makbu I , Mahsun Ismail, Nur Hidayat, Sri Sulastri , *INDONESIAN CYBER DEFEND POLICY IN ORDER TO HANDLE INTERNATIONAL CYBER THREATS*, JUSTITIA Journal Vol. 23 No. 2, December 2022, p. 4.

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form of " data habeas" , namely a person's right to obtain security for their data and to be justified when errors are found in their data.

This research aims to explain how the law can act to protect individual privacy in cyberspace , especially in the face of increasing cases of personal data breaches. In this context, the focus is on legal responses to the challenges faced by individuals in maintaining the confidentiality of their personal information in cyberspace. This includes an analysis of the effectiveness of existing legal regulations, as well as legal measures that can be taken to deal with the surge in cases of personal data breaches and strengthen privacy protection in the digital realm. The lack of effective personal data protection regulations in Indonesia has led to numerous data leak incidents, highlighting the vulnerability of personal information in the digital world. Based on available sources, researchers will focus on a number of problem formulations, namely: 1) What is the role and effectiveness of legal regulations in protecting personal data ? 2) How do legal efforts to protect privacy in cyberspace respond to the surge in personal data cases?

2. Research Methods

This research uses normative legal research methods because the main point is to analyze various norms , regulations and theories that aim to organize applicable law. Furthermore, the data used is secondary data originating from two sources, namely primary and secondary legal sources.⁶ This research is normative legal research, with the approach method used is the juridical-normative method, because it is normative legal *research* .⁷Then , of course, with the word normative, we will study or compare with laws and regulations related to the theme that the author and group are studying, so with the term normative method, it means that with this method we will actually go through the stage of observing and reviewing the material. -library materials as previously mentioned are *library search* .⁸

3. Results and Discussion

⁶Hari Sutra Disemadi , *Legal Research Lens: Descriptive Essay on Legal Research Methodology* , Journal Of Judicial Review, Vol 24 (2) December 2022, 289-304 , p. 292.

⁷Gian Wiatma Jonimandala , Devy KG Sondakh , Jemmy Sondakh , *The Role of the Directorate of Cyber Crime (DITIPIDSIBER) Bareskrim Polri in Carrying out Law Enforcement Against Crimes of Data Theft and Misuse Personal* , INNOVATIVE: Journal Of Social Science Research Volume 3 Number 4 Year 2023 Page 680-692 , p. 683-684.

⁸Eka Ari Endrawati , *JURIDICAL ANALYSIS OF COMPLIANCE WITH PERSONAL DATA PROTECTION REGULATIONS IN INTERNET OF THINGS (IOT) SOLUTIONS* , Causa Journal of Law and Citizenship Vol 2 No 06 2024 , p. 75.

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3.1. The Role and Effectiveness of Legal Regulations in Protecting Personal Data

Criminal law in Indonesia is used as a means to tackle a form of crime which does not seem to be a fundamental problem, this can be seen from the existence of legislative practice which so far shows that the use of criminal law is an inseparable part of existing legal policy or politics. used by Indonesia. Use of law Criminal law has long been considered a normal thing, meaning that with these conditions its existence is already established no longer a problem.⁹ Authority to supervise the implementation of data management without providing specifications protection mechanisms are governed by only a few regulations. Neither does that setting explicitly states the obligation to protect data, but only to a limited extent supervise the management process. Only some regulations regulate detailed mechanisms protecting personal data in various ways.¹⁰

Regarding legal protection, Based on the source, legal protection can be divided into 2 (two) types, namely internal protection and external protection. Internal legal protection can be realized by the parties, when the legal position between the two parties is relatively balanced, meaning they have balanced bargaining power, so that on the basis of human rights, the parties have the freedom to express their wishes according to their interests. This becomes the basis when the parties draft the clauses of the agreement, so that legal protection can be realized according to the needs of the parties. External legal protection created by the authorities through regulations can provide protection for the interests of weak parties. The essence of legislation must be balanced and must not be biased. Proportionately, it is also mandatory to provide balanced legal protection as early as possible to other parties. Because it is possible that when an agreement is made, the party that was originally strong will actually become the party that is persecuted.¹¹

Legal protection is a thing which are protected as legal subjects through applicable laws and regulations and enforced its implementation there are sanctions imposed. Protection Law can be divided into two, namely preventive and repressive protection. ¹²The ITE Law focuses on

⁹Utin Indah Permata Sari , *Law Enforcement Policy in Efforts to Handle Cyber Crime Committed by the Virtual Police in Indonesia* , Mimbar Law Journal, Volume 2 Number. 1 of 2021, p. 6.

¹⁰Wahyudi Djafar , Bernhard Ruben Fritz Sumigar , Blandina Lintang Setianti , 2016, *PERSONAL DATA PROTECTION (Proposed Policy Institutionalization from a Human Rights Perspective)*, LSAM, Page. 52.

¹¹Isnaeni. Moch, 2017, *A Diaroma of Contract Law* , PT Revka Petra Media, Surabaya, Matter. 159

¹²Erna Priliyasi , *PROTECTION OF CONSUMER PERSONAL DATA IN E-COMMERCE TRANSACTIONS ACCORDING TO LEGISLATION IN INDONESIA*, Journal of Rechts Vinding Media National Legal Development Volume 12 Number 2, August 2023, p. 265.

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regulating criminal acts in the cyber world so that the ITE Law can provide legal certainty for victims to carry out their activities on various electronic systems. According to the provisions of the ITE Law, it currently aims at general provisions, but is quite comprehensive, covering all matters relating to the online world. The ITE Law contains new content on themes such as identification of electronic transactions and evidence, dispute resolution, data protection, domain names and intellectual property rights, as well as forms of prohibited activities and sanctions that have never been considered before.¹³

The government has made regulations governing privacy or personal data which include Law no. 1. Changes to Law Number 19 of 2016 concerning Information and Electronic Transactions (UU ITE) to Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) and Criminal Law (KUHP). ¹⁴As stated in Article 26 Paragraph 1 explains that the use of information via electronic media is related with personal data must be based on the consent of the person concerned, Chapter 1 Law of the Republic of Indonesia Number. 24 of 2013 which is amendments to Law number 23 of 2006 concerning Administration Population Affairs states that personal data is individual data that is stored , guarded, cared for and protected in confidentiality .¹⁵

Republic of Indonesia Law no. 24 of 2013 amendments to the Republic of Indonesia Law No. 23 of 2006 Article 1 Number 22 concerning Population Administration it is stated that personal data is certain individual data that is stored, maintained, kept true and protected confidentially, Article 17 letter h Law Number 14 of 2008 concerning Public Information states If public information is disclosed, it could endanger the member's history and condition family, care, treatment, physical and psychological health, financial condition, a person's assets, opinions and bank accounts relating to educational activities formal or non-formal, Minister of Communication and Information Regulation Number 20 2016 concerning Protection of Personal Data in Electronic Systems, Regulations Government Number 71 of 2019 concerning Implementation of Electronic Systems and Transactions .¹⁶

¹³Amelia Putri Anisah , Eko Nurisman , *Cyberstalking: Crimes Against Personal Data Protection as a Trigger for Crime*, KRTHA BHAYANGKARA, Vol. 16, no. 1 (2022), pp. 163-176, p. 170.

¹⁴Amelia Putri Anisah , Eko Nurisman , *Cyberstalking: Crimes Against Personal Data Protection as a Trigger for Crime*, KRTHA BHAYANGKARA, Vol. 16, no. 1 (2022), pp. 163-176, p. 170.

¹⁵Parida Angriani , *Legal Protection of Personal Data in E-Commerce Transactions: Islamic Law and Positive Law Perspectives* , DIKTUM: Journal of Sharia and Law Volume 19 Number 2 December 2021 pp: 149-165, p. 152.

¹⁶Parida Angriani , *Legal Protection of Personal Data in E-Commerce Transactions: Islamic Law and Positive Law Perspectives* , DIKTUM: Journal of Sharia and Law Volume 19 Number 2 December 2021 pp: 149-165, p. 152.

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In the Indonesian legal system, the right to privacy is classified as a derogable right means rights whose fulfillment can be reduced. Derogable rights are different with non-derogable rights, namely human rights (HAM) that cannot be reduced under any circumstances (source). These non-derogable rights are regulated in the 1945 Constitution (amendment) article 28 paragraph (1):¹⁷

"The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted based on laws that apply retroactively are human rights that cannot be reduced under any circumstances."

In this case, the violation of the right to privacy is not immediate interpreted as a violation of human rights. Reduction of rights Privacy is basically also regulated in the Telecommunications Law number 36 of 1999, especially article 40 which regulates wiretapping. The law does not use the terminology "right to privacy", but rather "right personal" that must be protected. Indonesia does not yet have a policy or regulation regarding the protection of personal data in a special regulation. Settings regarding matters These are still contained separately in several laws and regulations and only reflect aspects of personal data protection in general. Personal data protection settings should be considered as one of the most important areas needed by Indonesia.¹⁸

3.2. Law Enforcement in Cybersecurity Cases to Increase Effectiveness and Fairness in Handling Digital Threats

Crimes that utilize advances in computer technology, especially the internet, are known as *cybercrime*. Based on the sophistication of the development of internet technology, *cybercrime* is defined as an unlawful act that utilizes computer technology. Because Indonesia is a country of law, all activities of the state and society are always prioritized in accordance with the law. Indonesia is always trying to make amendments to criminal law, and the Information and Electronic Transactions Law (UU ITE) is one of these efforts. Because society is very dependent on the implementation of activities in the field of computer-based technology, and because such

¹⁷ Kominfo, *STRATEGY FOR IMPLEMENTATION OF PERSONAL DATA PROTECTION REGULATIONS IN INDONESIA*, Ministry of Communication and Informatics, HR Research and Development Agency, Puslitbang Aptika and IKP, 2019, p. 5.

¹⁸ Kominfo, *STRATEGY FOR IMPLEMENTATION OF PERSONAL DATA PROTECTION REGULATIONS IN INDONESIA*, Ministry of Communication and Informatics, HR Research and Development Agency, Puslitbang Aptika and IKP, 2019, p. 6.

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implementation often involves violations of human rights.¹⁹ Cybersecurity awareness, defined as the level of users' understanding of the importance of information security and their obligation to implement appropriate levels of information controls to protect an organization's data and networks, is a methodology for training internet users to be sensitive to various cyber threats and the vulnerability of computers and data to threats. This.²⁰ Besides the increasing number of cases of misuse of personal data when using social media.²¹

Until now, Indonesia does not have a policy or provision that regulates the protection of personal data specifically, so far it is still contained separately in several laws and regulations, so it is necessary to have a law that regulates comprehensively, clearly and firmly regarding misuse. personal data. Currently, personal data protection is contained in several laws and regulations, including:²²

- 1) Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions;
- 2) Government Regulation Number 82 of 2012 concerning Electronic System and Transaction Operators;
- 3) Law no 8 of 1999 concerning Consumer Protection (UUPK).

In 2022, Indonesia passed Law Number 27 of 2022 concerning Personal Data Protection (UU PDP). This law was issued based on the need to protect individual privacy and maintain the security of personal data in the increasingly developing digital era. The main background for this regulation is the rapid development of information and communications technology which has changed the way we collect, store, process and transfer personal data. Regulations regarding personal data protection are expected to be puts Indonesia on par with developed countries that have implemented laws regarding personal data protection. This will further encourage and

¹⁹ Jeremiah Marvin Kapoyos o, Dimas Abimanyu Prasetyo , Mochamad Reyhan Gusnaldi, Fried Sinlae , *The Importance of Cybersecurity in the Era of Society 5.0* , Nusantara Journal of Multidisciplinary Science , Vol. 1, No. 5, December 2023Pg 1344-1351 , p. 1348.

²⁰ Jeremiah Marvin Kapoyos o, Dimas Abimanyu Prasetyo , Mochamad Reyhan Gusnaldi, Fried Sinlae , *The Importance of Cybersecurity in the Era of Society 5.0* , Nusantara Journal of Multidisciplinary Science , Vol. 1, No. 5, December 2023Pg 1344-1351 , p. 1347.

²¹ Sevia Diah Pratiwi, Muhammad Irwan Padli Nasution , *Law Enforcement Against Privacy Data Security on Social Media in Indonesia*, SAMMAJIVA Journal of Business and Management Research Vol.1, No.3 September 2023, p. 39.

²² Alvian Dwiangga Wijaya , Teddy Prima Anggriawan, *Legal Protection of Personal Data in Using Applications on Smartphones*, Inicio Legis Journal Volume 3 Number 1 June 2022, p. 68.



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strengthen Indonesia's position as a trusted business center, which is a key strategy in the Indonesian national economy.²³

The ITE Law regulates data protection, including wiretapping, where wiretapping is an action that cannot be carried out unless it is included in the group that has the right to do so within the framework of legal action. If you look at the explanation of Article 26 of the ITE Law, there is a weakness, namely that there is no legal protection for the owners of data used by organizers or service providers with the aim of making a profit. The Law on Information and Electronic Transactions only touches on the subject of personal data protection (general provisions) without following up on the implementation of such protection. This weakness is something that must be corrected in order to realize legal objectives, namely maintaining and ensuring order (certainty) and orderliness, therefore it is necessary to reformulate existing legal norms . Through the provisions of Article 28J paragraph (2) of the 1945 Constitution and the Supreme Court Decision through decision no. 6/PUU-VIII/2010 and Number 006/PUU-I/2003 which states his views regarding privacy protection must be protected by the state. However, in terms of legal interests, these rights can be reduced as long as they go through a mechanism regulated in a law.²⁴

The ITE Law has provided protection for personal data in electronic transactions but does not provide detailed regulations on what is meant by personal data. The definition of personal data can be found in several regulations under the ITE Law such as Government Regulation no. 71 of 2019 concerning Implementation of Electronic Systems and Transactions and Regulation of the Minister of Communication and Information Technology Number 20 of 2016 concerning Protection of Personal Data in Electronics. Apart from that, the definition of personal data can also be found in the UUPDP.²⁵

Protection of privacy data as part of respecting the right to privacy *must* begin with providing legal certainty. Therefore, the guarantee for the protection of data privacy must be placed in a legal instrument that has the highest power, namely the constitution, because the Basic Law or Constitution is the highest legal instrument in a country. Legal certainty (the principle of legality)

²³Enny Nurbaningsih, 2016, *Academic Paper on the Draft Law on Personal Data Protection* , BPHN .

²⁴Alvian Dwiangga Wijaya , Teddy Prima Anggriawan, *Legal Protection of Personal Data in Using Applications on Smartphones*, Inicio Legis Journal Volume 3 Number 1 June 2022, p. 69.

²⁵Erna Priliyasi , *PROTECTION OF CONSUMER PERSONAL DATA IN E-COMMERCE TRANSACTIONS ACCORDING TO LEGISLATION IN INDONESIA*, Journal of Rechts Vinding Media National Legal Development Volume 12 Number 2, August 2023, p. 269.

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is necessary and cannot be ruled out in the context of law enforcement by every country. The state's step in providing legal certainty is by establishing and guaranteeing these rights in the constitution, then through this instrument the character of a country will be visible in terms of what is put forward, what legal system is used and how the government is organized.²⁶

4. Conclusion

Legal efforts are divided into two, namely preventive and repressive. Preventive refers to steps taken by the government to prevent violations, usually through the establishment of laws. Meanwhile, repressive efforts involve fines, sanctions and prison sentences, which are forms of preventive efforts. Even though personal data protection has been regulated in Indonesian legal norms, there are still shortcomings in law enforcement, both in terms of detailed regulations and implementation. Personal data, which contains information identifying its owner, must be kept confidential and protected. Therefore, personal data is an important asset that needs to be stored safely and its privacy must be maintained. Law Number 27 of 2022 concerning Personal Data Protection requires the establishment of a personal data protection supervisory agency. This institution has a very vital role in supervising the implementation of personal data protection. Apart from that, this institution can also be a forum for consumers to convey complaints or aspirations related to the protection of their personal data. Considering the important role of this institution, the Government must immediately establish it with independent status. In addition, to maintain the security of personal data, it is important to provide digital literacy education to the public so that they understand how important it is to maintain the confidentiality of personal data.

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