

The Urgency Of Personal Data Protection For The Community: There Is Need For An Independent Commission

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Abstract.

The presence of data innovation in the current era of globalization has progressed rapidly. This development can be seen from the proliferation of electronic commerce (e-commerce) in the trade, government, health, education, and mobile internet sectors. Personal Data is certain individual data that must be treated, then stored and kept true for all important data and must be kept confidential. Also, everyone has the option of obtaining legal guarantees against protection and mediation relating to individual matters. The development of information technology indirectly changes the mindset, including territorial boundaries, time, logic of thinking, work patterns, to manual behavior towards digital demands. The era of digitalization so far has not been able to provide definite legal protection. This is indicated by the rise of leaks because they have reaped logical consequences in the form of technology-based crimes because the existence of a computerized or digitized system has not been able to be prevented properly. This article uses normative juridical research methods, namely library research related to applicable laws and regulations, legal principles and relevant library sources. Everyone has the right to guarantee the protection of personal data. The ratification of the Personal Data Protection Bill into a law and the establishment of an independent institution must be carried out immediately so that the public feels more secure about their right to privacy. In addition, the lawsuit mechanism against the acquisition of personal data without the consent of the relevant parties can be made clearer along with the compensation process.

Keywords: Personal Data Protection, Leakage, information technology, electronic data

I. INTRODUCTION

The presence of various kinds of technology that continues to increase, such as the proliferation of cell phones or mobile phones and the increasing ease of accessing the internet so far, is considered not to be accompanied by the growth of public awareness in the context of protecting personal data information. This fact makes the presence of technology expected to provide positive benefits. Still, if you are not careful, it will produce adverse effects or can be said to be a risk that users must accept. The security of individual information is closely related to the idea of privacy protection. So that the existence of personal data as proper privacy expected, can determine who should have the right to hold information about any personal data provided how? The data can be used. For example, short messages containing various modes of fraud keep coming into people's cellphones [1], or they can also be attractive offers in the form of the credit card offers over the phone. It's worse if people give up

without realizing it is followed by the provision of personal data collected every time they interact in cyberspace (online) or through internet page applications.

In Indonesia, out of 260 million, 140 million people have used the internet in their daily lives. Of these, 28 million people are active in online transactions/buying and selling.[2]The rapid use of technology information and technology in the era of globalization moment looks starting to point to their implementation framework trading electronics (e-commerce) in advance exchange or business area, government electronics (e-government) in the area of authority public, in the health area there is e-health, while in the education area available (e-education), including in the search engines, smartphones, mobile internet until social networks, as well as industry computing cloud or cloud computing [3]. It has been done a lot in all activities. The public is virtual because personal data is supported by confidentiality, availability, and the integrity of information in space cyber.[4]As explained in the background above, this scientific paper will answer questions about data protection in the context of preventing personal data leakage in the digital era and why an Independent Commission is needed to protect personal data.

II. METHODS

This research is legal research that uses normative juridical methods. Normative legal research is a systematic way to examine the product forms of legal behavior, for example, reviewing laws and regulations. Normative legal research is a systematic way to explore the product forms of legal behavior, for instance, reviewing laws and regulations. Normative legal studies focus more on library research. The approach used in this research is finding legal rules, legal principles, and legal doctrines to answer the legal problems faced.

III. RESULT AND DISCUSSION

1. Technology in the Digital Age

Technological developments are triggered by the industrial revolution. Akmal explained that modern transformation has a critical positive impact, especially to meet the needs of human existence in various fields of daily life , starting from activity agriculture , industry or manufacturing , mining of natural resources , transportation needs , technology and communication needs in the context of core human needs . Revolution the industry actually started known to the advanced-thinking (intellectual) community since 17th century. It is proven by the changing of the way of working of the intellectual man from work from radical from manual use or traditional switch to energy machine so the work is done by mechanic. The progress of the industrial revolution has subsequently led to a transition process in the context of the era of revolution Industry 4.0 , namely the industrial revolution with the era of application or apply with the help of fiber technology (*fiber technology*) , followed by the presence of advances in the system network integrated (*integrated network*), so that the

industry automatically works on every when starting from the beginning of the activity economy of or production process until produce products that can be consumed by the public at large [5].

Development technology and information inside _ life our daily life has grown tremendously fast. B ok in terms of looking for nor in receiving information. The reality of the presence of technology and its development real can help in various things or human activities , making it easier in solving current problems faced . So that the era of technology digitalization information and communication what is available this , make communication as if it were things that are considered important . Considering the need for communication always present and needed, starting from the aspect of business (online commerce) , education in the network (online), or just communication between humans and other needs. The rapid development of internet services and technology, especially the use of the internet and telecommunications, is currently considered capable of meeting the needs, as well as the demands of society, and give influence big in life social with society [6]. So that the rapid development of technology needs to be realized that it will force the realization of an all-digital era that must be faced wisely.

The reason is that it not only provides benefits, but also creates negative effects, especially for users (society). Thus, the development of information and communication technology at this time has increased the smoothness of relationships or communication with fellow humans in everyday life, so that the existence of information and communication technology is proven to provide benefits or advantages (positive value). For example, the use of cellular communication or the internet when using a cellphone/phone, doing study assignments or working with a computer, to using internet facilities in terms of just watching television. As if all the things or problems faced in any life can be resolved easily and wisely. The era of digitalization as it is today, developments and the need for digital-based technology related to information and communication technology continues to grow faster and more sophisticated [7]. These developments resulted in changes to various aspects of human life activities, both in terms of social activities, economic transactions, cultural activities as well as various fulfillment of the needs of daily human life. For example, the human need for information has been widely encountered through the process of communicating with people around him using mobile phones or internet sites [8].

2. Personal data

In terms of the concept of telematics law, data can be interpreted in something that is considered a representation of the format embodied in a concept, including facts, as well as instructions. Data in the needs of everyday life can also be interpreted in an acceptable statement regarding the information as it is. The word data means from the arrangement of the Latin forms of the plural of the word 'datum', which means "something given" [9]. As per the OECD Guidelines (Organization for Economic Cooperation and Development) and the Council of Europe Data Protection

Convention, they say individual information can be considered as data linked to an identifiable individual. Definition of personal data itself is very widely considering the rapid development of ICT (Information and Communication Technology) if the definition spelled out by limitatif then the definition itself no capable follow the process development era. Among the countries there is still a lot going on debate related to what categorization is about individual information.

In countries that already have laws regarding Protection Data Personal provides an opportunity for information insurance organizations to describe classification of individual data to which the law must direct. Meanwhile, according to PP No. 71/2019, regarding the Implementation of Electronic Systems and Transactions, it clarifies that, individual information is characterized as the extent to which the information is related to individual data, regardless of whether it is recognized and can be distinguished independently or has been combined with other information, whether obtained physically or implicitly through electronic or conventional systems. Personal data is also explained in Law Number 24 of 2013, namely the Amendment to Law Number 23 of 2006 concerning Population Administration (Law 24/ 2013) which mentions certain individual information that must be stored, protected, and can be proven valid and the confidentiality of all data what is in it must be kept secret. ID Card (KTP) is an example of personal data identity that is easily known by the public. Previously, the identity card was the authority of the resident's personality as proof of self that had been given by the Implementing Body which was substantial throughout the territory of the Unitary State of the Republic of Indonesia (in this case the local Population and Civil Service Agency).

In subsequent technological developments, the KTP was made in the form of an Electronic Identity Card (KTP-el), which is a person's personal data information stored in an identity card equipped with a chip device attached to the card [10]. Since the introduction of the electronic ID card (e-KTP) program, the government's program for recording public personal data has also been carried out by involving the private sector, including being used in bank transaction problems and telecommunication service providers. So that personal data information then seems to be easily spread, found and known by the public in general [11]. So related to this, it is better if the government and law enforcers, as well as private/non-government parties who are invited to get involved regarding the recording and information of personal data are required to have high integrity as an effort to realize the principles of expediency, justice and legal certainty in order to fortify confidentiality. and data integrity.

3. Sensitive Individual Data

Data Protection Europe strictly prohibits the handling of information sensitive. However, it will be a different story if the data owner has give clear agreement belonging to personal sensitive consist above: related data religion, ethnicity, point of view politics, participation in the based organization trading and further information related to the physical and emotional health of the individual. The country of Canada

applies difficult conditions regarding the processing of sensitive data where they are determine that before trade associations exchange to obtain or process sensitive individual information, the original consent of the owner of the information must first be obtained . Nature of security this is very required b depends on how important information already gathered. The information that has the highest sensitivity is usually her guard will be more stringent [12].

4. Personal Data Security Regulation

The issue of privacy or confidentiality, namely the leakage of personal data information, is a serious problem for all nations of the world, where almost all human beings in this world often encounter various information in cyberspace that cannot be identified who contacted them. So that the period of conditions of technological development and rapid changes made digital transformation and then gave birth to new technology, which can be enjoyed by the existence of a business model, then service transactions or just online negotiations, as well as various other innovative human activities. Thus, the existence of personal data information, of course there are two problems that must be faced, namely beneficial or even detrimental to the community. Thus, the government in this case must be able to bridge or overcome these two challenges. Among them are the presence of existing laws and regulations that need to be maximally applied and enforced along with the importance of supervision factors and government firmness in taking action against perpetrators who do not comply with regulations and do not carry out their obligations as they should, moreover, it can actually have a detrimental impact on the community (as consumers). or owner of personal data).

The Government of the State of Indonesia as stated by Law number 11 of 2008, concerning Information and Electronic Transactions regulated several articles related to personal data insurance, including :

- The information in article 15, states related problems that must be carried out and considered by the coordinator of the electronic framework.
- The information in article 26, namely concerning the firm prohibition on the use of information without permission or will the owner of data and can be sued for in the form of compensation
- Description of article 30, namely regarding ban on illegal access to with the threat of sanctions as contained in article 46.
- The explanation of article 32, which is related to the importance of personal data protection insurance and if it is violated, it is threatened with the threat of sanctions as stated in article 48.

Furthermore, the government should provide a policy in the form of an organizer or platform for those concerned to immediately take concrete steps as the best solution so that bad things that are predicted to occur can be prevented. So the main goal for operator is obliged to maintain and protect the use of personal data

owned by the public at large in order to avoid possible losses that will arise as is carried out in the Electronic System [13].

5. Protection Data Personal Use to Prevent Leak

Problem related on the protection of personal data no problems that are usually faced, but the presence of the digital era has also change pattern people think in using personal data as a sign or public private information. Personal information or data is considered as assets are very expensive and make the main focus of the government by running various ways in order to protect personal data inhabitant his country. Development technology information that cannot be denied, at least indirectly it has changed mindset includes time, boundaries, logic think, pattern work , values , existence thing , until limit to behavior social society from manual to digital demands through computerization . So that in the digital era, the need for information all this time already considered as power footing as well as power which then can also regulate the lives of many people . Thus, dependence society today and in the future come related to technological developments information especially the more high , but on the other hand more tall there are also risks to be faced. Personal data can be said as information that is sensitive so entitled to protection definite law , especially with regard to consent should traversed by explicit like by going through statement written .

This is, as referred to in the European Union Data Protection Directive which has explicitly provided an explanation in the form of a prohibition on : sensitive data processing _ that, except if previously the data owner has given real consent [14]. The reality of the lack of guarantee for the protection of personal data information in today's life can be easily found through the use of internet services for operators [15]. Personal data that should be used as identity and personal data as user privacy, but in fact so far the protection related to the security of personal data information for internet and telecommunication service users has not been able to be said to be protected to the maximum [16]. Many personal data leaks are found to be spread freely to the public freely, if misused, of course it can be detrimental. Especially if later the information is used to carry out an action against the law. Therefore, among the necessary sanctions given in implementation and protection of personal data has been explained yes kni penalty in the form of administrative termination temporarily from participants organizer system electronic existing [17]. In addition, in line with the instruments that regulate international law and the issue of data privacy rights to personal data, the Indonesian constitution has also explicitly held the privacy or protection of personal data.

Although it is not expressly mentioned related to the protection of rights that must be owned. However, this information indirectly also constitutes an integral part of human rights. So that is philosophically speaking, the regulation concerning the right to privacy of personal data information is a manifestation of the recognition that must be protected as a fundamental human right. It can also be related to the philosophical foundation on the body of Pancasila, which can be interpreted as rechtsidee (legal

ideals) whose thought construction leads to the noble legal aspects that a nation and state aspire to [18]. In order to maintain the confidentiality of personal data, the government should provide a full explanation of the inherent rights that must be given to the public, namely as related to rights in the explanation of the protection regulations . consumer . In organize business together , consumers have the right to receive as stated in Law No. 8 of 1999 , about Protection Consumer by adhering to the five principles development national , which includes:

- a. benefit
- b. to balance
- c. to fair a n
- d. security and safety to consumers, as well as
- e. the importance of certainty law

The rise of personal data leaks has reaped consequent logic, which is where the crime occurred electronically based on technology which is the reality on sistem digitization chasing with the presence of rules or regulations in enforcement following certainty law to protect right human rights in the context of privacy data information for everyone as subject law.

6. Independent Personal Data Protection Authority Need to be created

The problem that often arises in the development of personal data protection regulations is the absence of the highest authority agency acting as an independent supervisor of personal data protection. The presence of independent institutions is very much needed as a means to ensure that there is no misuse of personal data. Article 2 of the bill regarding the Personal Data Protection Regulation, the Personal Data Protection Law targets every individual, public body, and organization/institution. On the other hand, in the draft PDPA (Personal Data Protection Act), the said independent authority must be exercised by the government, which is precisely the category of public body according to the general provisions of PDPA.

The establishment of an independent institution is basically a tangible manifestation of international personal data protection agreements, including: [19]

- a. OECD (*The Organization for Economic and Cooperation Development*) Guidelines in 1980
- b. United Nations Guidelines for Regulation of Computerized Personal Data Files 1990
- c. European Modern Convention Protection Issues Individual Related with Processing of Personal Data 1981 (Convention 108)
- d. Apec Privacy Framework 2015

There is a philosophy that applies in Indonesia as a form of respect for the privacy of others, it should also be understood as the implementation of Pancasila, namely Just and Civilized. Then a description of personal is also included and in various laws and regulations, such as; Law No. 23 Year 2006, Law no. 24 Year 2013

Population Administration Law no. 36 Year 2009 concerning Health, Law No. 43 of 2009 concerning Archives Law No. 11 Year 2008 concerning Information and Electronic (UU ITE) and its amendments. So from, according to the country's current legal protection for a person's privacy and personal data, it's just that the conditions are spread out according to the characteristics of each sector. although there is no specific law that regulates this matter, it does not mean that there is no legal action for the attempted theft or leakage of the personal. Moreover, with the existence of PP No. 71 Year 2019 and also PP No. 80 Year 2019 which also set aspect protection personal data, "then every system organizer electronic proper fulfil compliance law on protection of personal data that specified in laws and regulations." Second PP it outlines the principle of data protection based on the prevalence that has been stated in PP No. 71/2019 Article 2 paragraph 5 and PP No. 80/2019, Article 33 is accompanied by a form of administrative sanction for non-compliance with rule the.

a. Liability Legal Civil

According to Law article 26 it has been aa that every the right to lawsuit for the acquisition of personal data without the consent of the party concerned. At least the violation of sued by as an Against the Law (ATL) based on provision of Law article, as well as on grounds improper or carelessness (according to 1366 Civil Code). In line with what is said in the Consumer Protection Law, and UU ITE article 15 contains the principle of *presumed-liability*, means that every PSE is always mandatory is responsible legally, except in when error not occur because of their fault but because of consumer error or electronic system *users* or due to natural events. PSE bears burden of proving that if there is a problem related to the leakage of personal data, if PSE does not dare to properly disclose the facts regarding the incident of personal data leakage, at that time they will have the opportunity to commit an act of public deception and it violates the rights of users/consumers as the owner of the relevant personal data.

If there is leak press conference just enough but must be in correspondence with. In PP 80/2019, regulated more comprehensively the protection of personal data a separate chapter which contains what provisions apply regarding the protection of personal data PP 80/2019 states "PSE is obligated by to protect data according to rule specified in PP with referring to the prevailing custom. Based on a statement a that has been described, then every user can sue for against corporations agencies intentionally personal data to the public domain. Proving immaterial loss not a thing that is easy to. Due to the time a and the cost to enforce their rights becomes obstacle for each user, of the of data very needed before lawsuit or together with other users. Lawyers who control the field of consumer interest are urgently needed their assistance to file a lawsuit against the organizers, both private and government so that in the future data leakage will no longer occur.

b. Administrative Legal Responsibilities

There are obligations from the that have authority connected with efforts to protect personal data, namely among Informatics, the Ministry of Trade and the National Protection, because of course the owner of the private is the user of the as the consumer. According to regulations existing laws and regulations have the authority, duty and function in accordance their respective sectors to foster, supervise, take all attempt violations that occur. Based on PP 71 in 2019, Kominfo may give administrative sanctions to corporate party or can be reported to the Minister of Trade by BPKN to be included in the blacklist in line with the PP 80 Year 2019 mechanism because not the rights of consumers to comfort. Then, Kominfo has the right block systems in order to prevent happening that are similar to users. Every corporation can recover its condition for can be removed from blacklist only if when all data leakage issues have been resolved and handled then of users/consumers are harmed has restored back. The National Police, BIN, BSSN, and the Ministry of Defense are also authorized to protect personal data from the cyber security sector.

Given that personal data leaks still occur repeatedly, the relevant agencies are obliged to explain to the public related prevention efforts and the process of law enforcement must be carried out in an accountable manner. If this incident still occurs, every individual in the community who feels the loss, is very likely to file a PMH lawsuit against the problematic institution/person, because they have not carried out their duties and obligations as they should. The agency's actions can be considered as a form of omission in which the public interest cannot be fulfilled. A proactive attitude must be shown by the community in an effort to urge this so that it does not happen again, considering that Indonesia is a state of law, all forms of accountable administrative responsibility must be carried out by public officials as tangible evidence of their efforts to meet public needs. Bearing in mind that public officials have used every state budget in the context of carrying out their duties and obligations in accordance with their respective fields.

7. Urgency of Drafting of Laws Protection of Personal Data

Issues related to the protection of personal data, in the years final this, intensively a is voiced by the community because saw the number of violations a related private data leak. regulations that have already been there being related protection personal data turns out no can many do, because the settings are only arrangement is general and seems fragmented because indeed the setting lies in many sector rules. It is that makes less the effectiveness of existing rules there is in handle case protection a data personal. On the basis of the case, In this case, DPR drafts Law related data protection personnel, but though bills have already been discussed year recently until now the bill has not been ratified become law. The application of the Bill uses the principle of extraterritorial jurisdiction as stated aa in Article 2 law applies for Every Person, Public Entity, and organization/institution that performs deed law as regulated in this law a, whether is in the jurisdiction unitary state Republic of Indonesia

or outside the jurisdiction of the state Republic of Indonesia, which has consequence law in the jurisdiction State Unity Republic of Indonesia and/ or for Owner Personal Data an Indonesian citizen outside the jurisdiction State Unity Republic Indonesia.

Bill a PDP a becomes the only one hope community, use repeating problem is getting day more apprehensive, Based on National Cyber and Crypto Agency records, as long as in 2020 there is 2,549 cases theft information with purpose crime and 79,439 accounts whose data burglarized. This is one form of confirmation of how weak individual information security frameworks are, so they are prone to leaks. Regarding the latest case regarding the offer of selfie ID cards that flowed through web-based media, the public should be aware of the importance of protecting individual information, because transactions related to individual information are directly related, and there is no legal umbrella that can trap the perpetrators. From the results of police investigations, it is suspected that the information was obtained from the breach of BPJS welfare information security, so it is estimated that there is around 275 million information obtained by the perpetrators. However, to date, the police do not have the option to track down individual information sellers. The lack of legal guidelines that can prosecute perpetrators of theft of individual information and further expose business actors or government organizations that are unable to secure individual information, making it easier for individual information to leak into the public domain. So that it only benefits one party, the community will be greatly disadvantaged, especially with cases of leakage of personal information like this. Recently, the offer of individual information in Indonesia has become more widespread.

The ambiguity regarding the specifications of personal data such as or which must receive protection must also be resolved, in the Law on Population Administration there is significance to No.23 of 2006 with its amendments, that Law no. 24 of 2013. It is stated in article 28 of Law no. 23 of 2006 that personal data must be protected, namely, card number, month or year of birth, regarding physical and or mental disabilities, NIK of biological mothers, NIK of biological fathers, some of which record important events. Meanwhile, Article 28 of Law Number 24 of 2013 reads that personal data must be protected regarding physical and or mental disabilities, fingerprints, irises, signatures, other elements of data that are disgraceful. The difference between, which is very significant, the increasingly ambiguous information makes it more about what boundaries should be protected regarding personal data. Leakage of data is one of the most crucial the handling it is because regulations or legal rules are still limited to being able to give strict sanctions to any individual who is found to have violated the protection of personal data, ratifying the PDP Bill into law is something that must be hastened considering that there are so many personal data sales events carried out by some irresponsible persons. The ratification of the PDP Bill will bring peace among the people because they will feel more secure because they know that their right to privacy is also a concern of the state and will certainly reduce the occurrence of data leaks in Indonesia. On the other hand, government or private

agencies should fix their data security system so that there will be no more cyber breaches.

IV. CONCLUSION

Development technology information indirectly changes pattern think includes boundaries, time, logic thinking, pattern work, until behavior manual to digital demands. The era of digitalization has been considered unable to provide definite legal protection. The establishment of an Independent Institution that is authorized to provide strict supervision and sanctions against all parties who violate personal data privacy, especially to the extent that buying and selling personal data belonging to the public is critical.

Due to the presence of independent institutions in Indonesia, it will provide more power for law enforcement agencies to eliminate mafia or gangs that carry out transactions related to violations of individual data privacy. It is hoped that the government can bridge it by issuing the right regulations. Build full cooperation and awareness for all components of society. So it's a problem data leakage can be anticipated or prevented and is a shared responsibility. In addition, the central government must immediately ratify the PDP Bill into law so that later the legal umbrella related to personal data protection becomes clearer and can also provide a deterrent effect to any violators.

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