Web: https://jurnal.unismuhpalu.ac.id/index.php/IRJILS
ISSN: 2963-1017 (Online)
DOI: 10.31934/irjils.v4i2.8717

The Existence of Law Number 27 Of 2022 Concerning Personal Data Protection in Protecting Citizens' Privacy Rights

Awaluddin

Faculty of Law, Universitas Tadulako, Palu, Indonesia

awaluddin900@gmail.com

Abstract: This research aims to analyze and examine how Law Number 27 of 2022 plays a role as a legal instrument in ensuring the protection of citizens' privacy rights to personal data. In addition, this study also aims to assess the effectiveness of the norms and provisions regulated in the law, as well as evaluate institutional readiness to support its comprehensive implementation in the digital era. This research uses a normative legal method by examining laws and regulations and legal documents related to Law Number 27 of 2022 to examine the protection of citizens' privacy rights. The results of this study show that Law Number 27 of 2022 has been present as a special regulation that provides a clear and comprehensive legal basis in ensuring the protection of privacy rights for citizens' personal data. This law contains data protection principles in accordance with international standards, as well as regulates the rights of data subjects, the obligations of data controllers, and sanctions for violations. However, the effectiveness of the implementation of this law still faces structural obstacles, especially the lack of the formation of an independent supervisory institution which is an important element in carrying out the function of supervision and law enforcement optimally. It is recommended that the government immediately establish an independent supervisory institution and improve people's digital literacy to support the effectiveness of protecting privacy rights under the Personal Data Protection Law.

Keywords: Personal Data Protection; Privacy Rights

Received: *28 Apr, 2025* ***Revised***: *13 Jul, 2025* ***Accepted***: *27 Aug, 2025* ***Publish***: *30 Sep, 2025*
Publisher: Pascasarjana, Universitas Muhammadiyah Palu

INTRODUCTION

The protection of a person's personal data is closely related to the right to privacy. In December 1948 the United Nations held the General Declaration of Human Rights (DUHAM) which contained the principles of civil, political, economic, social, and cultural rights which were then elaborated in two covenants, namely *the International Covenant on Civil and Political Rights* (ICCPR) and *the International Covenant on Economic, Social, and Cultural Rights* (ICESCR). In the ICCPR, especially civil rights, rights related to the necessities of life are explained, one of which includes the protection of privacy, honor and reputation. Administratively, this has been clearly regulated in various documents that contain Human Rights.[1]

When we talk about personal data, then we must talk about personal data protection. The protection of personal data itself has been regulated and protected by existing laws in Indonesia. Specifically, this discussion only explains personal data protection, so the laws and regulations used are Law Number 27 of 2022 concerning Personal Data Protection.As explained in Article 1 Paragraph 3 of Law Number 27 of 2022:

[1] Djafar, Wahyudi and Asep Komarudin. Protection of the Right to Privacy on the Internet: Some Key Explanations. ELSAM. Jakarta. 2024

"Personal Data Protection is the entire effort to protect Personal Data in the process of processing Personal Data in order to guarantee the constitutional rights of the subject of Personal Data..."[2]

Based on the explanation of the article above, each individual has the right to the protection of his personal data as part of the constitutional right that must be maintained in the entire data management process. This protection includes moral rights, which ensure that personal data is respected and is not manipulated, altered, or misused without the consent of the owner. This right gives individuals full control to maintain privacy as well as ensure that their personal information remains secure in various data processing systems. With the existence of moral rights, every individual has the authority to demand fair and transparent treatment of his or her personal data.

In addition to moral rights, the protection of personal data also includes economic rights, which allow individuals to have control over the use of their data in the digital ecosystem and data-driven economy. These rights include the opportunity for data owners to determine how and by whom their data is used, including in business activities that utilize personal information. In addition to the data owner, these rights can also be managed by parties with relevant authorities, such as service providers or institutions responsible for data security and management in accordance with applicable regulations. Thus, the protection of personal data not only protects individual rights, but also creates a safer and more reliable digital ecosystem.

Based on the explanation above, Personal Data Protection is one of the most important human rights and is an integral part of the right to personal protection. This right aims to ensure the privacy of every individual, by prioritizing the protection of personal data owned by every citizen. In addition, the protection of personal data also serves to increase public awareness of the importance of protecting personal information and ensuring that these rights are recognized and respected in various aspects of life, especially in the use of information and communication technology.[3]

A number of cases of personal data protection violations occur due to the lack of strict regulations and transparency in data management by companies and government agencies. Meanwhile, companies often argue that the use of data can help improve the user experience and provide more personalized services. However, the debate over the limits on data use and the rights of individuals to their personal information remains a major issue in this digital age.

METHOD

The type of research used in this study is normative legal research. Normative law is a study that focuses on legal questions or problems in a certain jurisdiction. The implementation of normative law research is carried out by collecting data and continuing by analyzing relevant laws and legal norms. Normative juridical research aims to describe the applicability of a positive law and a legal norm by providing a legal analysis.[4]

The study in this study is carried out through a normative legal method that places law as a system of norms, including principles, rules, and laws and regulations. The main focus of this study is Law Number 27 of 2022 concerning Personal Data Protection, which was analyzed to assess its role and effectiveness in protecting citizens' privacy rights in the Indonesian legal system.

RESUL AND DISCUSSION

The Right to Privacy as a Fundamental Right and its Regulation in the ITE Law

The right to privacy is part of the human rights guaranteed in various national and international legal instruments. In the Indonesian context, **Article 28G paragraph (1) of the 1945 Constitution** states that:

"Everyone has the right to the protection of his or her personal self, family, honor, dignity, and property under his or her control."

[2] Law (UU) Number 27 of 2022 concerning Personal Data Protection Article 1 Paragraph

[3] Renggong, Ruslan & Dyah Aulia Rachma Ruslan. Human Rights in the Perspective of National Law. Gold. Jakarta. 2021

[4] David Tan, Legal Research Methods: Exploring and Reviewing Methodology in Conducting Legal Research, NUSANTARA: Journal of Social Sciences, Vol 8 No 8 of 2021, p. 2467

This provision shows that the right to privacy is part of the legal protection of human dignity, including in the context of personal information that is increasingly accessible and disseminated in the digital age. Prior to the arrival of Law Number 27 of 2022 concerning Personal Data Protection (PDP Law**),** regulations regarding privacy and personal data in Indonesia were mostly accommodated in Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), along with its amendments in Law Number 19 of 2016**.** One of the key provisions related to personal data protection is contained in Article 26 paragraph (1) of the ITE Law**,** which states:

"Unless otherwise specified by laws and regulations, the use of any information through electronic media concerning a person's personal data must be carried out with the consent of the person concerned."

This norm is the initial form of legal recognition of the principle of consent in the management of personal data. However, the ITE Law still has shortcomings in terms of substance, because it does not provide a clear definition of personal data, does not classify data types, and does not establish adequate monitoring and sanctioning mechanisms for data breaches. This limitation causes the implementation of the protection of privacy rights through the ITE Law to be not optimal. The regulation is sectoral and general-scale, and focuses more on transactional aspects and information security, rather than the protection of privacy rights as a whole. Therefore, the need for more comprehensive special regulations is very urgent, especially in the face of the challenges of increasingly complex digital technology developments.

The presence of the Personal Data Protection Law is a form of refinement and continuation of the spirit of privacy rights protection which was previously partially regulated in the ITE Law. The PDP Law systematically regulates the principles of personal data protection, data classification, data subject rights, data controller obligations, and administrative and criminal sanctions. Thus, the ITE Act can be seen as an initial foundation**,** while the PDP Act is an answer to more specific and cutting-edge legal needs in the digital age.

However, the implementation of the Personal Data Protection Law still faces a number of significant challenges. One of the main problems is the lack of an independent supervisory agency specifically responsible for supervision, complaints, and law enforcement of personal data breaches. In fact, this institution is a vital component as mandated in Article 58 of the PDP Law, which states the need to establish a data protection authority that is independent, professional, and directly accountable to the president.

This condition shows that the existence of a law does not necessarily automatically guarantee the achievement of effective legal protection**,** if it is not accompanied by an adequate institutional structure and a supportive legal culture. In the context of the PDP Law, the effectiveness of its implementation depends heavily on how quickly and seriously the government establishes an independent data protection authority, which has not only ministerial authority, but also technical capabilities and human resources to conduct investigations, mediation, sanctions, and public education.

As part of the reform of the national legal system, Law Number 27 of 2022 concerning Personal Data Protection shows that the state is increasingly aware of the urgency of providing comprehensive legal protection for individuals' personal information in the digital era. This law is present not only as a complement to previous regulations such as the ITE Law or other sectoral regulations, but as a main regulation (lex specialis) that provides a more systematic, detailed, and progressive normative framework in guaranteeing citizens' privacy rights. From the perspective of constitutional law and human rights, the existence of the PDP Law confirms that personal data is not just a technical aspect of the information system, but is part of the constitutional right that concerns the dignity and sovereignty of individuals over their personal information.

In addition, the provisions in the PDP Law, which include legal principles, data classification, data subject rights, controllers and processors' obligations, and administrative and criminal sanctions, are indicators that the state is trying to build a legal protection system that is not only declarative but also operational. This is an important foundation in efforts to balance the relationship between data owners and parties who access or process data, especially in situations where information technology is used as the main tool in the implementation of public services and business activities.

The existence of this law will only have a substantive meaning if it is accompanied by a strong commitment from all stakeholders to implement it consistently. The establishment of an independent supervisory authority, increasing public legal awareness, and harmonization between regulations that still overlap are crucial factors in supporting the effectiveness of the PDP Law. Without such efforts, the protection

of the right to privacy will only end up at the normative level without being useful in practice. Thus, Law Number 27 of 2022 not only needs to be understood as a legal product alone, but as a milestone in paradigm change in guaranteeing privacy rights in the midst of digitalization flows. Its existence must be interpreted as a form of state responsibility in providing legal protection that is fair, adaptive, and relevant to the challenges of the times, as well as being part of a sustainable commitment to uphold human rights in the digital space in a complete and dignified manner.

The Position of the Personal Data Protection Law as an Instrument for the Protection of Privacy Rights

Law Number 27 of 2022 concerning Personal Data Protection (hereinafter referred to as the PDP Law) is a national legal instrument that has an important and strategic position in the system of laws and regulations in Indonesia, especially in the context of the promotion and protection of citizens' constitutional rights to privacy. In the dynamics of the development of the digital society which is characterized by the high intensity of data exchange, personal information is becoming increasingly vulnerable to misuse. Therefore, the birth of the PDP Law is a legal necessity that aims not only to fill the normative void, but also to present legal certainty that is proportionate between the need for technological innovation and the protection of individual citizens' rights.

Systematically, the PDP Law has a position as *a lex specialis* for various other regulatory provisions that intersect with the management of personal data. Before this Law was passed, personal data protection in Indonesia was sectoral and spread across several regulations that did not have an integrated approach, such as in the Electronic Information and Transaction Law (UU ITE), the Health Law, the Population Law, and the Banking Law. However, these regulations do not regulate in detail the rights of data subjects, the classification of personal data, the obligations of controllers, as well as the full mechanism of enforcement and legal sanctions. In this case, the PDP Law exists as a special *legal framework* that unifies and clarifies all provisions regarding the management of personal data in one comprehensive and integrative law.

The strategic position of the PDP Law in guaranteeing the right to privacy is also reflected in its main objective contained in Article 3, which is to guarantee citizens' right to personal data protection as part of human rights. This is strengthened in the definition of Article 1 number 3 of the PDP Law which states that personal data protection is a series of efforts in data processing to ensure the constitutional rights of personal data subjects**.** Thus, the PDP Law explicitly links the protection of personal data with the constitutional guarantees contained in Article 28G paragraph (1) of the 1945 Constitution, which guarantees the protection of the individual, family, honor, and dignity of each individual.

From a human rights law perspective, the PDP Act affirms that personal data can no longer be positioned solely as an administrative object, but rather as an essential element of individual dignity and autonomy. This can be seen from the clear recognition of various data subject rights**,** such as the right to information, the right to give or withdraw consent, the right to correct and delete data, and the right to obtain compensation for violations experienced. By granting these rights to individuals as data owners, the PDP Law places citizens as active legal subjects**,** not just passive parties in the digitization process. This approach shows a shift in the legal paradigm from a system of state surveillance of citizens to a system of recognition and strengthening of individual sovereignty over their personal information. The PDP Law not only establishes substantive legal norms, but also establishes an institutional structure that supports supervision and law enforcement mechanisms. This can be seen in the provisions of Article 58 which mandates the establishment of an independent supervisory institution as a personal data protection authority. This institution will act as a regulatory body, supervisor, complaint recipient, and sanctioner for violations of personal data management. The existence of this institution is one of the concrete forms of legal protection guarantees that are not only normative, but also institutional.

The position of the Personal Data Protection Law can also be analyzed from a comparative approach with international regulations, especially the European Union's General Data Protection Regulation (GDPR**),** which has become a global standard in personal data protection. Many of the basic principles in the GDPR were adopted into the PDP Act, such as the principles of legality, fairness, transparency, purpose limitations, accuracy, storage limitations, and accountability. This adjustment shows that Indonesia is trying to adapt to international norms in order to strengthen the position of personal data protection in the global realm, while

increasing the world's trust in the national legal system in regulating the digital economy. By paying attention to these normative, structural, constitutional, and comparative aspects, it can be affirmed that the position of the PDP Law as an instrument for the protection of the right to privacy is not only formal**,** but also has a substantive and progressive dimension that is very important in the governance of a democratic legal state. This law is the main basis for the protection of individual rights in the ever-evolving digital world, as well as a strategic instrument to encourage the accountability of electronic system operators in complying with the principles of justice and respect for human rights.

A number of international instruments have regulated data protection principles and many national regulations have incorporated them as part of national law. Data protection is also a fundamental human right. A number of countries have recognized data protection as a constitutional right or in the form of 'data habeas', which is a person's right to obtain security for the data he owns and to justify when an error is found in his or her data.

Indonesia as one of the developing countries has a very large number of users of modern technology and communication systems. However, until now Indonesia does not have a law that specifically regulates privacy and data protection. With the increasing use of technology, the urgency to address legal issues related to privacy and data protection has increased. This is because often existing laws cannot work effectively in keeping up with technological developments. The law often runs slower than the development of society, including technological developments.

This legal vacuum certainly has implications for the protection of privacy and personal data. As a member of the Asia-Pacific Economic Cooperation (APEC) and also as a candidate country for the Organization for Economic Co-operation and Development (OECD), Indonesia needs this regulation related to the protection of privacy and personal data so that it is hoped that this regulation can solve the problems that arise due to the misuse of personal data management. Personal data protection arrangements should be considered as one of the most important areas needed by Indonesia. This is an important issue in modern society because the protection of personal data will affect the way we communicate and new ways of trading. The growth of technology provides various opportunities to collect, analyze, and disseminate information in various ways, therefore, the issue of legal protection of privacy for personal data is something urgent to think about.

Paying attention to international developments in the regulation of data privacy, both by many countries in the world and by international organizations, Indonesia must immediately take steps to adapt to these global developments. Indonesia must immediately establish a legal system that can guarantee legal certainty while still paying attention to the readiness of the community in facing new values. The new value referred to here is technological advances that require the protection of privacy of users' personal data, especially in the face of the development of the cloud computing industry. Until now, Indonesia has not had any special regulations regarding the privacy of personal data. Therefore, it is necessary to regulate this matter in the form of a law that specifically regulates the protection of privacy of personal data, both through ordinary and electronic media.

In addition, the establishment of an information technology legal system is very necessary to encourage coordination with other relevant laws and to create harmonization both with international principles and with regulations in other countries. So the drafting of laws can accommodate several interests: first, protecting people's privacy of personal information, second, smoothing international trade relations, especially e-commerce by following international regulatory standards by adjusting to the circumstances of Indonesian society.[5]

Considering all juridical aspects, constitutional, and practical implications in society, the existence of Law Number 27 of 2022 should be positioned as one of the important milestones in the development of a modern and human rights-oriented national legal system. This law is not only designed to respond to the legal needs of information technology developments that have changed the landscape of social and economic interaction, but also contains normative content that shows a change in the state's perspective on issues related to personal data, which have tended to be treated as administrative issues or just part of the technical

[5] Sinta Dewi, *The Concept of Legal Protection of Privacy and Personal Data Associated with the Use of Cloud Computing in Indonesia,* Judiciary, Vol. 5 No. 1, 2016, pp. 26-28

affairs of information systems. The formulation of norms in this Law clearly places personal information as a legal entity that must be respected, protected, and guaranteed by the state as part of the fulfillment of the constitutional rights of every citizen.

On the other hand, the substance contained in the PDP Law not only provides limitations and provisions for personal data processors, but also presents legal principles that lead to the establishment of a balanced relationship between the data subject and the party managing the data. The legal relationship is no longer unilateral, but rather places the data owner as the party who has full control over the process of collecting, using, processing, and storing his personal information. This is a significant improvement compared to previous approaches that have little recognition of an individual's position and rights to their own data. With broader recognition of these rights, the PDP Law has contributed to realizing a fairer and more balanced legal system in the digital ecosystem.

The PDP Law requires that all forms of data processing can only be carried out with the explicit consent of the data subject. Such consent must be given knowingly and under conditions free from coercion, and based on complete information about the purpose, scope and risks of such processing. By providing the right to consent explicitly, the PDP Act prevents manipulative practices that are often carried out by digital platforms by hiding data usage requirements behind terms and conditions that are not easily accessible or understood by users.

Not stopping at the granting of consent, the PDP Act also provides legal space for individuals to withdraw the consent that has been given. This right is a concrete form of recognition of individual autonomy, that control over personal data does not stop after the data is collected, but rather continues continuously throughout the data processing cycle. Thus, the data subject may stop processing that is deemed irrelevant, excessive or detrimental. The data controller, in this case, is obliged to respect the withdrawal of such consent and take follow-up actions in accordance with the applicable legal provisions, including deleting or deactivating the data in question. The PDP Act also expands the recognition of data subjects' rights by providing access to the information collected and the right to correct it in the event of errors. This becomes especially important in contexts where inaccurate data can have real impacts, such as in financial services, education, or healthcare. With the right of access and correction, data subjects have the legal means to ensure that the information used by the other party does not harm or create misunderstandings. This right is also a form of preventive protection against discrimination and mislabeling due to misinformation.

CONCLUSION

Law Number 27 of 2022 has an important role as a legal basis in guaranteeing citizens' privacy rights in the digital era. This law exists to fill the previous legal void and affirm that personal data is part of the constitutional right that must be protected by the state as a whole.

Legal protection in the PDP Law is provided through the recognition of the rights of data subjects and the determination of obligations for data controllers, as well as the regulation of sanctions for violations. This makes the PDP Law not only a formal norm, but also a real protection instrument against the misuse of personal data in the digital era.

SUGGESTION

It is necessary to accelerate the establishment of an independent personal data protection supervisory institution as mandated in Law Number 27 of 2022. This institution plays a central role in ensuring that the implementation of personal data protection runs effectively and accountably. Without the existence of a supervisory authority that has clear and independent authority, legal protection of the right to privacy will only stop at the normative level. Therefore, the government must prioritize the establishment of this institution to ensure supervision, law enforcement, and the receipt and resolution of complaints from the public in a professional and fair manner.

It is necessary to increase people's digital literacy related to the right to personal data and its protection mechanisms as stipulated in the PDP Law. One of the biggest challenges in the implementation of the PDP Law is the low public awareness of their rights as data subjects. People often passively hand over personal data without understanding the risks or legal provisions. Therefore, it is necessary to carry out

massive and sustainable socialization, both by the government and educational institutions, in order to encourage active public participation in protecting their privacy in the digital space.

BIBLIOGRAPHY

Djafar, W., & Komarudin, A. (2024). Protection of the Right to Privacy on the Internet: Some Key Explanations. Jakarta: ELSAM.

Deviana, M. P., Hermaya, P., & Rahman, Y. A. (2023). Juridical study on the protection of people's personal data recorded by prospective participants in the 2024 Election. PALAR (Pakuan Law Review), 9(3), 11–23.

Dewi, S. (2016). The concept of legal protection of privacy and personal data is associated with the use of cloud computing in Indonesia. Justice, 5(1), 26–28.

Renggong, R., & Ruslan, D. A. R. (2021). Human Rights in the Perspective of National Law. Jakarta: Kencana.

Tan, D. (2021). Legal research method: To explore and review the methodology in conducting legal research. Nusantara: Journal of Social Sciences, 8(8), 2467.

Law of the Republic of Indonesia Number 27 of 2022 concerning Personal Data Protection.

Yuniarti, S. (2019). Legal protection of personal data in Indonesia. Business Economic, Communication, and Social Sciences Journal (BECOSS), 1(1), 147–154.