



Legal politics of personal data protection in Indonesia

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Abstract

The development of information and communication technology has brought significant changes to society, particularly in the collection, processing, and dissemination of personal data. On the one hand, digital advancement provides convenience in various activities; however, on the other hand, it also poses risks of personal data misuse. Indonesia, as a state based on the rule of law, has responded to these developments by establishing personal data protection policies as stipulated in Law Number 27 of 2022 concerning Personal Data Protection. This article examines the legal politics of personal data protection in Indonesia, particularly focusing on the background of its formation, the direction of legal policy adopted by the state, and the challenges in its implementation. The findings indicate that the enactment of the Personal Data Protection Law reflects the state's commitment to providing legal certainty and protecting citizens' privacy rights. However, its effectiveness is still influenced by institutional readiness, law enforcement, and the low level of public awareness regarding personal data protection.

Keywords: legal politics, personal data protection, privacy rights, legal certainty

Introduction

The development of digital technology has changed almost all aspects of human life. Many people's activities that were previously carried out directly have now moved to the digital space, such as banking transactions, online shopping, health services, education, and public services. This change has caused personal data to become one of the most important assets and most vulnerable to misuse. Personal data is no longer just ordinary information, but has become part of a person's identity that must be protected.

In practice, misuse of personal data often occurs, either through data leaks, identity theft, data utilization without consent, or the use of data for commercial purposes that are detrimental to the owner. This condition shows that the protection of personal data can no longer be left to depend only on the ethics of electronic system operators, but must receive strong legal guarantees from the state.

As a country of law, Indonesia has an obligation to provide protection for the rights of its citizens, including the right to a sense of security and the right to privacy. The protection of personal data is part of the protection of human rights that must be guaranteed in the national legal system. Therefore, the establishment of Law Number 27 of 2022 concerning Personal Data Protection is an important step in the history of legal formation in Indonesia.

In terms of political law, the birth of the law shows the direction of state policy in responding to technological developments and people's demands for clearer legal protection. The state not only plays the role of a rulemaker, but also a guarantor so that citizens' personal data is not misused by any party. Based on this, this article discusses how the legal politics of personal data protection is built in Indonesia and the challenges faced in its implementation.

Problem Formulation

Based on this background, the formulation of the problem in this study is:

What is the legal politics of personal data protection in Indonesia in the formation and implementation of Law Number 27 of 2022 concerning Personal Data Protection?

Discussion

1. Legal Politics as the Basis for the Establishment of Personal Data Protection

Legal politics is the direction of state policy in determining the formation of laws to answer the needs of the community. In the context of personal data protection, legal politics emerged in response to the development of information technology that increases the potential for data misuse. Personal data protection is no longer enough to be regulated sectorally, but requires special regulations that are able to provide legal certainty and comprehensive protection.

According to Illa Miftahul Jannah in her research, personal data protection requires legal products that are able to provide security guarantees and legal certainty for the public, so the state needs to form strong regulations in dealing with the development of digital technology^[1]. This shows that the establishment of a personal data protection law is part of the country's legal politics in responding to the challenges of the times.

In addition, the protection of personal data is also closely related to human rights, especially the right to privacy. Research shows that the protection of personal data has been integrated with human rights principles, although its implementation still faces various obstacles^[2]. Thus, the legal politics in the establishment of personal data protection is not only based on technological needs, but also on the state's obligation to protect the fundamental rights of citizens. In the latest developments, personal data protection has even become a strategic issue in the implementation of digital public services. The state is required to be able to balance the efficiency of technology-based services with the protection of people's privacy rights^[3]. Therefore, the establishment of Law Number 27 of 2022 concerning Personal Data Protection can be understood as a manifestation of the country's legal politics in building a legal system that is adaptive to the digital era.

2. Right to Personal Data as Part of the Right to Privacy

The right to personal data is an integral part of the right to privacy. In the modern context, personal data is not only seen as ordinary information, but as a representation of an individual's identity that must be protected from misuse. Therefore, everyone has the right to control his or her personal data, including the right to give consent, access, rectify and delete such data.

Conceptually, the right to privacy is a universally recognized part of human rights. In the context of national law, the protection of privacy can be drawn from the constitutional principles in the 1945 Constitution that guarantee the protection of the private self and a sense of security [4]. This shows that the state has an obligation to protect personal data as part of the protection of citizens' human rights.

The development of digital technology has expanded the scope of privacy violations. The collection and processing of personal data by various digital platforms is often carried out without adequate understanding of the data owner. In many cases, individuals are not fully aware of how their data is used, stored, or even disseminated to third parties [5]. This condition shows that there is an imbalance between data control by electronic system operators and the protection of data owners.

In addition, the protection of personal data also has an important dimension in maintaining the dignity and freedom of individuals. Misused personal data can cause harm not only materially, but also psychologically and socially. Therefore, the protection of personal data is not only related to legal aspects, but also concerns the protection of human values [2].

In this context, the recognition of the right to personal data as part of the right to privacy is an important foundation in the formation of legal policies. The state not only acts as a regulator, but also as a protector that ensures that personal data is not used arbitrarily. Thus, the protection of personal data is a manifestation of respect for the right to privacy in the modern legal system.

3. Legal Policy Directions in Law Number 27 of 2022

The establishment of Law Number 27 of 2022 concerning Personal Data Protection is a strategic step by the state in responding to increasingly complex digital technology developments. This law is a comprehensive legal basis in regulating the protection of personal data in Indonesia, which was previously still spread across various sectoral regulations [2]. With integrated regulations, the state seeks to create legal certainty while increasing the protection of people's privacy rights.

The direction of legal policy in the Personal Data Protection Law can be seen from the recognition of personal data as an object that must be legally protected. This law places the individual as the primary subject who has control over his or her personal data. This is reflected in the regulation regarding the rights of data subjects, such as the right to obtain information, the right to access, the right to rectify, and the right to delete personal data [6]. Thus, the state provides greater space for individuals to control the use of their personal data.

In addition, the Personal Data Protection Law also emphasizes the principle of consent as the basis for processing personal data. Any collection and use of data must be based on the lawful consent of the data owner. This

principle shows that the state prioritizes the protection of individual autonomy in determining the use of their personal data [6]. On the other hand, this regulation also demands greater responsibility for electronic system operators and business actors in managing personal data in a secure and transparent manner.

Other policy directions can be seen from the regulation regarding sanctions for personal data breaches. This law regulates administrative and criminal sanctions for parties who are proven to have misused personal data [6]. The sanctions regime shows that the state is not only oriented towards preventive aspects, but also repressive in protecting people's personal data. With strict sanctions, it is hoped that it can have a deterrent effect and increase compliance with regulations.

In addition, the establishment of the Personal Data Protection Law also shows Indonesia's efforts to adapt to international law developments. Many countries already have strict personal data protection regulations, so Indonesia needs to build a legal system that is in line with global standards to support international cooperation and the growth of the digital economy [3]. Thus, the direction of legal policy in the PDP Law is not only oriented to national interests, but also considers global dynamics.

Overall, the direction of legal policy in the Personal Data Protection Law reflects the state's commitment to protecting people's privacy rights, increasing public trust in digital systems, and creating more responsible data governance. However, the effectiveness of such policies is highly dependent on consistent implementation and enforcement.

4. The Urgency of Personal Data Protection in the Digital Era

Personal data protection is becoming increasingly urgent along with the rapid development of digital technology which encourages the increase in data-based activities. Almost all aspects of people's lives today depend on the use of electronic systems, ranging from financial transactions, health services, education, to government administration. This condition causes personal data to become a very valuable asset as well as vulnerable to misuse.

The urgency of personal data protection cannot be separated from the increasing cases of data leaks that occur in Indonesia. Various incidents show that people's personal data can be accessed and disseminated without the consent of the owner, which ultimately causes losses both materially and immaterially [7]. This shows that without adequate legal protection, personal data can be easily misused by irresponsible parties.

In addition, personal data protection is also closely related to public trust in digital systems. Public trust is an important factor in encouraging the development of the digital economy. If people feel that their personal data is not safe, then they will tend to be reluctant to use digital services [7]. Thus, the protection of personal data not only serves to protect individuals, but also plays a role in supporting the stability and growth of the national digital economy.

From a human rights perspective, the protection of personal data is part of the protection of the right to privacy that must be guaranteed by the state. Violations of personal data can have an impact on the disruption of individual freedoms, including potential discrimination, information manipulation, and identity theft [7]. Therefore, the state has an obligation to ensure that any processing of personal data is carried out lawfully, transparently, and responsibly.

Furthermore, the urgency of personal data protection is also related to national security. Personal data that is managed insecurely can be used for detrimental benefits to the state, including cybercrime and misuse of strategic information. In this context, the protection of personal data is not only an individual issue, but also part of the national security system that must be taken seriously ^[3] Thus, personal data protection in the digital era is a necessity that cannot be postponed. The presence of Law Number 27 of 2022 concerning Personal Data Protection is an important step in answering this urgency. However, in order for the goal of protection to be achieved optimally, effective implementation, strict supervision, and increased public awareness of the importance of safeguarding personal data are needed.

5. Challenges of Implementing Personal Data Protection in Indonesia

Although Law Number 27 of 2022 concerning Personal Data Protection has provided a strong legal basis for personal data protection, its implementation in Indonesia still faces various challenges. These challenges are not only normative, but also include institutional, technical, and cultural aspects that affect the effectiveness of regulatory implementation.

One of the main challenges is the institutional aspect, especially related to the establishment and strengthening of personal data protection supervisory institutions. The existence of an independent supervisory agency with clear authority is essential to ensure that the provisions of the law can be implemented effectively. However, until now, institutional strengthening is still a homework that needs to be completed immediately ^[3]. Without strong supervisory institutions, supervision of personal data processing has the potential to not run optimally.

In addition, challenges also arise in the aspect of legal substance, namely the potential for overlap between various regulations that regulate personal data in Indonesia. Prior to the advent of the PDP Law, regulations regarding personal data were spread across various sectoral regulations, such as in the fields of information technology, banking, and population administration ^[3]. This condition has the potential to cause disharmony in the application of the law, especially if it is not thoroughly harmonized.

The next challenge is the low public awareness of the importance of personal data protection. Many people still do not understand their rights as data subjects, and do not have the awareness to protect their personal data ^[2]. This can be seen from the fact that people still often provide personal data without considering the risks that may arise. This low level of digital literacy is a serious obstacle in realizing effective personal data protection.

On the other hand, the readiness of business actors and electronic system operators is also a challenge in itself. Not all organizations have adequate data security infrastructure and systems. The implementation of personal data protection requires a lot of investment, both in the form of technology and human resources ^[7]. Therefore, many business actors are still in the stage of adjusting to the provisions stipulated in the PDP Law.

Another challenge has to do with law enforcement. Although the PDP Law already regulates administrative and criminal sanctions, the effectiveness of law enforcement is highly dependent on the capacity of law enforcement officials and the monitoring mechanisms available. Without

firm and consistent law enforcement, violations of personal data have the potential to continue to occur without any deterrent effect ^[1].

Thus, it can be concluded that the implementation of personal data protection in Indonesia still faces various complex and multidimensional challenges. Therefore, comprehensive efforts are needed from the government, business actors, and the public to ensure that personal data protection does not only stop at the normative level, but can also be realized in practice.

Conclusion

Based on the discussion that has been described, it can be concluded that the legal politics of personal data protection in Indonesia is a form of the state's response to the increasingly rapid development of digital technology and the increasing risk of misuse of personal data. The establishment of Law Number 27 of 2022 concerning Personal Data Protection shows a clear legal policy direction in providing legal certainty and protection of people's privacy rights as part of human rights.

The right to personal data as part of the right to privacy places the individual as the primary subject who has control over his or her personal data. This is reflected in the regulation regarding the rights of data subjects as well as the principle of consent in the processing of personal data. In addition, the direction of legal policy in the law also emphasizes the importance of responsibility for electronic system operators and business actors in managing data safely, transparently, and accountably.

The urgency of personal data protection is growing in line with the increase in digital activities involving data collection and processing on a large scale. Personal data protection not only serves to protect individuals from data misuse, but also plays a role in maintaining public trust, supporting the growth of the digital economy, and strengthening national security.

However, the implementation of personal data protection in Indonesia still faces various challenges, both in terms of institutional aspects, legal substance, public awareness, and the readiness of business actors. Therefore, a strong commitment is needed from all parties to ensure that personal data protection does not only stop at the normative level, but can also be implemented effectively in practice.

Suggestions

The government needs to strengthen the implementation of Law Number 27 of 2022 concerning Personal Data Protection through the establishment of effective supervisory institutions, harmonization of regulations, and stricter supervision of electronic system operators. In addition, education to the public about the right to personal data needs to be improved so that legal protection does not only stop at the normative level, but is really felt in practice.

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