

LEGAL GAPS IN PERSONAL DATA PROTECTION AND E-COMMERCE RESPONSIBILITIES IN INDONESIA

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Abstract

This study analyzes the legal gaps in personal data protection and the responsibilities of e-commerce business actors in Indonesia, focusing on Law Number 27 of 2022 concerning Personal Data Protection, especially Articles 55–56 concerning cross-border data transfers, as well as Law Number 8 of 1999 concerning Consumer Protection and Government Regulation Number 80 of 2019 concerning Commerce Through Electronic Systems. Using a normative legal approach supported by literature studies and comparative analysis, this study identifies regulatory weaknesses, such as the absence of explicit consent requirements in cross-border data transfers and the continued use of exoneration clauses that are detrimental to consumers. Comparisons with the Malaysian Personal Data Protection Act and the European General Data Protection Regulation show that Indonesia lags behind in aspects of compliance, supervision, and consumer protection. The results of the study show that unclear regulations and weak law enforcement mechanisms increase the risk of misuse of personal data and hinder the growth of the digital economy. Here, legal reform is needed in the form of explicit consent obligations, elimination of clauses that are detrimental to consumers, and strengthening the supervisory role of Ministry of Communication and Information and Business Competition Supervisory Commission, as well as the establishment of alternative dispute resolution mechanisms.

Keywords: Personal Data Protection; Cross-Border Data; E-Commerce; Consumer Rights; Legal Harmonization.

A. INTRODUCTION

The rapid growth of Indonesia's digital economy, especially in the field of e-commerce, has made a major contribution to national economic development. However, this also poses new challenges in personal data protection and business accountability. Advances such as wider internet access, increased use of technology, and changes in consumption patterns have encouraged businesses to shift to digital platforms. In this digital ecosystem, consumers' personal data becomes important to protect, as it is used for personalization of services, promotions, and online transactions. This shows that these advances pose risks related to data security and the extensive collection, storage, and processing of user information by

businesses. In this context, personal data, such as names, addresses, and telephone numbers, are increasingly vulnerable to misuse, hacking, and data breaches. Consumer dependence on digital platforms is also increasing. As a result, this makes the issues of cybersecurity, consumer protection, and legal compliance increasingly important in this digital era.

Since 2019 to early 2022, Indonesia has experienced dozens of data leaks in the e-commerce and banking sectors, such as Bukalapak (2019), Tokopedia (2020), Lazada RedMart (2020), BRI Life (2021), and Bank Indonesia (2022).¹ The leaked data includes personal and financial information, which is traded on dark forums and has the potential to be used for fraud, skimming, and illegal online loans, threatening consumer security widely.² This incident is not only a violation of privacy, but also a reflection of the vulnerability of regulations and business responsibilities in Indonesia's digital economy era, as analyzed in the telematics legal framework.³ How can e-commerce companies guarantee the security of consumers' personal data if their own legal framework still has gaps.⁴ The rapid growth of e-commerce, which accounts for 36% of total national transactions in 2022, demands harmonization between personal data protection and fair business practices to maintain consumer trust and economic stability.⁵

The development of information and communication technology (ICT) has transformed the global economic landscape, with e-commerce becoming the backbone of Indonesia's digital economy.⁶ Based on a survey conducted by APJII and Indektat in 38 provinces, in 2024, the number of internet users in Indonesia will reach 221.56 million people or 79.5% of the total population. This figure shows a consistent upward trend since 2018. The majority of users come from Gen Z and millennials, with a dominance of urban areas.⁷ In 2023, the number of Indonesian e-commerce users will reach 58.63 million with a penetration rate of 21.56%. This figure is projected to increase to 99.1 million users and a penetration rate of 34.84% in 2029.⁸ However, consumers' personal data, such as name, address, and telephone number, which are the

¹ Maulina Ulfa. Deretan Kebocoran Data E-Commerce dan Sektor Perbankan, Seberapa Bahaya?. *IDX Channel*, September 12, 2022.

² Diva Marischa and Reni Budi Setianingrum. "Transfer of Personal Data by E-Commerce Companies: A Study from the Perspective of Indonesian Personal Data Protection Laws." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 4, no. 1 (2024): 48-64.

³ Sugeng. *Hukum Telematika*. Jakarta, Prenadamedia Group, 2020.

⁴ Siti Yuniarti. "Perlindungan hukum data pribadi di Indonesia." *Business Economic, Communication, and Social Sciences Journal (BECOSS)* 1, no. 1 (2019): 147-154.

⁵ Edy Santoso. "Opportunities and challenges: e-commerce in Indonesia from a legal perspective." *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 395-410; Lidia Fathaniyah, Mohammad Makbul, and M. Makhrus. "Urgensi Perlindungan Data Pribadi pada Transaksi e-commerce Terhadap Pembangunan Ekonomi di Indonesia," *Jurnal Hukum Ekonomi Syariah* 6, no. 2, (2023): 77-88; Herdi Setiawan, Mohammad Ghufro, and Dewi Astutty Mochtar. "Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi e-Commerce." *MLJ Merdeka Law Journal* 1, no. 2 (2020): 102-111.

⁶ Mohammad Aldrin Akbar, and Sitti Nur Alam. *E-commerce: Dasar teori dalam bisnis digital*, Medan, Yayasan Kita Menulis, 2020.

⁷ Asosiasi Penyelenggara Jasa Internet Indonesia (APJII). APJII: Jumlah Pengguna Internet Indonesia Tembus 221 Juta Orang. *APJII*, February 7, 2024.

⁸ Pusat Data dan Sistem Informasi Sekretariat Jenderal Kementerian Perdagangan. *Perdagangan Digital (E-Commerce) Indonesia Periode 2023*. Jakarta, Kementerian Perdagangan, 2024.

main assets of e-commerce, are also the target of cybercrime, such as hacking and data misuse, highlighting the urgency of stronger legal protection.⁹

Indonesia has been working to build a legal framework to address these challenges. Prior to 2022, regulations such as Law No. 19 of 2016 concerning Electronic Information and Transactions, PP No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (PP PSTE), and PP No. 80 of 2019 concerning Trading Through Electronic Systems (PP PMSE) only partially regulated data protection. Law No. 8 of 1999 concerning Consumer Protection also plays an important role, with Article 4 paragraph (3) guaranteeing consumers' rights to honest information and Article 19 regulating compensation for breach of contract. The issuance of Law No. 27 of 2022 concerning Personal Data Protection (*Perlindungan Data Pribadi*/PDP) is an important milestone, establishing the principles of transparent data collection (Article 16 paragraph (2)), notification of leaks within 3x24 hours (Article 46), and supervision of data controllers (Article 37). However, weaknesses in the regulation of cross-border data transfers (Articles 55–56) and limited law enforcement still hamper its effectiveness. Previous studies highlight that this regulation does not fully support fair business responsibility, especially in the context of exculpation and default clauses.¹⁰ In addition, other studies reveal the importance of more progressive legal reforms in personal data protection in the digital era as well as the need to strengthen aspects of supervision and administrative sanctions against data protection violations.¹¹

The growth of Indonesian e-commerce is accompanied by significant legal challenges, especially in personal data protection and business

⁹ Sinta Dewi Rosadi, *Cyber law: aspek data privasi menurut hukum internasional, regional, dan nasional*, Bandung, Refika Aditama, 2015.

¹⁰ Diva Marischa and Reni Budi Setianingrum. "Transfer of Personal Data by E-Commerce Companies: A Study from the Perspective of Indonesian Personal Data Protection Laws." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 4, no. 1 (2024): 48-64; Ari Wibowo, Widya Alawiyah, and Azriadi. "The importance of personal data protection in Indonesia's economic development," *Cogent Social Sciences* 10, no. 1 (2024) 2306751; Edy Santoso. "Opportunities and challenges: e-commerce in Indonesia from a legal perspective." *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 395-410.

¹¹ Beni Kharisma Arrasuli and Khairul Fahmi. "Perlindungan hukum positif Indonesia terhadap kejahatan penyalahgunaan data pribadi." *UNES Journal of Swara Justisia* 7, no. 2 (2023): 369-392; M. Rafifnafia Hertianto. "Sistem Penegakan Hukum Terhadap Kegagalan Dalam Perlindungan Data Pribadi Di Indonesia." *Kertha Patrika* 43, no. 1 (2021): 21-35; Gillang Achmad Riyadi and Toto Tohir Suriaatmadja. "Perlindungan Hukum Atas Kebocoran Data Pribadi Konsumen PT PLN Dihubungkan Dengan Hak Atas Keamanan Pribadi Ditinjau Dari Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi." *Law Studies* 3, no. 1 (2023): 226-231; Meisel Rusli Irawan. *Perlindungan Terhadap Data Pribadi Pengguna Aplikasi Perdagangan Elektronik*, PhD diss. Podomoro University, 2023; Lidia Fathaniyah, Mohammad Makbul, and M. Makhrus. "Urgensi Perlindungan Data Pribadi pada Transaksi e-commerce Terhadap Pembangunan Ekonomi di Indonesia," *Jurnal Hukum Ekonomi Syariah* 6, no. 2, (2023): 77-88; Siti Yuniarti. "Perlindungan hukum data pribadi di Indonesia." *Business Economic, Communication, and Social Sciences Journal (BECOSS)* 1, no. 1 (2019): 147-154; Nur Amalina Putri Adytia, Syarif Zakaria Said Wachdin, and Said Said. "The Legal Framework for Personal Data Protection in the Digital Era as Fulfillment of Privacy Rights in Indonesia." *KnE Social Sciences* 12, no.3 (2024): 692-700.

compliance. Data leaks have exposed security system vulnerabilities,¹² while exculpation clauses that violate the Consumer Protection Law (Article 18 paragraph (1)) are detrimental to consumers.¹³ The PDP Law, although comprehensive, does not require explicit consent for cross-border data transfers, creating significant privacy risks.¹⁴ The research questions that arise are: How do the legal gaps in the PDP Law and related business regulations, such as the Consumer Protection Law, affect e-commerce companies' compliance with personal data protection and business responsibilities, and how can they be addressed to support a sustainable digital economy?

Although the PDP Law has introduced a stronger legal framework compared to previous regulations such as the ITE Law, studies such as Marischa and Setianingrum¹⁵ show that cross-border data transfer regulations are still weak compared to Malaysia's Personal Data Protection Act (PDPA), which requires explicit consent. Similar comparisons were also made by Rizal¹⁶ and Arrasuli and Fahmi¹⁷, who highlighted that Indonesia is still lagging behind in terms of monitoring and enforcing cross-jurisdictional data breaches. Wibowo et al.¹⁸ noted that exculpation clauses, remain common practice despite being in conflict with Article 18 of the Consumer Protection Law. This shows the weakness of consumer legal protection in the digital context.¹⁹ Some also added that business regulations, such as Government Regulation Number 71 of 2019 concerning Implementation of Electronic Systems and Transactions (*Penyelenggaraan Sistem dan Transaksi Elektronik/PTSE*) and Government Regulation Number 80 of 2019 concerning Trading Through Electronic Systems (*Perdagangan Melalui Sistem Elektronik/PMSE*), have not been effective in addressing defaults and breaches of standard contracts, especially in the rapidly growing e-commerce system.²⁰ This deficiency is

¹² Inaz Indra Nugroho, Reza Pratiwi, and Salsabila Rahma Az Zahro. "Optimalisasi penanggulangan kebocoran data melalui regulatory blockchain guna mewujudkan keamanan siber di Indonesia." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 1, no. 2 (2021): 115-129.

¹³ Sidharta. *Hukum Perlindungan Konsumen Indonesia*, Jakarta, PT Grasindo, 2000.

¹⁴ Sinta Dewi Rosadi. *Cyber law: aspek data privasi menurut hukum internasional, regional, dan nasional*. Bandung, Refika Aditama, 2015; Taufiq A. Gani. *Kedaulatan data digital untuk integritas bangsa*, Aceh, Syiah Kuala University Press, 2023.

¹⁵ Diva Marischa and Reni Budi Setianingrum. "Transfer of Personal Data by E-Commerce Companies: A Study from the Perspective of Indonesian Personal Data Protection Laws." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 4, no. 1 (2024): 48-64.

¹⁶ Muhammad Saiful Rizal. Perbandingan Perlindungan Data Pribadi Indonesia dan Malaysia. *Jurnal Cakrawala Hukum* 10, no. 2 (2019): 218-227; Ninne Zahara Silviani, Rina Shahriyani Shahrullah, Vanessa Riarta Atmaja, and Park Ji Hyun. "Personal Data Protection in Private Sector Electronic Systems for Businesses: Indonesia vs. South Korea." *Jurnal Hukum dan Peradilan* 12, no. 3 (2023): 517-546.

¹⁷ Beni Kharisma Arrasuli and Khairul Fahmi. "Perlindungan hukum positif Indonesia terhadap kejahatan penyalahgunaan data pribadi." *UNES Journal of Swara Justisia* 7, no. 2 (2023): 369-392.

¹⁸ Ari Wibowo, Widya Alawiyah, and Azriadi. "The importance of personal data protection in Indonesia's economic development." *Cogent Social Sciences* 10, no. 1 (2024) 2306751.

¹⁹ Sidharta, *Hukum Perlindungan Konsumen Indonesia*, Jakarta, PT Grasindo, 2000; Sinta Dewi Rosadi, *Cyber law: aspek data privasi menurut hukum internasional, regional, dan nasional*, Bandung, Refika Aditama, 2015.

²⁰ Edy Santoso. "Opportunities and challenges: e-commerce in Indonesia from a legal perspective." *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 395-410.

reinforced by Gillang and Tohir,²¹ who assessed that the handling of data leaks by business actors has not been balanced with clear legal responsibilities. Previous studies tend to focus on the technical aspects of data leaks or economic impacts,²² but have not explored in depth the integration between personal data protection and business responsibilities within a harmonious legal framework.²³ This gap includes a lack of analysis of how existing regulations can be reformed to ensure e-commerce compliance without sacrificing consumer trust and economic growth.²⁴

This study aims to analyze the legal gaps in Law No. 27 of 2022 concerning Personal Data Protection, particularly Articles 55–56 on cross-border data transfers. It also aims to examine related business regulations, such as Law No. 8 of 1999 on Consumer Protection (Articles 18 and 19) and PP No. 80 of 2019 on Electronic Commerce, in relation to e-commerce companies' compliance with personal data protection. In addition, the study seeks to assess the scope of business responsibilities in ensuring consumer rights and data security within Indonesia's digital economy framework.

B. METHODS

This study uses a normative legal approach to analyze legal and compliance gaps in personal data protection and e-commerce business responsibilities in Indonesia. This approach focuses on examining legal norms in laws and regulations, especially Law No. 27 of 2022 concerning Personal Data Protection (PDP Law), Law No. 8 of 1999 concerning Consumer Protection, Law No. 19 of 2016 concerning Information and Electronic Transactions (ITE Law), PP No. 71 of 2019, and PP No. 80 of 2019, as well as a comparison with the Malaysian Personal Data Protection Act (PDPA) and the General Data Protection Regulation (GDPR).

Data were collected through literature studies, referring to secondary sources in the form of scientific journals, laws and regulations. Qualitative analysis was conducted using descriptive-analytical methods. A comparative legal approach was used to evaluate the weaknesses of the PDP Law against the Malaysian PDPA, focusing on aspects of business compliance and consumer protection. Data validity is maintained through source triangulation, ensuring consistency between journal findings and regulations. The results of the analysis are directed to propose regulatory harmonization to strengthen

²¹ Gillang Achmad Riyadi and Toto Tohir Suriaatmadja. "Perlindungan Hukum Atas Kebocoran Data Pribadi Konsumen PT PLN Dihubungkan Dengan Hak Atas Keamanan Pribadi Ditinjau Dari Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi. *Law Studies* 3, no. 1 (2023): 226-231.

²² Inaz Indra Nugroho, Reza Pratiwi, and Salsabila Rahma Az Zahro. "Optimalisasi penanganan kebocoran data melalui regulatory blockchain guna mewujudkan keamanan siber di Indonesia. *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 1, no. 2 (2021): 115-129; Siti Yuniarti. "Perlindungan hukum data pribadi di Indonesia." *Business Economic, Communication, and Social Sciences Journal (BECOSS)* 1, no. 1 (2019): 147-154.

²³ Mohammad Orinaldi. "Peran e-commerce dalam meningkatkan resiliensi bisnis di era pandemi. *ILITIZAM Journal of Shariah Economics Research* 4, no. 2 (2020) 36-53.

²⁴ Lidia Fathaniyah, Mohammad Makbul, and M. Makhrus. "Urgensi Perlindungan Data Pribadi pada Transaksi e-commerce Terhadap Pembangunan Ekonomi di Indonesia, *Jurnal Hukum Ekonomi Syariah* 6, no. 2, (2023): 77-88; Taufiq A. Gani. *Kedaulatan data digital untuk integritas bangsa*, Aceh, Syiah Kuala University Press, 2023.

e-commerce compliance and support the digital economy.

C. RESULTS AND DISCUSSION

1. Weaknesses of Personal Data Protection Regulation and Their Implications for E-Commerce Compliance

Analysis of Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) shows important weaknesses, especially in Articles 55 and 56, which regulate cross-border transfers of personal data. This article does not require explicit consent from data owners before their data is sent abroad. This provision differs from Malaysia's Personal Data Protection Act (PDPA) 2010, which requires explicit consent from data owners and ensures that the destination country has equivalent data protection standards.²⁵ This weakness makes the PDP Law less stringent, increasing the risk of misuse of personal data, such as identity theft or privacy violations, especially in global e-commerce transactions. The ambiguity in the article creates a legal loophole that allows e-commerce companies to avoid liability for data breaches.²⁶

Before the PDP Law was enacted in 2022, data protection regulations in Indonesia also had many shortcomings. Law Number 19 of 2016 concerning Electronic Information and Transactions and Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (PP PSTE) only regulate data protection partially. Wibowo et al.²⁷ and Santoso²⁸ explain that these two regulations do not have specific provisions on sanctions or clear compliance guidelines for e-commerce business actors. For example, Article 15 of the ITE Law only requires Electronic System Organizers (PSE) to maintain system security, but does not explain concrete steps to protect personal data.²⁹ Likewise, PP PSTE (Articles 1 and 8) only mention the obligation to maintain data confidentiality without a strong

²⁵ Diva Marischa and Reni Budi Setianingrum. "Transfer of Personal Data by E-Commerce Companies: A Study from the Perspective of Indonesian Personal Data Protection Laws." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 4, no. 1 (2024): 48-64; Faiz Rahman. "Safeguarding Personal Data In The Public Sector: Unveiling The Impact Of The New Personal Data Protection Act In Indonesia." *UUM Journal of Legal Studies* 16, no. 1 (2025): 1-18; Rahardjo, Tanti Malaka Sari, Himawan Noerdjaja, Gumilang Eka Pambudi, and M. Shidqon Prabowo. "Consumer Protection Legal Frameworks in Indonesia: The Challenges of E-Commerce and Data Privacy." *Research Horizon* 5, no. 2 (2025): 119-128.

²⁶ Beni Kharisma Arrasuli and Khairul Fahmi. "Perlindungan hukum positif Indonesia terhadap kejahatan penyalahgunaan data pribadi." *UNES Journal of Swara Justisia* 7, no. 2 (2023): 369-392; Muhammad Saiful Rizal. "Perbandingan Perlindungan Data Pribadi Indonesia dan Malaysia." *Jurnal Cakrawala Hukum* 10, no. 2 (2019): 218-227; Taufiq A. Gani. *Kedaulatan data digital untuk integritas bangsa*. Aceh, Syiah Kuala University Press, 2023.

²⁷ Ari Wibowo, Widya Alawiyah, and Azriadi. "The importance of personal data protection in Indonesia's economic development," *Cogent Social Sciences* 10, no. 1 (2024) 2306751.

²⁸ Edy Santoso. "Opportunities and challenges: e-commerce in Indonesia from a legal perspective." *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 395-410.

²⁹ Danrivanto Budhijanto. *Revolusi cyberlaw Indonesia: pembaruan dan revisi Undang-Undang Informasi dan Transaksi Elektronik 2016*, Bandung, PT Refika Aditama, 2017; Muhammad Yudistira and Ramadani Ramadani. "Tinjauan Yuridis Terhadap Efektivitas Penanganan Kejahatan Siber Terkait Pencurian Data Pribadi Menurut Undang-Undang No. 27 Tahun 2022 oleh KOMINFO," *UNES Law Review* 5, no. 4 (2023): 3917-3929; Sinta Dewi Rosadi, *Cyber law: aspek data privasi menurut hukum internasional, regional, dan nasional*, Bandung, Refika Aditama, 2015.

oversight mechanism. As a result, business actors often ignore this obligation, leaving consumers without adequate protection.³⁰

As a complement, various regulations before the enactment of the PDP Law have not been able to create a comprehensive and binding personal data protection system for business actors. In this context, the absence of strict sanctions and detailed compliance guidelines makes e-commerce actors tend to ignore data protection obligations. This situation shows that existing regulations are still sectoral and have not been able to answer the complexity of data protection as a whole.³¹

The weaknesses of regulations prior to the PDP Law are also evident in Government Regulation Number 80 of 2019 concerning Electronic System Trading (PP PMSE) and Regulation of the Minister of Communication and Information Technology Number 20 of 2016. PP PMSE (Article 59) requires data storage according to standards, but does not detail the security steps that must be taken. Meanwhile, Minister of Communication and Information Regulation No. 20/2016 only regulates the process of data collection and deletion without sufficient legal force to enforce compliance. Unfortunately, this regulation is often ignored by business actors due to the lack of strict sanctions, so consumers remain vulnerable to data breaches. This is in line with the findings of Irawan,³² which shows that most e-commerce actors do not have commensurate data protection policies due to the weakness of applicable regulations. In addition, Gillang & Toto³³ highlighted that the absence of a firm recovery mechanism causes legal uncertainty in handling personal data breaches. This misalignment between regulations creates legal uncertainty, which hinders e-commerce business actors from implementing adequate security systems.³⁴

Comparison with international regulations, such as the European Union's General Data Protection Regulation (GDPR), further emphasizes the weaknesses of the PDP Law. The GDPR requires explicit consent for all data processing, including cross-border transfers, and sets fines of up to 4% of global annual revenue for violations. In contrast, the PDP Law only stipulates

³⁰ Irawan, Meisel Rusli. *Perlindungan Terhadap Data Pribadi Pengguna Aplikasi Perdagangan Elektronik*, PhD diss. Podomoro University, 2023; Lidia Fathaniyah, Mohammad Makbul, and M. Makhrus. "Urgensi Perlindungan Data Pribadi pada Transaksi e-commerce Terhadap Pembangunan Ekonomi di Indonesia," *Jurnal Hukum Ekonomi Syariah* 6, no. 2, (2023): 77-88.

³¹ M. Rafifnafia Hertianto. "Sistem Penegakan Hukum Terhadap Kegagalan Dalam Perlindungan Data Pribadi Di Indonesia." *Kertha Patrika* 43, no. 1 (2021): 21-35; Siti Yuniarti. "Perlindungan hukum data pribadi di Indonesia." *Business Economic, Communication, and Social Sciences Journal (BECOSS)* 1, no. 1 (2019): 147-154; Gillang Achmad Riyadi and Toto Tohir Suriaatmadja. "Perlindungan Hukum Atas Kebocoran Data Pribadi Konsumen PT PLN Dihubungkan Dengan Hak Atas Keamanan Pribadi Ditinjau Dari Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi." *Law Studies* 3, no. 1 (2023): 226-231.

³² Meisel Rusli Irawan. *Perlindungan Terhadap Data Pribadi Pengguna Aplikasi Perdagangan Elektronik*, PhD diss. Podomoro University, 2023.

³³ Gillang Achmad Riyadi and Toto Tohir Suriaatmadja. "Perlindungan Hukum Atas Kebocoran Data Pribadi Konsumen PT PLN Dihubungkan Dengan Hak Atas Keamanan Pribadi Ditinjau Dari Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi." *Law Studies* 3, no. 1 (2023): 226-231.

³⁴ Beni Kharisma Arrasuli and Khairul Fahmi. "Perlindungan hukum positif Indonesia terhadap kejahatan penyalahgunaan data pribadi." *UNES Journal of Swara Justisia* 7, no. 2 (2023): 369-392..

administrative sanctions such as warnings or a maximum fine of IDR 5 billion (Article 57), which are considered less significant for large companies. Rizal emphasized that Malaysia has previously implemented a systematic legal framework for personal data protection through the Personal Data Protection Act (PDPA) since 2013, providing a concrete example of more effective supervision and law enforcement in the ASEAN region.³⁵ Thus, it is suggested that PDP Law should be revised to adopt explicit consent and equivalent protection standards, as implemented in Malaysia, to improve e-commerce compliance with global norms.³⁶

2. Violations of Business Responsibilities and Impact on Consumer Trust

Business practices in the e-commerce sector often violate Law Number 8 of 1999 concerning Consumer Protection, which regulates the rights and obligations of business actors and consumers. One of the main violations is the use of exculpation clauses. This clause states that the e-commerce platform is not responsible for losses due to hacking by third parties.³⁷ This clause is contrary to Article 18 paragraph (1) of the Consumer Protection Law, which prohibits business actors from making standard clauses that transfer responsibility. Article 18 paragraph (3) further states that such clauses are null and void, so that business actors are still required to be responsible.³⁸ However, this practice remains common, indicating a lack of compliance with regulations.³⁹

A key violation in e-commerce lies in default, where business actors fail to fulfill their basic obligations in standard consumer contracts. This includes issues such as non-compliance with product specifications, failure to deliver on time, or negligence in handling customer complaints. These breaches not only undermine consumer trust but also open the door to more serious cybercrimes. Data breaches in the e-commerce and banking sectors, for instance, have been linked to the rise of digital fraud, embezzlement, and the misuse of personal information in illegal online loans. In many cases, such violations also contravene Article 19 of the Consumer Protection Law, which requires business actors to provide compensation for losses resulting from default.⁴⁰ In addition, Article 4 paragraph (3) guarantees consumers' rights to honest and clear information, but many business actors fail to provide accurate information about goods or services, such as product specifications

³⁵ Muhammad Saiful Rizal. "Perbandingan Perlindungan Data Pribadi Indonesia dan Malaysia." *Jurnal Cakrawala Hukum* 10, no. 2 (2019): 218-227.

³⁶ Diva Marischa and Reni Budi Setianingrum. "Transfer of Personal Data by E-Commerce Companies: A Study from the Perspective of Indonesian Personal Data Protection Laws." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 4, no. 1 (2024): 48-64.

³⁷ Ari Wibowo, Widya Alawiyah, and Azriadi. "The importance of personal data protection in Indonesia's economic development," *Cogent Social Sciences* 10, no. 1 (2024) 2306751.

³⁸ Sidharta. *Hukum Perlindungan Konsumen Indonesia*, Jakarta, PT Grasindo, 2000.

³⁹ Sinta Dewi Rosadi, *Cyber law: aspek data privasi menurut hukum internasional, regional, dan nasional*, Bandung, Refika Aditama, 2015; Lidia Fathaniyah, Mohammad Makbul, and M. Makhrus. "Urgensi Perlindungan Data Pribadi pada Transaksi e-commerce Terhadap Pembangunan Ekonomi di Indonesia," *Jurnal Hukum Ekonomi Syariah* 6, no. 2, (2023): 77-88.

⁴⁰ Sidharta. *Hukum Perlindungan Konsumen Indonesia*, Jakarta, PT Grasindo, 2000.

or delivery estimates.⁴¹ The lack of supervision by the Business Competition Supervisory Commission (KPPU) of standard contracts exacerbates this problem, allowing business actors to avoid legal responsibility.⁴²

Violations of business responsibilities are also seen in violations of Intellectual Property Rights (IPR). Santoso⁴³ revealed that 70% of counterfeit products in Indonesia are sold through e-commerce platforms, violating the moral and economic rights of the creators. This is contrary to Article 25 of Law Number 19 of 2016 concerning Information and Electronic Transactions, which regulates the protection of IPR, as well as Article 96 in conjunction with Article 100 of Government Regulation Number 71 of 2019 (PP PSTE), which stipulates administrative sanctions for IPR violations. However, weak proactive supervision has allowed counterfeit products to remain rampant, harming consumers who receive fake goods and legitimate business actors.

Personal data leaks on e-commerce platforms represent a violation of business responsibilities as mandated by existing regulations. These leaks, involving names, emails, and phone numbers sold on the dark web, indicate non-compliance with Article 39 paragraphs (1) and (2) of Law Number 27 of 2022 concerning Personal Data Protection, which obliges data controllers to prevent unauthorized access through a reliable security system. This violation is exacerbated by the lack of strict law enforcement against platforms, which in some cases even leads them to deny data breaches despite the existence of public evidence. Such actions violate Article 46 of the PDP Law, which requires data breaches to be reported within 3×24 hours.

Violations of personal data protection obligations in the e-commerce sector have serious impacts on legal certainty and consumer trust. Under the Indonesian legal framework, business actors should be subject to consumer protection provisions and transparent and responsible personal data governance. Unfortunately, weak law enforcement and the existence of exculpation clauses in agreements often put consumers at a disadvantage. When business actors fail to provide adequate legal protection for personal data, this has the potential to violate the principles of contract law and the human right to privacy.

On the other hand, legal uncertainty regarding sanctions for data breaches, both administrative and criminal, creates loopholes that are exploited by business actors to avoid responsibility. The absence of a strong recovery mechanism and weak supervision from the competent authorities worsen this situation. As a result, consumers lose trust in digital platforms,

⁴¹ Siti Yuniarti. "Perlindungan hukum data pribadi di Indonesia." *Business Economic, Communication, and Social Sciences Journal (BECOSS)* 1, no. 1 (2019): 147-154.

⁴² Beni Kharisma Arrasuli and Khairul Fahmi. "Perlindungan hukum positif Indonesia terhadap kejahatan penyalahgunaan data pribadi." *UNES Journal of Swara Justisia* 7, no. 2 (2023): 369-392; Teguh Prasetyo and Abdul Halim Barkatullah. *Bisnis e-commerce: Suatu sistem keamanan dan hukum di Indonesia*, Yogyakarta, Pustaka Pelajar, 2005.

⁴³ Edy Santoso. "Opportunities and challenges: e-commerce in Indonesia from a legal perspective." *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 395-410; Giosita Kumalaratri. "Urgency of the Personal Data Protection Bill on Privacy Rights in Indonesia." *Jurnal Hukum* 37, no. 1 (2021): 1-13; Haganta, Raphael. "Legal Protection of Personal Data as Privacy Rights of E-Commerce Consumers Amid the Covid-19 Pandemic." *Lex Scientia Law Review* 4, no. 2 (2020): 77-90.

and this can hinder the development of the growing digital economy. Therefore, it is necessary to harmonize regulations and strengthen legal instruments to ensure business actors' compliance and guarantee consumer rights to personal data protection fairly and proportionally.

The absence of an effective dispute resolution mechanism also exacerbates the impact of violations. Consumers also often have difficulty seeking justice due to complicated legal processes, such as those stipulated in Article 38 of the ITE Law, which allows for lawsuits but is impractical for ordinary consumers. As a result, many consumers feel they do not have a quick or affordable legal solution, further weakening their trust in e-commerce platforms. This crisis not only harms individuals, but also hampers the growth of Indonesia's digital economy, which relies on consumer trust and online transaction activities.

This violation also contradicts constitutional principles. Article 28G paragraph (1) of the 1945 Constitution guarantees the right to privacy protection, which is violated when consumers' personal data is misused due to negligence on the part of business actors. Likewise, non-transparent or detrimental business practices, such as default and the sale of counterfeit products, violate Article 33 paragraph (3) of the 1945 Constitution, which emphasizes a just national economy. Thus, violations of business responsibilities not only damage consumer trust, but also weaken the legal basis of Indonesia's digital economy.

3. The Urgency of Legal Reform to Restore Consumer Confidence in the Digital Economy

Legal reform is needed to strengthen e-commerce business compliance and restore consumer trust through improving regulations on personal data protection and consumer protection. Revision of Law Number 27 of 2022 concerning Personal Data Protection (UU PDP), especially Articles 55-56, should be carried out to require explicit consent from data owners before cross-border data transfers.⁴⁴ This provision should emulate Malaysia's Personal Data Protection Act (PDPA), which requires clear consent and equivalent protection standards in the destination country.⁴⁵ The addition of technical guidelines in this article will ensure that e-commerce platforms implement transparent procedures, in accordance with Article 28G of the 1945 Constitution concerning the protection of privacy as a human right.⁴⁶

⁴⁴ Diva Marischa and Reni Budi Setianingrum. "Transfer of Personal Data by E-Commerce Companies: A Study from the Perspective of Indonesian Personal Data Protection Laws." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 4, no. 1 (2024): 48-64; Lidia Fathaniyah, Mohammad Makbul, and M. Makhrus. "Urgensi Perlindungan Data Pribadi pada Transaksi e-commerce Terhadap Pembangunan Ekonomi di Indonesia," *Jurnal Hukum Ekonomi Syariah* 6, no. 2, (2023): 77-88.

⁴⁵ Beni Kharisma Arrasuli and Khairul Fahmi. "Perlindungan hukum positif Indonesia terhadap kejahatan penyalahgunaan data pribadi." *UNES Journal of Swara Justisia* 7, no. 2 (2023): 369-392.

⁴⁶ Ahmad M. Ramli. *Cyber Law dan HAKI dalam Sistem Hukum Indonesia*. Bandung, Refika Aditama, 2004; Siti Yuniarti. "Perlindungan hukum data pribadi di Indonesia." *Business Economic, Communication, and Social Sciences Journal (BECOSS)* 1, no. 1 (2019): 147-154; Ermanto Fahamsyah, Kania Venisa Rachim, Ramadhan Dwi Saputra, and Vicko Taniady.

Enforcement of Law Number 8 of 1999 concerning Consumer Protection also needs to be strengthened to eliminate the exorbitance clause that violates Article 18 paragraphs (1) and (3). This clause, which transfers the responsibility of business actors, must be declared null and void through strict supervision of standard contracts.⁴⁷ Article 19, which regulates compensation for default, needs to be enforced with a clear mechanism to ensure that consumers receive compensation. This reform could include the creation of standard contract guidelines by authorities, such as the Business Competition Supervisory Commission (KPPU), to prevent violations of Article 4 paragraph (3) concerning honest information.⁴⁸

Increasing the monitoring capacity of the Ministry of Communication and Informatics (Kominfo) and KPPU is an important step. Article 57 of the PDP Law and Article 65 of Government Regulation Number 80 of 2019 (PP PMSE) regulate administrative sanctions, such as suspension or fines, but their implementation is still weak. Legal reform should provide greater authority to Kominfo to conduct routine audits of e-commerce platform security systems, in accordance with Article 39 of the PDP Law, which requires prevention of unauthorized access. KPPU needs to be strengthened to monitor compliance with Article 18 of the Consumer Protection Law, by involving independent auditors to verify standard contracts.⁴⁹ Harmonization of sanctions between regulations will ensure consistent law enforcement.

Establishing a fast and simple alternative dispute resolution mechanism is also needed to support consumer justice. Currently, Article 38 of Law Number 19 of 2016 concerning Electronic Information and Transactions allows for lawsuits, but the process is complicated. Legal reform should integrate the provisions of Article 8 of Government Regulation Number 71 of 2019 (PP PSTE) to require e-commerce platforms to provide easily accessible complaint channels. This mechanism will make it easier for consumers to claim their rights under Article 19 of the Consumer Protection Law without going through the courts, increasing trust in e-commerce platforms.

Harmonization between regulations, such as the PDP Law, the Consumer Protection Law, the PP PSTE, and the PP PMSE, is important to create a unified legal framework. Article 59 of the PP PMSE on data storage and Article 46 of the PDP Law on leak notification need to be harmonized to avoid confusion for business actors.⁵⁰ Reforms can include the creation of

"Navigating Fintech Sharia Regulation in Indonesia: Lessons Learned From Malaysia." *Malaysian Journal of Syariah and Law* 13, no. 1 (2025): 179-192.

⁴⁷ Ari Wibowo, Widya Alawiyah, and Azriadi. "The importance of personal data protection in Indonesia's economic development," *Cogent Social Sciences* 10, no. 1 (2024) 2306751; Yuly Sari Kartika and Wiwin Yulianingsih. "Kajian Yuridis Tindak Pidana Pemalsuan Identitas Data Diri Dalam Situs Bantuan Kartu Prakerja," *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana*, Vol.5, no. 2 (2023): 1-11.

⁴⁸ Teguh Prasetyo and Abdul Halim Barkatullah. *Bisnis e-commerce: Suatu sistem keamanan dan hukum di Indonesia*. Yogyakarta, Pustaka Pelajar, 2005; Sugiyono. *Kamus Bahasa Indonesia*. Jakarta, Pusat Bahasa, 2008.

⁴⁹ Edy Santoso. "Opportunities and challenges: e-commerce in Indonesia from a legal perspective." *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 395-410.

⁵⁰ Ari Wibowo, Widya Alawiyah, and Azriadi. "The importance of personal data protection in Indonesia's economic development," *Cogent Social Sciences* 10, no. 1 (2024) 2306751; Anisya Humaira and Kukuh Tejomurti. "Analysis of consumer personal data protection for data

implementing regulations that integrate Article 13 of the PP PMSE, which requires honest information, with the principle of transparency in the PDP Law. A consistent legal framework will make it easier for business actors to comply with regulations, strengthen accountability, and build consumer trust.

International cooperation should be part of legal reform to align data protection standards and business practices, such as by adopting the General Data Protection Regulation (GDPR) principle,⁵¹ which requires explicit consent and strict supervision. This is to strengthen Articles 55-56 of the PDP Law. Cooperation with Malaysia can be established to harmonize cross-border regulations, ensuring consumer data is protected in global transactions. It is also recommended to implement WTO-TRIPS to strengthen intellectual property rights protection in e-commerce, in line with Article 25 of the ITE Law.⁵² This reform will demonstrate Indonesia's commitment to global standards, increasing consumer and business confidence.

Legal reform must be supported by increasing business compliance through a reliable security system. Article 39 of the PDP Law requires encryption and regular audits, which need to be enforced through internal regulations of e-commerce platforms.⁵³ Employee training on legal obligations under the PDP Law and the Consumer Protection Law will ensure effective implementation. In addition, a national education campaign on consumer rights, such as data access and correction under the PDP Law, needs to be launched to raise awareness. This step will empower consumers to demand legal protection, strengthening their trust.

This reform will create a more transparent and accountable e-commerce ecosystem. By amending Articles 55-56 of the PDP Law, enforcing Articles 18 and 19 of the Consumer Protection Law, and strengthening supervision by the Ministry of Communication and Information and the KPPU, business actors will be more compliant with regulations. Alternative dispute mechanisms, regulatory harmonization, and international cooperation will support consumer justice and global integration. This legal reform will ensure consumer confidence is restored, encouraging fair and sustainable e-commerce activities in Indonesia.

D. CONCLUSION

The conclusion of this study shows that although Law Number 27 of 2022 concerning Personal Data Protection (UU PDP) provides a better legal

integration: the Gojek-Tokopedia case." *Indonesian Journal of Law and Policy Studies* 3, no. 1 (2022): 20-31; Arfi Azhari. "Legal review of consumer law protection on personal data on digital platform." *Indonesia Private Law Review* 2, no. 1 (2021): 59-72.

⁵¹ Diva Marischa and Reni Budi Setianingrum. "Transfer of Personal Data by E-Commerce Companies: A Study from the Perspective of Indonesian Personal Data Protection Laws." *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 4, no. 1 (2024): 48-64; Sinta Dewi Rosadi. "Protecting privacy on personal data in digital economic era: Legal framework in Indonesia." *Brawijaya Law Journal* 5, no. 1 (2018): 143-157.

⁵² Edy Santoso. "Opportunities and challenges: e-commerce in Indonesia from a legal perspective." *Jurnal Penelitian Hukum De Jure* 22, no. 3 (2022): 395-410; Ayunda, Rahmi. "Personal Data Protection to E-Commerce Consumer: What Are the Legal Challenges and Certainties?." *Law Reform* 18, no. 2 (2022): 144-163.

⁵³ Ari Wibowo, Widya Alawiyah, and Azriadi. "The importance of personal data protection in Indonesia's economic development, *Cogent Social Sciences* 10, no. 1 (2024) 2306751.

framework than previous regulations, there are significant weaknesses in terms of cross-border data transfers, which do not require explicit consent from data owners. This weakness risks increasing the misuse of personal data in e-commerce transactions, as well as reducing consumer trust. This study also notes that Indonesian regulations, such as the ITE Law and PP PSTE, are not yet effective enough in regulating data protection and business responsibilities, and the practice of exorbitant clauses that violate the Consumer Protection Law. Comparisons with international regulations such as the Malaysian PDPA and the European Union's GDPR show that Indonesia lags behind in terms of supervision and law enforcement related to personal data breaches. In addition, weak law enforcement mechanisms and ambiguity in the obligations of e-commerce actors exacerbate the impact of data leaks and hinder the growth of the digital economy. Legal reforms are needed to strengthen personal data and consumer protection, by requiring explicit consent in cross-border data transfers and removing exorbitant clauses that are detrimental to consumers. Strengthening the supervisory capacity of Kominfo and KPPU and the establishment of alternative dispute resolution mechanisms will improve business compliance. Harmonization between regulations and international cooperation can create a consistent legal framework and strengthen transparency, build consumer trust, and support the sustainable development of Indonesia's digital economy.

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