

Construction of Legal Protection Regulations for Personal Data Based on Legal Certainty

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Abstract. *The development of information technology and digital transformation has driven increased personal data collection and processing, which, on the one hand, provides significant benefits but also poses the risk of violating individual privacy rights. This situation demands the construction of regulations capable of providing effective legal protection while guaranteeing legal certainty. The research method used is a normative juridical method with a legislative and conceptual approach, supported by a literature review of primary and secondary legal materials. The results show that the construction of ideal personal data protection regulations must meet three main aspects: clarity of legal norms, consistency and harmonization between regulations, and effective law enforcement. Furthermore, regulations must be adaptive to technological developments and responsive to the needs of the digital society.*

Keywords: *legal certainty; Personal Data Protection; Regulation.*

1. Introduction

The rapid development of information and communication technology has driven digital transformation in various sectors of life, including government, the economy, and society. This transformation has resulted in increased collection, processing, and distribution of personal data on a large scale. Personal data is no longer simply individual information but has become a strategic asset with high economic and political value. In this context, personal data protection has become a crucial issue, related not only to privacy but also to the protection of human rights.¹

Conceptually, personal data is part of the inherent right to privacy inherent in every individual. This right grants data subjects the authority to control

¹Ardiana Hidayah. (2025). Personal Data Protection in the Digital Era. Jakarta: Inovasi Publishing Indonesia, pp. 1–5

information about themselves, including how that data is collected, used, and disseminated. Therefore, the state has an obligation to establish a legal system capable of ensuring effective and equitable protection of personal data. Without adequate protection, individuals are at risk of various harms, such as data misuse, identity theft, and violations of personal dignity.²

Regulations in Indonesia regarding personal data protection have undergone significant developments with the enactment of Law Number 27 of 2022 concerning Personal Data Protection. This regulation marks a significant milestone in establishing a more comprehensive legal framework for personal data protection. However, in practice, various challenges remain, particularly related to legal certainty. Legal certainty is a fundamental element of the legal system, providing clarity of norms, consistency of application, and guaranteed protection for all legal entities.³

The issue of legal certainty regarding personal data protection in Indonesia can be seen from several aspects, including the suboptimal harmonization of sectoral regulations, incomplete implementing regulations, and the limited availability of effective oversight institutions. These conditions have resulted in the implementation of personal data protection being suboptimal, leading to doubts among the public and businesses regarding their understanding of applicable legal rights and obligations.⁴

Furthermore, the highly dynamic development of the digital ecosystem demands adaptive regulatory frameworks that still ensure legal certainty. Overly rigid regulations have the potential to stifle innovation, while overly flexible regulations can create legal uncertainty. Therefore, a concept for constructing personal data protection regulations is needed that balances the importance of protecting individual rights with the needs of digital technology development.⁵

Based on the background description, it is clear that the need for personal data protection is not merely technical and legal, but also has a strong philosophical basis in the modern legal system. Personal data protection is essentially rooted in respect for human dignity, a fundamental value in a state governed by the rule of law. Every individual has the right to maintain their integrity, including control over the personal information associated with their identity. Therefore, regulations

²Rino Ayahbi, Sigid Suseno, Wanodyo Sulistyani, A Study of Victims of Human Trafficking from a Critical Victimology Perspective. *Jurnal Daulat Hukum* Vol. 09 No. 01 Tahun 2026. Url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/52003>

³Moody Rizqy Syailendra Putra. (2025). *Personal Data Protection Law in Indonesia*. Jakarta: Rajawali Pers, pp. 10–15.

⁴Danrivanto Budhijanto. (2024). *National Personal Data and Data Protection Law*. Jakarta: Logoz Publishing, pp. 20–30

⁵Nabila Sagita, Satino Satino, Comparative Analysis of Backdoor Listing Regulations in Indonesia and Singapore: Implications for Investor Protection, *Jurnal Daulat Hukum* Vol.09 No. 01 Tahun 2026. Url : <https://jurnal.unissula.ac.id/index.php/RH/article/view/51686>

regarding personal data are not merely interpreted as administrative regulations, but rather as a manifestation of the state's recognition of citizens' fundamental rights.⁶

2. Research Methods

This research employs a normative legal research method, an approach that focuses on the study of legal norms contained in relevant laws and regulations, doctrines, and legal decisions. This method was chosen because the object of study relates to the construction of personal data protection regulations based on the principle of legal certainty, thus requiring an analysis of the applicable legal norm system.⁷

The approaches used in this research include a statutory approach and a conceptual approach. The statutory approach examines various regulations governing personal data protection, particularly Law Number 27 of 2022 concerning Personal Data Protection and other related regulations. Meanwhile, the conceptual approach examines legal principles, such as legal certainty, human rights protection, and relevant theories in personal data protection law.⁸

The types and sources of legal materials in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and official documents that have binding force. Secondary legal materials consist of scientific literature such as books, journals, and research results related to personal data protection and the theory of legal certainty. Tertiary legal materials include legal dictionaries, encyclopedias, and other sources that help explain primary and secondary legal materials.⁹

The legal material collection technique was conducted through library research, which involves searching and reviewing various written sources relevant to the research topic. Furthermore, the legal material analysis technique was conducted qualitatively using descriptive-analytical analysis methods. In this case, the author not only described the applicable legal provisions but also interpreted and evaluated these norms to find an ideal regulatory construction concept based on legal certainty.¹⁰

Furthermore, this research also utilizes legal interpretation methods, including grammatical, systematic, and teleological interpretation. Grammatical interpretation is used to understand the meaning of norms based on the language

⁶Danrivanto Budhijanto, Op.Cit., p.30

⁷Peter Mahmud Marzuki. (2023). Legal Research. Jakarta: Kencana, p. 35

⁸Johnny Ibrahim. (2022). Normative Legal Research Theory and Methodology. Jakarta: Bayumedia Publishing, p. 305

⁹Muhaimin. (2023). Legal Research Methods. Mataram: University Press, p. 60

¹⁰Soerjono Soekanto and Sri Mamudji. (2022). Normative Legal Research: A Brief Review. Jakarta: Rajawali Pers, p. 20

used in legislation. Systematic interpretation is conducted by linking one norm to another within a legal system. Meanwhile, teleological interpretation aims to understand the intent and purpose of establishing legal norms, particularly in the context of personal data protection in the digital age.

3. Results and Discussion

Personal data protection in the context of modern law is a consequence of the development of a digital society that positions data as a strategic asset yet vulnerable to misuse. In legal terms, personal data is understood as part of an individual's inherent right to privacy and must be guaranteed by the state through clear and firm regulations. Therefore, the construction of personal data protection regulations addresses not only prohibitions but also a comprehensive regulatory system, encompassing the principles of data collection, processing, storage, and destruction. These regulations must integrate the protection of individual rights with the public interest and developments in information technology.¹¹

Furthermore, ideal regulatory construction must be oriented towards the principle of legal certainty, namely, clarity of norms, consistency of rules, and guarantees of effective law enforcement. Without legal certainty, regulations will remain merely formal norms that provide no real protection for data subjects. Because, Protection of personal data is not only related to the recognition of individual privacy rights, but is also closely related to the principle of legal certainty.¹²

Legal certainty is a fundamental element in the implementation of a legal system, requiring that every legal norm be formulated clearly, consistently, and effectively implemented. Through legal certainty, the public can clearly understand their rights and obligations and receive guaranteed protection in the event of violations of these rights.¹³ Without adequate legal certainty, a regulation has the potential to create unclear norms and difficulties in the law enforcement process.

In the context of personal data protection, legal certainty is crucial given the complexity of data management in the digital ecosystem, which involves various parties with differing interests. Regulations that are not formulated comprehensively and systematically can give rise to various problems, such as overlapping regulations, unclear authority of supervisory agencies, and weak law enforcement mechanisms for personal data breaches. These conditions can ultimately reduce the effectiveness of legal protection for the public as owners of personal data.¹⁴

¹¹Ardiana Hidayah. (2025). *Personal Data Protection in the Digital Era*. Jakarta: Innovation Publishing Indonesia, p. 25

¹²Satjipto Rahardjo. (2014). *Legal Science*. Bandung: Citra Aditya Bakti, p. 53

¹³*Ibid*,

¹⁴Sinta Dewi Rosadi. (2018). *Cyber Law: Data Protection and Privacy in Indonesia*. Bandung: Refika Aditama, p. 45

Based on this description, it is clear that the protection of personal data is an increasingly important requirement in modern legal systems, particularly amidst the increasing use of digital technology in various aspects of society. Improperly managed personal data can lead to various forms of violations of individual privacy rights, thus requiring a regulatory system capable of providing effective legal protection. In the context of a state based on the rule of law, such protection depends not only on the existence of legal norms but also on how these norms are formulated clearly, systematically, and capable of providing legal certainty for the public.¹⁵

Legal certainty is a fundamental principle in the implementation of the legal system because it relates to clarity of norms, consistency of regulations, and assurance that laws can be enforced fairly and non-discriminatory. Regulations that are not clearly formulated have the potential to give rise to multiple interpretations and difficulties in the law enforcement process. Therefore, the development of personal data protection regulations must consider the aspect of legal certainty to provide real protection for the rights of the public as owners of personal data.¹⁶

In practice, regulations regarding personal data protection in Indonesia still face several challenges, including synchronization between laws and regulations, the effectiveness of oversight mechanisms, and law enforcement against personal data breaches. This situation indicates that the existing regulatory system still needs strengthening to address the increasingly complex dynamics of digital technology development. Regulations that are not comprehensively formulated have the potential to create legal uncertainty and weaken the protection of people's privacy rights.¹⁷

Furthermore, the development of digital technology also demands an adaptive legal approach to the ever-evolving forms of personal data processing. In this context, the law serves not only as a regulatory instrument but also as a means of protecting citizens' fundamental rights. Therefore, the construction of personal data protection regulations needs to be systematically designed, taking into account the basic principles of legal protection, legal certainty, and a balance between the interests of individuals, the state, and businesses.¹⁸

The construction of personal data protection regulations based on legal certainty must fundamentally address several important elements. First, clarity of legal norms governing the definition of personal data, the scope of protection, and the

¹⁵Satjipto Rahardjo. (2014). *Legal Science*. Bandung: Citra Aditya Bakti, p. 53

¹⁶Peter Mahmud Marzuki. (2021). *Introduction to Legal Science*. Jakarta: Kencana, p. 158

¹⁷Edmon Makarim. (2020). *Legal Responsibilities of Electronic System Providers*. Jakarta: RajaGrafindo Persada, p. 73

¹⁸Philipus M. Hadjon. (2019). *Legal Protection for the People in Indonesia*. Yogyakarta: Gadjah Mada University Press, p. 25

rights and obligations of parties involved in personal data management. This clarity is crucial to prevent differing interpretations in the application of the law. Regulations with clearly formulated norms will facilitate law enforcement officials in carrying out their duties and provide clear guidance for the public in understanding their rights and obligations.¹⁹

Second, there is a need for harmonization of laws and regulations related to personal data protection. In practice, regulations regarding personal data are not contained in a single regulation, but are scattered across various regulations governing different fields, such as information technology law, state administrative law, and criminal law. This situation has the potential to lead to overlapping regulations if systematic harmonization is not carried out. Therefore, the construction of personal data protection regulations must be able to integrate these regulations, resulting in a more consistent legal system and providing legal certainty for the public.

Third, strengthening supervisory institutions within the personal data protection system. The existence of an independent supervisory institution is crucial to ensure that all parties managing personal data fulfill their obligations in accordance with applicable laws. Supervisory institutions play a strategic role in conducting oversight, receiving public complaints, and imposing sanctions for violations. Without an effective supervisory institution, the established regulations have the potential to be difficult to implement optimally.

Fourth, strengthening law enforcement mechanisms for personal data breaches. Regulations based on legal certainty must provide clear enforcement mechanisms, including administrative, civil, and criminal sanctions. Strict sanctions aim to create a deterrent effect and encourage compliance from parties managing personal data. Furthermore, law enforcement mechanisms must provide opportunities for individuals, as data subjects, to obtain redress in the event of a breach of their personal data.

Fifth, strengthening the protection of data subjects' rights as owners of personal data. In a personal data protection system based on legal certainty, individuals must be given the right to know how their personal data is used, the right to access data held by data controllers, and the right to correct or delete data that is no longer relevant. Recognizing these rights is part of efforts to ensure the protection of individual privacy rights in the digital age.²⁰

The development of personal data protection regulations must also take into account the ever-changing developments in information technology. Law, as an

¹⁹Jimly Asshiddiqie. (2019). *Introduction to Constitutional Law*. Jakarta: RajaGrafindo Persada, p. 112

²⁰Soerjono Soekanto. (2019). *Factors Influencing Law Enforcement*. Jakarta: RajaGrafindo Persada, p. 8

instrument for regulating public life, must adapt to evolving social dynamics, including addressing the challenges arising from digital transformation. Therefore, the regulations created serve not only as a tool for social control but also as a means to protect public interests in the face of various risks arising from the use of digital technology.²¹ As a consequence of the principle of the rule of law, every form of protection of citizens' rights, including the right to personal data, must be based on legal norms that provide certainty, clarity, and effective protection. In this context, Law Number 27 of 2022 concerning Personal Data Protection is a crucial instrument that needs to be analyzed to gauge the level of legal certainty it provides.

Legal certainty is reflected in the existence of clear regulations regarding the definition of personal data, the rights of data subjects, the obligations of data controllers, and law enforcement mechanisms for violations. Therefore, efforts to provide legal certainty regarding the protection of personal data are realized through the establishment of various laws and regulations, particularly through the Law on Personal Data Protection. This law provides a more comprehensive legal basis for regulating the management of personal data, including the principles of personal data processing, the rights of data owners, the obligations of data managers, and sanctions for personal data violations. With these regulations, the public has a clearer legal basis to demand protection in the event of misuse of personal data.²²

Personal data protection regulations also provide legal certainty by stipulating the responsibilities of electronic system administrators in maintaining the security and confidentiality of the personal data they manage. Any party collecting and processing personal data is required to ensure that the data is used in accordance with the purposes for which it was collected and to obtain the consent of the data owner. This regulation aims to prevent misuse of personal data and provide stronger protection for individuals' privacy rights.²³

However, although Indonesia's personal data protection regulations provide a relatively clear legal framework, in practice, several challenges remain in achieving optimal legal certainty. One such challenge is the persistent overlap between various regulations relating to personal data management. Furthermore, law enforcement against personal data breaches continues to face various obstacles, such as limited capacity of law enforcement officers, difficulties in establishing

²¹Rino Ayahbi, Sigid Suseno, Wanodyo Sulistyani, A Study of Victims of Human Trafficking from a Critical Victimology Perspective. *Jurnal Daulat Hukum* Vol. 09 No. 01 Tahun 2026. Url :<https://jurnal.unissula.ac.id/index.php/RH/article/view/52003>

²²Sinta Dewi Rosadi. (2018). *Privacy and Personal Data Protection in the Digital Economy Era in Indonesia*. Bandung: Refika Aditama, p. 95

²³Edmon Makarim. (2019). *Introduction to Telematics Law (Cyber Law)*. Jakarta: Rajawali Pers, p. 171

evidence in cybercrimes, and suboptimal oversight mechanisms for personal data management by various institutions.²⁴

4. Conclusion

The concept of constructing regulations for legal protection of personal data based on legal certainty is a regulatory system that places clarity of norms, consistency between regulations, and effective law enforcement as the primary foundations for ensuring the protection of individual privacy rights in the digital era. Ideal regulations should not only function as normative instruments but also be able to integrate the values of justice, responsiveness to technological developments, and legal certainty that can be implemented effectively. Therefore, the success of this regulatory construction is determined by its ability to create a balance between protecting data subjects' rights, the public interest, and the needs of sustainable digital ecosystem development.

5. References

Journals:

Nabila Sagita, Satino Satino, Comparative Analysis of Backdoor Listing Regulations in Indonesia and Singapore: Implications for Investor Protection, *Jurnal Daulat Hukum* Vol.09 No. 01 Tahun 2026. Url : <https://jurnal.unissula.ac.id/index.php/RH/article/view/51686>

Ratih Wedhasari, I Nyoman Putu Budiarta, Ni Komang Arini Styawati, Legal Protection for Workers Experiencing Inter-Legal Entity Transfers within Corporate Groups in Indonesia, *Jurnal Daulat Hukum* Vol. 09 No. 01 Tahun 2025. Url : <https://jurnal.unissula.ac.id/index.php/RH/article/view/50248>

Rino Ayahbi, Sigid Suseno, Wanodyo Sulistyani, A Study of Victims of Human Trafficking from a Critical Victimology Perspective. *Jurnal Daulat Hukum* Vol. 09 No. 01 Tahun 2026. Url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/52003>

Books:

Ardiana Hidayah. (2025). *Perlindungan Data Pribadi di Era Digital*. Jakarta: Inovasi Publishing Indonesia.

²⁴Ratih Wedhasari, I Nyoman Putu Budiarta, Ni Komang Arini Styawati, Legal Protection for Workers Experiencing Inter-Legal Entity Transfers within Corporate Groups in Indonesia, *Jurnal Daulat Hukum* Vol. 09 No. 01 Tahun 2025. Url : <https://jurnal.unissula.ac.id/index.php/RH/article/view/50248>

- Danrivanto Budhijanto. (2024). Hukum Pelindungan Data Pribadi dan Data Nasional. Jakarta:Logoz Publishing.
- Edmon Makarim. (2019). Pengantar Hukum Telematika (Cyber Law). Jakarta:Rajawali Pers.
- Edmon Makarim. (2020). Tanggung Jawab Hukum Penyelenggara Sistem Elektronik. Jakarta:RajaGrafindo Persada.
- Jimly Asshiddiqie. (2019). Pengantar Ilmu Hukum Tata Negara. Jakarta:RajaGrafindo Persada.
- Johnny Ibrahim. (2022). Teori dan Metodologi Penelitian Hukum Normatif. Jakarta: Bayumedia Publishing.
- Moody Rizqy Syailendra Putra. (2025). Hukum Perlindungan Data Pribadi di Indonesia. Jakarta:Rajawali Pers.
- Muhaimin. (2023). Metode Penelitian Hukum. Mataram:University Press.
- Peter Mahmud Marzuki. (2021). Pengantar Ilmu Hukum. Jakarta:Kencana
- Peter Mahmud Marzuki. (2023). Penelitian Hukum. Jakarta:Kencana.
- Philipus M. Hadjon. (2019). Perlindungan Hukum bagi Rakyat di Indonesia. Yogyakarta:Gadjah Mada University Press.
- Satjipto Rahardjo. (2014). Ilmu Hukum. Bandung:Citra Aditya Bakti.
- Sinta Dewi Rosadi. (2018). Cyber Law: Perlindungan Data dan Privasi di Indonesia. Bandung:Refika Aditama.
- Sinta Dewi Rosadi. (2018). Perlindungan Privasi dan Data Pribadi dalam Era Ekonomi Digital di Indonesia. Bandung:Refika Aditama.
- Soerjono Soekanto dan Sri Mamudji. (2022). Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Jakarta:Rajawali Pers.
- Soerjono Soekanto. (2019). Faktor-Faktor yang Mempengaruhi Penegakan Hukum. Jakarta:RajaGrafindo Persada.