

Legal Certainty of Personal Data Protection After the Ratification of Law Number 27 Year 2022

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Abstrak

Millions of personal data spread and traded online have become a proof of the failure of data protection. Personal data leaks from online application users, health insurance participants to election participants, which when converted into economic value is quite fantastic. This raises the question of how personal data in Indonesia? How can Law Number 27 of 2022 on Personal Data Protection (UU PDP) protect personal data?

By using the PDP Law legislation in comparison with other secondary legal materials, through normative legal research, with a statutory approach, these complex questions will be discussed. The 1945 Constitution of the Republic of Indonesia is a juridical basis for the formation of the PDP Law, one of which is as stated in Article 28G paragraph (1) which states that, "Everyone has the right to protection of self, family, honor, dignity, and property under his control, and is entitled to a sense of security and protection from threats of fear to do or not to do something that is a human right."

*While the PDP Law recognizes the rights of personal data subjects, it also introduces the terms "Personal Data Controller" and "Personal Data Processor" and regulates the scope of obligations of these two legal subjects. As a *lex specialis* law, UU PDP can serve as a legal foundation for personal data protection.*

Keywords: *personal data protection, personal data, law, legal certainty*

INTRODUCTION

On October 17, 2022, Law Number 27 of 2022 on Personal Data Protection (UU PDP) was officially enacted after being signed by President Jokowi. The existence of the PDP Law is an important leap in the legal regime of cyber law. The development of information and communication technology has encouraged high transactions through e-commerce that penetrate national borders. Thus, the protection of personal data becomes a regulatory product with high urgency in the framework of protecting the interests of citizens while encouraging the utilization of digital developments for the nation's economy.

Prior to the enactment of the PDP Law, data leakage events that showed a failure

to protect personal data occurred on a large scale. There were several alleged cases of large-scale personal data leakage in the period 2020 to September 2022 alone, which, when converted into economic value, gave rise to a fantastic value. Some of the alleged cases of large-scale data leaks that have been in the media spotlight in that period: Lebih dari 15 juta pengguna aplikasi Tokopedia diduga bocor dan disebar di forum online berdasarkan pernyataan akun Twitter @underthebreach pada bulan Maret 2020¹;

1. 2.3 million data of the 2014 General Election Permanent Voter List was allegedly leaked from the KPU website based on the statement of the Twitter account @underthebreach in May 2020²;
2. 533 million Facebook user data from 106 countries were spread online, of which there were 130,331 user accounts from Indonesia were reported in April 2021³.
3. 279 million BPJS Health user data was sold on the online forum site Raidforums.com for 0.15 bitcoin or around Rp87.6 million spread via Twitter in May 2021⁴;
4. 2 million BRI Life insurance company customers were allegedly leaked and sold on several online forums based on a report by an Israel-based cybersecurity company that stated it found evidence of a leak, and was reported by Reuters news agency in July 2021⁵;
5. 1.3 million user data of the e-HAC application made by the Ministry of Health was allegedly leaked based on the investigation of cybersecurity researcher VPNMentor on July 15, 2021⁶;

In addition to the 6 major cases above, in September 2022, the alleged case of data theft and sale surfaced again with the Twitter account @bjorkanism with more than 183 thousand followers. Bjorka became the talk of the Twitter universe when the account leaked 1.3 billion Indonesian citizens' prepaid card registration data⁷. Bjorka sold the data he obtained through the breached.to or Breached Forums site, which is a site with the main service of an online discussion forum with several forum channels,

¹Luqman Sulistiyawan, "Kilas Balik, Lima Kasus Kebocoran Data Pribadi di Indonesia...", artikel tanggal 6 September 2022, diakses dari <https://www.kompas.com/cekfakta/read/2022/09/06/171100182/kilas-balik-lima-kasus-kebocoran-data-pribadi-di-indonesia-?page=all> tanggal 6 November 2022

² Ibid.

³ Rr. Ariyani Yakti Widyastuti, "Lebih dari 533 juta Data Pengguna facebook Bocor, 130.331 Akun dari Indonesia", artikel tanggal 4 April 2021, diakses dari <https://bisnis.tempo.co/read/1448988/lebih-dari-533-juta-data-pengguna-facebook-bocor-130-331-akun-dari-indonesia> tanggal 6 November 2022

⁴ Farah Nabilla, "11 Daftar Kasus Kebocoran Data di Indonesia, Sebulan Tiga Kali Kejadian!", artikel tanggal 2 September 2022 diakses dari <https://www.suara.com/news/2022/09/02/115017/11-daftar-kasus-kebocoran-data-di-indonesia-sebulan-tiga-kali-kejadian> tanggal 6 November 2022

⁵ Ibid.

⁶ Luqman Sulistiyawan, "Kilas Balik, Lima Kasus Kebocoran Data Pribadi di Indonesia...", artikel tanggal 6 September 2022, diakses dari <https://www.kompas.com/cekfakta/read/2022/09/06/171100182/kilas-balik-lima-kasus-kebocoran-data-pribadi-di-indonesia-?page=all> tanggal 6 November 2022

⁷ Nabila Prajna Paramita, "Bersitegang dengan Kominfo, Begini Kronologi Munculnya Bjorka Hingga Akun Twitternya Lenyap", artikel tanggal 12 September 2022, diakses dari <https://www.ayojakarta.com/news/pr-764679197/bersitegang-dengan-kominfo-begini-kronologi-munculnya-bjorka-hingga-akun-twitternya-lenyap> tanggal 22 November 2022

such as the General channel, Marketplace, Tutorials, and others. The special topic of data sales is carried out in the Marketplace channel with the forum topic Leaks Market, where the discussion topics are directed specifically to buying and selling leaked data⁸. Reported from media reports, the data belonging to the Government that was allegedly stolen by Bjorka and marketed on Breached Forum are as follows:

1. 17 million PLN customer data, including customer identity and information on electricity usage and energy type, on August 19, 2022⁹;
2. 26 million Indihome customers' data that included users' NIK, search history, including some sensitive information, on August 21, 2022¹⁰;
3. 1.3 billion prepaid registration data, including mobile phone numbers and national identification numbers (NIK), on September 1, 2022^{11,2};
4. 105 million population data of Indonesian citizens indicated as data for the Permanent Voters List from the General Election Commission, on September 6th, 2022¹².

Furthermore, as an open feud between Bjorka and the Ministry of Communication and Information via Twitter, Bjorka challenged the Indonesian Government by uploading 679,180 documents belonging to the President for the 2018-2021 period which included a collection of letters from the State Intelligence Agency labeled as confidential to the Breached Forum website.¹³

Data leakage cases that occurred during the third quarter of 2022 placed Indonesia as the third country with the highest number of data leakage cases in the world according to cybersecurity company Surfshark, as quoted from Katadata. This position is occupied by Indonesia with a record of data leakage of 12.74 million accounts as of September 13, 2022.¹⁴

Not stopping there, Bjorka then opened an offer for 3.2 billion data claimed to

⁸ Zulfikar Hardiansyah, "Apa Itu Breached Forums yang Terlibat 4 Kasus Kebocoran Data di Indonesia Sebulan Terakhir?", artikel tanggal 7 September 2022 diakses dari <https://tekno.kompas.com/read/2022/09/07/16150067/apa-itu-breached-forums-yang-terlibat-4-kasus-kebocoran-data-di-indonesia?page=all> tanggal 22 November 2022

⁹ Bill Clinton, "Data Pelanggan Diduga Bocor, PLN Koordinasi dengan Kominfo dan BSSN", artikel tanggal 20 Agustus 2022 diakses dari <https://tekno.kompas.com/read/2022/08/20/17230177/data-pelanggan-diduga-bocor-pln-koordinasi-dengan-kominfo-dan-bssn?page=all> tanggal 22 November 2022

¹⁰ Wahyunanda Kusuma Pertiwi, "Data 26 Juta Riwayat Pencarian Pengguna Indihome Diduga Bocor dan Dibagikan Gratis di Forum Online", artikel tanggal 21 Agustus 2022 diakses dari <https://tekno.kompas.com/read/2022/08/21/17175127/data-26-juta-riwayat-pencarian-pengguna-indihome-diduga-bocor-dan-dibagikan?page=all#page2> tanggal 22 November 2022

¹¹ Bill Clinton, "1,3 Miliar Data Registrasi Kartu SIM Diduga Bocor, Pengamat Sebut Datanya Valid", artikel tanggal 1 September 2022, diakses dari <https://tekno.kompas.com/read/2022/09/01/13450037/13-miliar-data-registrasi-kartu-sim-diduga-bocor-pengamat-sebut-datanya-valid?page=all> tanggal 22 November 2022

¹² Galuh Putri Riyanto, "105 Juta Data Kependudukan Warga Indonesia Diduga Bocor, Diklaim dari KPU", artikel tanggal 6 September 2022, diakses dari <https://tekno.kompas.com/read/2022/09/06/21193067/105-juta-data-kependudukan-warga-indonesia-diduga-bocor-diklaim-dari-kpu> tanggal 22 November 2022

¹³ Dian Erika Nugraheny, "Ini Dokumen yang Diklaim Milik Jokowi dan Diunggah Hacker Bjorka, Ada yang diberi Label Rahasia", artikel tanggal 10 September 2022 diakses dari <https://nasional.kompas.com/read/2022/09/10/15331111/ini-dokumen-yang-diklaim-milik-jokowi-dan-diunggah-hacker-bjorka-ada-yang> tanggal 22 November 2022

¹⁴ Cindy Mutia Annur, "Indonesia Masuk 3 Besar Negara dengan Kasus Kebocoran Data Terbanyak Dunia", artikel tanggal 13 September 2022, diakses dari <https://databoks.katadata.co.id/datapublish/2022/09/13/indonesia-masuk-3-besar-negara-dengan-kasus-kebocoran-data-terbanyak-dunia> tanggal 26 November 2022

have come from the Peduli Lindungi application on Breached Forums for USD100,000 or the equivalent of Rp1.55 billion in bitcoin. The offer was announced through a post titled "Indonesia Covid-19 App Peduli Lindungi 3.2 Billion" on November 15, 2022.¹⁵ And the open offer was even made after the ratification of the PDP Bill into the PDP Law by the House of Representatives of the Republic of Indonesia (DPR RI) on September 20, 2022.

Attention to Indonesia's data security issues that have become a public concern can be said to have triggered the continuation of the discussion and ratification of the PDP Bill. The government and Commission I of the House of Representatives agreed to bring the PDP Bill to the discussion of the Plenary Session of the House of Representatives, as quoted from the statement of the Director General of Informatics Application, Samuel A. Pangerapan on September 7, 2022¹⁶

The PDP Bill was previously submitted as a National Legislation Program (Prolegnas) in 2017. The bill was recorded into the Prolegnas in 2018 and 2019, and became the Priority Prolegnas in 2019, while intensive discussions between the Government and the DPR have been carried out since the session in February 2020. (Widyantari, 2020).

This paper will review the legal protection of personal data based on the regulatory content of the newly enacted PDP Law and discuss the legal certainty of personal data protection against potential personal data breaches in the future.

Framework

The framework used in writing this scientific work is normative legal research with a statutory approach, using written laws, namely Law Number 27 of 2022 concerning Personal Data Protection which is compared with other secondary legal materials.

RESULTS AND DISCUSSION

1. Protection of Personal Data based on Law Number 27 Year 2022

Philosophically, personal data protection is a manifestation of the protection of basic human rights in accordance with the values of Pancasila. The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) is the juridical basis for this legal instrument, although it does not explicitly regulate the protection of privacy data

¹⁵ Norbertus Arya Dwiangga Martiar, "Bjorka Jual 3,2 Miliar Data yang Diklaim dari Peduli Lindungi", artikel tanggal 15 November 2022, diakses dari https://www.kompas.id/baca/polhuk/2022/11/15/bjorka-jual-32-miliar-data-yang-diklaim-dari-peduli-lindungi?utm_source=medsos_twitter&utm_medium=link&utm_campaign=medsos_auto_polhuk&status=sukses_login&status_login=login tanggal 24 November 2022

¹⁶ Ericha Andrey, "Dirjen Aptika: RUU PDP Segera Disahkan, Tingkatkan Kepercayaan Masyarakat" artikel tanggal 8 September 2022 diakses dari <https://aptika.kominfo.go.id/2022/09/dirjen-aptika-ruu-pdp-segera-disahkan-tingkatkan-kepercayaan-masyarakat/> tanggal 24 November 2022

(Palito, et. al., 2021). However, the protection of personal data is understood as part of the right to privacy, where the data attached to the individual is part of the property rights that are in the control of the individual, so it is entitled to protection. Implicitly, the protection of privacy is contained in Article 28G paragraph (1) of the Constitution of the Republic of Indonesia which states that, "Every person shall have the right to the protection of his/her person, family, honor, dignity, and property under his/her control, and shall have the right to a sense of security and protection from the threat of fear to do any act or omission of act" or not to do something which is a human right", as well as Article 28H paragraph (4) which also states that, "Everyone has the right to have private property rights and such property rights may not be taken arbitrarily by anyone" 17. Thus, these two articles become the juridical basis for the protection of personal data that provides legal certainty. (BPHN, 2016, as cited in Palito, et. al., 2021).

Sociologically, the protection of personal data is prepared as an answer to the need to protect individual rights related to personal data, especially in response to the rapid development of information and communication technology. The general elucidation of the PDP Law states that the utilization of information technology has resulted in the ease of collection and transfer of personal data, both between one party to another, as well as data transfer between countries. Data leakage cases that occur can be evidence that the existence of regulations on the protection of personal data becomes very urgent not only for the subject of the data owner, but when the data leakage is collective and in large numbers, it can pose a threat to national interests. If previously the provisions governing the regulation of personal data protection were partially scattered in a number of laws and regulations, even leading to non-uniformity in the definition and scope of personal data (Hertianto, 2021), the PDP Law, which was passed on October 17, 2022, is a comprehensive legal basis that seeks to provide protection, regulation and imposition of sanctions for misuse of personal data. In general, the PDP Law consists of 76 Articles and regulates standard provisions for personal data protection that must be used as a reference by all sectors that involve personal data processing in their implementation. The basic provisions include (1) types of personal data; (2) rights of personal data subjects; (3) processing of personal data; (4) obligations of personal data controllers and processors in the processing of personal data; (5) transfer of personal data; (6) administrative sanctions; (7) institutional; (8) dispute resolution and procedural law; (9) prohibitions on the use of personal data; and (10) penal provisions. The regulatory content contained in the PDP Law adopts internationally applicable data protection provisions, among which the most dominant is the general data protection provision of the European Union known as the European Union Data Protection Law. *EU General Data Protection Regulation (EU GDPR)*. Djafar (2019) 17 See the General Elucidation of the Law of the Republic of Indonesia Number 27 Year 2022 on Personal Data Protection that the scope and range of personal data protection, the definition and types of personal data, the principles of data protection, the obligations of data controllers and processors, the rights of data owners, and supervision of law enforcement complemented by the existence of

independent institutions, are the core regulatory content of data protection law. However, Indonesia's personal data protection law also has differences in regulatory coverage, one of which is the enforcement of the PDP Law which also reaches public bodies and international organizations that perform legal acts in the jurisdiction of Indonesia or outside the jurisdiction of Indonesia but have a legal impact on the territory of Indonesia or Indonesian citizens living abroad (Article 2 of the PDP Law). In this case, personal data protection law in Indonesia will apply not only to individuals and corporations, but also to executive, legislative, judicial and other public bodies as stipulated in the provisions of laws and regulations, as well as organizations that are recognized as subjects of international law and have the capacity to make international agreements.¹⁷

The extraterritorial legal reach of the PDP Law adopts the provisions of the EU GDPR which takes into account the ease of cross-border data movement triggered by the development of information and communication technology, and often raises jurisdictional issues, so that personal data can remain protected even if processing is carried out outside the territorial area of the data owner. (Djafar, 2019). This legal instrument can also be said to be responsive to the needs of society in the digital era, by meeting the criteria of international character with cross-border arrangements, where the transfer of personal data outside the country requires special approval and is carried out only to countries that have equivalent personal data protection. (Niffari, 2020). The PDP Law has ensured that the transfer of personal data outside the territory of Indonesia can only be done to a destination country with an equivalent or higher personal data protection law. If the destination country does not have equal protection or other adequate and binding provisions, the PDP Law requires additional conditions in the form of the consent of the owner of the personal data..¹⁸

The PDP Law defines personal data as "data about an identified or identifiable natural person individually or in combination with other information "either directly or indirectly through electronic or non-electronic systems".

Based on this definition, data or a combination of data can only be called personal data if the data can be used to identify an individual. For example, a mobile phone number, if not accompanied by a combination of other data that can be used to identify a person, such as a full name, cannot be categorized as personal data. However, when a mobile phone number is accompanied by the owner's name, or even address, it can only be categorized as personal data. (Rosadi, 2022, p. 30).

The PDP Law also separates types of personal data based on the nature of the data into specific data and general data. This separation is done on the grounds that

¹⁷ Pasal 1 Angka 8, 9 dan 10 Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

¹⁸ Lihat Pasal 56 Ayat (2), (3) dan (4) Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²⁰ Lihat Penjelasan Pasal 4 Ayat (1) Huruf a Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

personal data is categorized as specific when the processing of personal data can result in a greater impact on the data owner, such as the emergence of acts of discrimination and losses when there is disclosure of the personal data in question.²⁰

The concept of data protection is basically part of privacy protection, so that the protected entity in the privacy data protection mechanism is the "individual person" to whom personal data is attached (Rosadi, 2022, p. 31). Explicitly, the form of personal data protection in the PDP Law is the recognition of the rights owned by personal data subjects, namely to:

- a. Obtain clear information about who, why and how the personal data will be used, including clarity of identity, the basis of legal interests, the purpose of requesting and using personal data, as well as the accountability of the requesting party.;²¹
- b. Completing personal data including updating and correcting errors or inaccuracies in personal data;²²
- c. Accessing and obtaining copies of personal data;²³
- d. End the processing, delete and destroy his/her personal data.;²⁴
- e. Withdraw processing consent;²⁵
- f. Object to profiling measures that form the basis for decisions that have legal implications;²⁶
- g. Delay or limit processing;²⁷
- h. Demand and receive compensation for violations;²⁸ and
- i. Obtaining, using and transmitting personal data in a form that can be read by electronic systems.²⁹

In addition to regulating the subject of personal data as a subject protected by law, the PDP Law also introduces the terms "Personal Data Controller" and "Personal Data Processor" and regulates the scope of obligations of both legal subjects. A personal data controller is any person, public body or international organization that determines the purposes for and exercises control over the processing of personal data. The main obligation of the controller is to carry out the processing with the consent of the personal data subject. Meanwhile, a personal data processor is a party appointed to carry out processing of personal data based on an order from the controller. The scope

²¹ Pasal 5 Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²² Pasal 6 Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²³ Pasal 7 Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²⁴ Pasal 8 Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²⁵ Pasal 9 Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²⁶ Pasal 10 Ayat (1) Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²⁷ Pasal 11 Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²⁸ Pasal 12 Ayat (1) Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

²⁹ Pasal 13 Ayat (1) dan (2) Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

of obligations of controllers and processors are similar in principle, in particular the obligations to (1) ensure the accuracy, completeness and consistency of personal data; (2) record processing activities; (3) protect and ensure the security of processed personal data; (4) maintain confidentiality; (5) supervise; (6) protect personal data from unauthorized processing; and (7) prevent personal data from being accessed unlawfully.

In ensuring the legal protection of personal data, the PDP Law contains 8 (eight) basic principles that must be fulfilled in the processing of personal data. The principles of personal data protection in the PDP Law are influenced by several instruments of the conception of data privacy protection that exist at the international level as can be seen in comparison in Table 1. Berpegang pada prinsip perlindungan data pribadi, Pasal 20 Ayat (2) mengatur agar pemrosesan data pribadi wajib memenuhi syarat sah, yaitu (1) adanya persetujuan subjek data pribadi; (2) pemenuhan kewajiban perjanjian; (3) pemenuhan kewajiban hukum pengendali data pribadi; (4) perlindungan kepentingan vital subjek data; (5) pelaksanaan tugas kepentingan publik, pelayanan publik atau kewenangan pengendali data pribadi; dan (6) pemenuhan kepentingan sah lainnya. Syarat sah pemrosesan data pribadi ini diadopsi secara penuh dari *Article 6 paragraph (1) Lawfulness of Processing* pada EU GDPR dengan penempatan ketentuan dalam urutan yang sama.³⁰ Pengadopsian norma-norma dasar perlindungan dari instrument hukum internasional ini menjadikan pengaturan hukum perlindungan data pribadi di Indonesia memiliki standar internasional, serta menawarkan perlindungan hukum yang setara dengan negara-negara lain yang telah memiliki pengaturan ini sebelumnya.

Table 1. Comparison of Personal Data Protection Principles

OECD <i>Privacy Guidelines</i> (2013)	GDPR (2018)	UU PDP (2022) ³¹
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³⁰ *General Data Protection Regulation (GDPR)* <<https://gdpr-info.eu>> diakses 2 Desember 2022

³¹ Pasal 16 Ayat (2) Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

<ol style="list-style-type: none"> 1. Collection restrictions 2. Data quality 3. Purpose Specification 4. Disclosure Restrictions 5. Safeguard Measures 6. Openness 7. Individual Participation 8. Accountability 	<ol style="list-style-type: none"> 1. Legitimacy, fairness and transparency 2. Purpose limitation 3. Precision and accuracy 4. Storage limitation 5. Integrity and confidentiality 6. Accountability 	<ol style="list-style-type: none"> 1. Limited, specific, legitimate and transparent 2. Fit for purpose 3. Guarantee of the rights of personal data subjects 4. Accurate, complete, not misleading, up-to-date, and accountable. 5. Security from unauthorized acts, misuse, destruction or deletion. 6. Notification of protection objectives, activities and failures 7. Destruction at the end of the storage period or upon request 8. Liability and substantiation
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Source: Sinta Dewi Rosadi, 2022; Article 16 Paragraph (2) PDP Law

1. Legal Certainty of Personal Data Protection

Indeed, the principle of legal certainty is interpreted as a situation where the law has certainly been a concrete force, so that in essence it expects and requires the law to be made in written form. Gustav Radbruch outlined three basic values of law, one of which is the principle of legal certainty as the main principle in order to create clarity on legal regulations (Julyano and Sulistyawan, 2019). Sudikno Mertokusumo (as cited in Rosadi, 2022) states that the law aims to achieve order in society, so that human interests can be protected, there is a balance of rights and responsibilities.

Obligations between individuals in society, division of authority, solving legal problems, and maintaining legal certainty. The PDP Law promises legal certainty in one codified regulation that is *lex specialis*. If previously the regulation of personal data was scattered in various sectoral provisions, with the enactment of UU PDP, the provisions of personal data stipulated in other existing laws and regulations remain valid only if they do not conflict with the provisions in UU PDP.³² With the codification of the regulation, the law of personal data protection can provide assurance of legal certainty, as well as convenience for the public to learn and seek protection over personal data issues. It can be said that in order for the regulation of personal data protection to create a comprehensive and useful regulation in the perspective of dignified justice, regulatory norms are formulated by fusing harmony between national law, international principles and Pancasila values (Karo Karo and Prasetyo, 2020).

As positive law, the PDP Law regulates the provisions of sanctions and dispute resolution. First, violations of the obligations of the controller or processor that have a detrimental impact on data subjects may be subject to administrative sanctions in the form of (1) written warnings; (2) temporary suspension of processing activities; (3) deletion or destruction of personal data; and/or (4) administrative fines of up to 2 (two) percent of annual revenue. Second, in the event of a dispute over the protection of personal data, the PDP Law regulates that dispute resolution can be carried out through arbitration, court, or alternative dispute resolution institutions with the application of dispute resolution procedural law in accordance with the provisions of laws and regulations. Third, the PDP Law also contains prohibitions on the use of personal data in the form of unlawful acts in terms of collection, disclosure and use of personal data that does not belong to them, as well as falsification of personal data with the intention of taking advantage for oneself and causing harm to others. Violation of the prohibition on the use of personal data may be subject to imprisonment of between four and six years and a fine of a maximum amount of between four and six billion rupiah. Violators may also be subject to additional punishment in the form of forfeiture of profits obtained and payment of compensation. If the criminal act is committed by a corporation, the PDP Law regulates the provisions that can be imposed in the form of a fine of up to 10 times the maximum fine. In addition, corporate criminal offenders may be subject to criminal:

additionally in the form of profit deprivation; business suspension; permanent prohibition; closure of the place of business or corporate activities; implementation of neglected obligations; payment of compensation; revocation of licenses; or dissolution of the corporation. Nevertheless, the PDP Law still has challenges in implementation that provide legal certainty. The PDP Law mandates at least 11 provisions that require the establishment of implementing regulations, ranging from the procedures for implementing the data subject's right to object to automated processing, infringement lawsuits and compensation, the use and transmission of personal data, to the issue of implementing some strategic controller obligations, as well as the procedures for transferring personal data. The formulation of implementing regulations that regulating procedural details will greatly affect the effectiveness of PDP law enforcement.

Another important element in providing legal certainty for PDP is the institutional implementation of the PDP Law. The PDP Law mandates the strengthening of the role and authority of the Government in realizing the implementation of PDP through an institution that will be determined later and is responsible to the President. This is different from the practice in most countries that already have PDP laws, which establish PDP supervisory institutions as independent data protection authorities, separate from the branches of power with varying degrees of independence (Rosadi,

³² Pasal 75 Undang-Undang Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi (UU PDP)

2022). The establishment of PDP institutions is a form of fulfillment so that the implementation of PDP in a focused, consistent and effective manner can be enforced. In fact, according to Voigt and Bussche (as cited in Rosadi, 2022) for countries that adopt the EU regulatory model, the existence of a supervisory institution is essential and a standard requirement for GDPR regulatory equality. This difference in the regulation of the institution's position as the PDP authority in Indonesia will require further examination, especially in relation to the limitation of the institution's authority as the bearer of the mandate of the law.

In realizing legal certainty, quality regulations need to be accompanied by quality enforcement (enforcement delivery), because law enforcement is as important as the process of forming regulations, namely ensuring the achievement of regulatory objectives (Supancana, 2017). The PDP Law can be categorized as one of the efforts of legal progress that responds to the development of information and communication technology. The rapid advancement of technology and information requires the Government as the regulator to continue to anticipate developments through progressive regulation (Ramli and Ramli, 2022). Progressive regulation in this case is defined as that the law can facilitate fair competition in the use of technology, while providing protection for users. Although it leaves many challenges in its law enforcement, the PDP Law provides optimism to be a regulation that will encourage the safe use of technological innovations with changes in personal data processing standards to reduce potential losses arising from violations of the use of personal data.

CONCLUSION

As a regulation formulated under the influence of various international instruments, the PDP Law seeks to accommodate as many aspects of personal data protection as possible into its regulatory norms. As a codified regulation that is *lex specialis*, the PDP Law is a breakthrough in the technology law system to answer the problem of personal data abuse that occurs in Indonesia. First, UU PDP reaches personal data protection through the recognition and balancing of subject rights with obligations to fulfill these rights. Second, the PDP Law provides restrictions on these rights, and third, the regulation of these rights. UU PDP acts as a legal framework or legal umbrella in personal data protection that regulates the principles of personal data protection and becomes a reference for the provisions of other laws and regulations governing personal data. However, the enactment of UU PDP is not the end in upholding the law on personal data protection in Indonesia. The PDP Law provides new homework for the Government as the regulator to formulate and establish implementing regulations that are mandated as a milestone in law enforcement for personal data protection in Indonesia.

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