
LEGAL PROTECTION FOR PERSONAL DATA IN THE WORLD OF WORK IN THE ERA OF DIGITALIZATION OF TECHNOLOGY AND INFORMATION

Ambar Rani Priyanjani¹, Farah Fadillah², Alfazrryan Ghalib³, Endang Sutrisno⁴, Deni Yusup Permana⁵

Universitas Swadaya Gunung Jati, Cirebon, Indonesia

E-mail: ambarrani04@gmail.com¹, fadillahrafah2002@gmail.com²,

ghalibalfazrryan@gmail.com³, endang.sutrisno@ugj.ac.id⁴,

deniyusuppermana80@gmail.com⁵

KEYWORDS

legal certainty; labor; misuse of personal data

ABSTRACT

Legal certainty is one of the objectives of law according to Gustav Radburch, with the development of the times, and the rise of digitalization, it is necessary to have a legal umbrella as a form of preventive effort so that there are no legal problems such as misuse of personal data in the labor scope. This legal research method uses normative juridical legal methods using qualitative data based on consideration of the purpose of this research itself to determine the importance of legal certainty and protection of personal data in the context of labor in the era of technology, and information that has developed rapidly. The clarity of legal norms guides community behavior, including the protection of personal data. The impact of technological advances is especially evident in changes in community behavior and information seeking through the internet. This change creates new challenges, especially related to the misuse of personal data in the world of work. Legal protection for personal data in the world of work in the era of digitalization of technology and information is very important. It has positive implications for companies, employees, and society as a whole. By implementing good personal data protection, all parties can benefit from the opportunities offered by digital technology while maintaining the privacy and security of personal data.

INTRODUCTION

According to Fence M. Wantu, law without the value of legal certainty will lose its meaning because it can no longer be used as a behavioral guide for everyone (Wantu, 2007). Legal certainty is defined as the clarity of norms so that they can be used as guidelines for the people who are subject to these regulations (Wijayanta, 2014). Meanwhile, according to Van Apeldoorn, legal certainty can also mean things that can be determined by law in concrete matters (Verboom & Van Apeldoorn, 1990). As in technology, information, and communication, there needs to be legal certainty in the misuse of personal data for labor.

Personal data protection itself is a dynamic aspect that will continue to face and be influenced by technological advances and innovations as well as business practices. One of the factors in the emergence of crime and the unlawful use of personal data is due to the development of technology, information, and communication. At present, technology,

Information, and communication have penetrated almost all aspects of life and changed the behavior of people's lives toward electronic and internet-based community interactions (Nababan & Lasmadi, 2023).

Advances in information technology today have also had a major impact on social changes in the world, including changes in information-seeking behavior. This is supported by the internet as a sophisticated information search media (Yusup, 2010). Data accessed through the internet media is very valuable and carries risks. Educational and economic factors limit people from thinking long about the risks that will occur in the future when any data is accessed through the internet media (Saputri, n.d.).

In the general explanation of law number 1 of 2024, the second amendment to law number 11 of 2008 concerning information and electronic transactions in the life of society, nation, and state, the rights and freedoms in using and utilizing information technology are implemented by considering the restrictions stipulated by law.

The development of technology, information, and communication makes everyone able to access it, including job vacancies, and various job vacancies that companies offer to job seekers, one of which is through social media with criteria and requirements that must be met. These requirements usually attach several documents containing personal documents that are very private.

Data protection for labor is very important according to the 1945 Constitution, especially Article 27 Paragraph (2) concerning citizens' rights to workers and livelihoods that are worthy of humanity. But nowadays there are many people who misuse data, especially personal data in the world of work for their own personal interests.

According to the results of research by (Thalib & Maswari, 2021), it shows that there are still many cases of misuse and theft of company personal data by company employees which can be resolved by litigation and non-litigation mechanisms. It is better to anticipate in advance by implementing ways to secure company personal data.

Talking about the law, we endlessly observe and study something that is like all the rules about order and on the other hand will also be followed by irregularities, through subjective assessments in describing the goals and ideals of the law, namely justice and certainty, in the end the law is identified with art. Departing from such thinking, it is no wonder that ordinary people sometimes occur in pessimistic patterns when looking at the law (Sutrisno, 2018).

The focus of the study becomes the problem is how the form of legal protection for personal data in the world of work in the era of digitalization, technology, and information. This is very reasonable considering the current legal provisions must be considered, especially the labor parties and other parties within the scope of the world of work.

METHOD RESEARCH

This research uses normative juridical legal research methods using qualitative data based on the consideration of the purpose of this research to examine legal norms and products in the form of laws and regulations related to legal protection for personal data in the world of work in the era of digitalization of technology and information, especially Law Number 13 of 2003 concerning Manpower, Law Number 1 of 2024 concerning Electronic

Information and Transactions, Law Number 27 of 2022 concerning Personal Data Protection, and Regulation of the Minister of Communication and Information Technology Number 20 of 2016 concerning Personal Data Protection in Electronic Systems.

RESULTS AND DISCUSSION

Based on Law No. 13 of 2003 Article 1 paragraph 2 Labor is every person who is able to do work in order to produce goods and/or services to meet their own needs and for the community. According to Simanjuntak's opinion, labor is a group of people of working age, who are able to work or carry out economic activities in producing goods and services to meet the needs of society (Simanjuntak, 1985). According to Tambun (Tambunan, 2002), employment opportunities include jobs that have been occupied (employment) and are still vacant. The number of graduates starting from Junior High School (SMP), Senior High School (SMA), Vocational High School (SMK), or College is not comparable to the available job vacancies.

Based on data from the Ministry of Education and Culture, graduates from junior high schools are 5,300,042, high schools are 5,040,123, vocational schools are 158,638 (Dapo Kemdikbud. 2023) and according to the Indonesian Minister of Manpower (Menaker), Ida Fauziyah, said that around 12 percent of unemployment in Indonesia is currently dominated by undergraduate and diploma graduates, the large number of unemployed college graduates is due to the absence of links and matches between universities and the job market (Gusti Grehenson. 2024). From these data, we know that there are not that many job vacancies, they compete with each other for available jobs, but on the one hand, there are some people in order to fulfill their daily needs, are willing to do anything to work without paying attention to the data that job applicants submit to the company. These data, such as Identity Cards (KTP), diplomas, Police Record Certificates (SKCK), and so on are included in personal data.

Sometimes companies deliberately misuse these data for personal gain without thinking about the privacy rights of their employees, various job vacancies are offered, especially on social media Facebook, Instagram, linked, and others as to find job vacancies in the hope of meeting daily needs.

In addition to the workforce must pay attention to the data above, the workforce must also pay attention to matters relating to the employment agreement, because if something undesirable happens, it can be reviewed from the agreement that the two parties have made regarding the employment agreement.

An agreement is an agreement that occurs when parties promise each other to carry out certain actions. The term agreement is often also termed contract (contracts) and overeenkomst (in Dutch). Contract and agreement are the same terms because the point is that there is an event of the parties agreeing on the matters agreed upon and are obliged to obey and implement them so that the agreement gives rise to legal relations (Saliman, 2005).

Article 1 paragraph 14 of Law No.13 of 2003 defines a work agreement as an agreement between workers and employers/employers that contains working conditions, rights, and obligations of the parties. In this case, the law also provides protection to workers in realizing welfare and improving the welfare of workers and families. Sectors of life governed by the rule of law must be able to reach the point of order and a sense of justice including economic

management, human resources, and natural resources in order to achieve happiness together (Sutrisno-Sudarminto, 2017). This worker protection is especially regarding the protection of labor personal data. In accordance with Article 1 paragraph 8 of Law No.13 of 2003 Labor information is a combination, series, and analysis of data in the form of numbers that have been processed, manuscripts, and documents that have certain meaning, value, and meaning regarding employment.

Documents that have value and meaning can be interpreted as both electronic documents and manual documents, we know that applicants submit data with manual documents such as job application letters, diplomas, and identity cards (KTP) which will then be inputted into data on workers by companies using electronic systems. According to the Regulation of the Minister of Communication and Information Technology number 20 of 2016 concerning the protection of personal data in electronic systems article 1 paragraph 7, Electronic System Users, hereinafter referred to as Users, are individuals, state administrators, business entities, and the public who utilize goods, services, facilities, or information provided by electronic system operators. Article 2 further explains the protection of personal data in electronic systems includes protection against the acquisition, collection, processing, analysis, storage, display, announcement, transmission, dissemination, and destruction of personal data.

In relation to Article 2 of the Regulation of the Minister of Communication and Information Technology No. 20/2016 on the protection of personal data in electronic systems, the company obtains its employee data from the collection of job application letters which are then stored to serve as company archives in case of unforeseen events.

The relationship between personal data protection and labor is very important. In terms of personal data protection, two methods are known to protect personal data, namely security of the physical personal data itself and through regulations that aim to provide privacy guarantees for the use of personal data (Yuniarti, 2019).

We know that the hallmark of law is legal certainty (*rechtzekerheid*) according to the legal positivism school. The identification of the law with the law ensures that humans can clearly know what is law and what is not. Legal certainty is only guaranteed if every form of violation of positive legal rules is dealt with with certainty and is not prosecuted as long as the action does not violate the provisions that have been deposited (Ibnu Artadi. 2012: 70).

In this case also when feeling aggrieved can report back on the misuse of data with sanctions contained in article 67 of Law Number 27 of 2022 concerning Personal Data Protection paragraph 1 "Every person who intentionally and unlawfully obtains or collects Personal Data that does not belong to him with the intention of benefiting himself or others which may result in the loss of Personal Data Subjects as referred to in Article 65 paragraph (1) shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp5,000,000,000.00 (five billion rupiah)".

Provisions regarding the protection of privacy and personal data are also part of Article 28 G of the 1945 Constitution of the Republic of Indonesia which regulates the right to protection of self, family, honor, dignity, and property under his control. To be able to see these provisions as provisions regarding privacy and personal data, the opinion of Warren and

Brandeis in their work entitled "The Right to Privacy" states that privacy is the right to enjoy life and the right to be respected for feelings and thoughts (Samuel, 1890).

The Right to Privacy offers the necessary assurance to be frank about one's own feelings without having to fear that one might offend someone. Without such protection of communication, it is impossible for free thoughts to emerge without the fear of being prosecuted for utterances or texts that might later be judged to be defamatory (Schermer, 2007). Therefore, every individual must have ethics that become basic manners. If we want to be respected, then respect others which is part of ethics. Ethics in this case is part of philosophy that teaches the whole of ethics (good and bad) (Wajdi & Lubis, 2021). The right to protection of personal data also develops from the right to respect for private life. The concept of private life relates to humans as living beings (European Union Agency for Fundamental Rights and Council of Europe) (fondamentaux et al., 2014).

Every company must have its own Standard Operating Procedures (SOP), and the company must also be transparent about the process of processing personal data regarding privacy notice (Kemp, 2019). Article 15 paragraph (2) of Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions, if there is a data leak, the data manager must report in detail about the leaked data, the amount of data affected, and the steps taken to overcome it because personal data breaches are one of the first problems that arise due to massive data processing on centralized and decentralized analytics servers in real-time (Silva & MA, 2017)

In addition to the leakage of personal data in the scope of labor, it turns out that there are also many violations of personal data in other areas such as in the scope of health, where patient data is traded or disclosed for insurance purposes (Rosadi, 2016).

CONCLUSION

The rapid development of technology has changed social behavior and human interaction, including in the job search process, and increased the risk of personal data abuse. Personal data of the workforce is often used in the recruitment process and is vulnerable to misuse that can harm the parties involved.

The results show an imbalance between the number of education graduates and available job vacancies, which increases the risk of personal data misuse in the world of work. The protection of personal data of the workforce in Indonesia is governed by regulations such as Law No. 13 of 2003 and Minister of Communication and Information Technology Regulation No. 20 of 2016, which covers the collection, processing, storage, and destruction of personal data. In addition, Article 28 G of the 1945 Constitution of the Republic of Indonesia guarantees the right to personal protection and privacy.

This research also emphasizes the importance of ethics in the use of personal data and the role of company operational standards in ensuring data transparency and security. Regulations on reporting and handling data leaks are an important part of maintaining personal data security.

Overall, this research underscores the need for legal certainty and effective personal data protection in the midst of rapid technological development to ensure the security and privacy of the workforce's personal data and prevent data misuse in the job search and offer process.

REFERENCES

- fondamentaux, U. européenne. A. des droits, de l'Europe, C., & l'homme, C. européenne des droits de. (2014). *Handbook on European data protection law*. Publications office of the European Union.
- Ibnu Artadi, *Makna Keaslian Dalam Proses Penegakan Hukum*, Jurnal Ilmu Hukum Hermeneutika, Vol. 1 No.1 Desember 2012, Cirebon : Program Magister Ilmu Hukum Universitas Swadaya Gunung Jati, hlm. 70
- Kemp, R. (2019). Legal aspects of managing data. *Kemp IT Law*.
- Machsun Rifauddin dan Arfin Nurma Halida. 2018. *Waspada Cybercrime dan Informasi Hoax pada Media Sosial Facebook* Vol.6 No.2
- Nababan, D., & Lasmadi, S. (2023). Pertanggungjawaban Pidana Terhadap Penyalahgunaan Data Pribadi Pada Tindak Pidana Dunia Maya. *PAMPAS: Journal Of Criminal Law*, 4(2), 232–251.
- Rosadi, S. D. (2016). Implikasi Penerapan Program E-Health Dihubungkan Dengan Perlindungan Data Pribadi. *Arena Hukum*, 9(3), 403–420.
- Saliman, A. R. (2005). Hermansyah, dan Ahmad Jalis. *Hukum Bisnis Untuk Perusahaan: Teori Dan Contoh Kasus*.
- Samuel, D. (1890). Warren & Louis D. Brandeis, The Right to Privacy. *Harvard Law Review*, 4(5), 193.
- Saputri, E. H. (n.d.). PERLINDUNGAN HUKUM TERHADAP DATA PRIBADI PENUMPANG PESAWAT UDARA (Studi Kasus Terungkapnya Data Penumpang Malindo Air). *Jurnal Privat Law*, 11(1), 81–90.
- Schermer, B. W. (2007). *Software agents, surveillance, and the right to privacy: a legislative framework for agent-enabled surveillance*. Leiden University Press.
- Silva, S. R. D. K. E., & MA, L. L. M. (2017). *Personal and Non-Personal Data in the Context of Big Data*.
- Simanjuntak, P. J. (1985). *Pengantar ekonomi sumber daya manusia*. Lembaga Penerbit Fakultas Ekonomi Universitas Indo.
- Sutrisno-Sudarminto, E. (2017). Legal Culture of Fisherman Communities in Indonesia (Studies in Cirebon Coastal Fishing Communities in the Northern Coast of West Java, Indonesia). *International Journal of Current Advanced Research*, 6(2), 2249.
- Sutrisno, E. (2018). Mengukuhkan Paradigma Hukum di Era Orde Reformasi. “SYARIAH” *JURNAL ILMIAH FAKULTAS HUKUM UNIVERSITAS SWADAYA GUNUNG JATI*, 1(1).
- Sinta Dewi Rosadi dan Garry Gumelar Pratama. 2018. *Perlindungan Privasi dan Data Pribadi dalam Era Ekonomi Digital di Indonesia*. Veritas Et Justitia. Vol.4. No. 1. Hlm. 88. Bandung: FH Universitas Parahyangan.
- Tambunan, H. (2002). *Tenaga Kerja*. Yogyakarta: Bpfe.
- Thalib, E. F., & Maswari, K. L. (2021). Perlindungan Hukum terhadap Data Pribadi Perusahaan Akibat Penyalahgunaan Data Digital Oleh Karyawan Perusahaan. *Prosiding Seminar Nasional Fakultas Hukum Universitas Mahasaraswati Denpasar 2020*, 1(1), 55–66.
- Verboom, B., & Van Apeldoorn, R. (1990). Effects of habitat fragmentation on the red squirrel, *Sciurus vulgaris* L. *Landscape Ecology*, 4(2), 171–176.

- Wajdi, F., & Lubis, S. K. (2021). *Hukum Ekonomi Islam: Edisi Revisi*. Sinar Grafika (Bumi Aksara).
- Wantu, F. M. (2007). Antinomi dalam penegakan hukum oleh hakim. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 19(3).
- Wijayanta, T. (2014). Asas kepastian hukum, keadilan dan kemanfaatan dalam kaitannya dengan putusan kepailitan pengadilan niaga. *Jurnal Dinamika Hukum*, 14(2), 216–226.
- Yuniarti, S. (2019). Perlindungan hukum data pribadi di Indonesia. *Business Economic, Communication, and Social Sciences Journal (BECOSS)*, 1(1), 147–154.
- Yusup, P. M. (2010). *Teori & praktik penelusuran informasi: Information retrieval*.
- Dapo Kemdikbud. Diakses 21 Januari 2024 <https://dapo.kemdikbud.go.id/pd>
- Gusti Grehenson. Diakses 21 Januari 2024. “Menaker : 12 Persen Pengangguran di Indonesia Didominasi Lulusan Sarjana dan diploma. <https://ugm.ac.id/id/berita/23493-menaker-12-persen-pengangguran-di-indonesia-didominasi-lulusan-sarjana-dan-diploma/>

Copyright holders:

**Ambar Rani Priyanjani¹, Farah Fadillah², Alfazrryan Ghalib³, Endang Sutrisno⁴,
Deni Yusup Permana⁵ (2024)**

**First publication right:
JoSS - Journal of Social Science**



**This article is licensed under a Creative Commons Attribution-ShareAlike 4.0
International**