**Abstract**

Protection of personal data privacy for e-commerce service users has a major influence on a country, including Indonesia, in the development of the digital economy. This protection is an important factor for trust in online transactions and is especially important in digital transactions. Policies regarding personal data and information in the event of a data leak still do not specifically regulate liability provisions in e-commerce. This research discusses the study of legislation regarding the principle of dignified responsibility in carrying out e-commerce transactions in the context of personal data protection in Indonesia. This research is normative legal research based on library research. This research is based legal responsibility in Law Number 27 of 2022 concerning Protection of Personal Data in a proportional balance in protecting users' personal data.

**Privacy Rights in the Responsibility Personal Data Protection**

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I. Introduction

There have been major changes in progress in the field of science and the use of technology in trading activities not only in the real world, but also in the virtual world through the application of electronic transactions in buying and selling. However, behind the ease of electronic transactions, there is a gap in the misuse of user data (consumer personal data) by parties who do not want to be responsible.

Personal data is one of the rights as a citizen, so there must be a guarantee of the right as a citizen to have self-protection as someone who recognizes and respects the importance of protecting personal data. The protection of personal data is very necessary as a form of recognition and protection of basic human rights that are guided by the values contained in Pancasila. Pancasila is also a philosophical basis for protecting personal data which *is rechtssidee* (legal ideals) in a construction of thoughts (ideas) towards the desired legal direction.¹

Personal data relating to privacy which has a universal concept is known abroad in written format in the form of laws or unwritten in the form of moral rules.² Protection underlies human respect and the benefits of opportunity, both in terms of opportunities for affiliation and the right to speak freely. Security is important because it includes human independence or authority and is protected by international, local and public regulations.

The internet media that has entered the world of commerce/business is experiencing various changes, there are interactions, for example the closeness of each party in carrying out transactions is becoming increasingly distant. This is because the parties do not know each other because the meeting is conducted using computer media. Often there is also unclear information regarding the goods offered, especially if the goods require physical identification, ensuring that the goods sent are in accordance with the order, even though the relationship that exists between consumers and business actors should be a mutually beneficial relationship.

The current situation often arises in buying and selling activities using the internet. This is different from the law that regulates consumer protection currently in force in Indonesia, which is based on something physical (real world) and not virtual (cyber world).³

Privacy in Indonesia is not yet a big issue. In everyday life, people do not mind if the owner's identity is used for commercial purposes by other people without their permission. Sometimes, people even feel happy when they receive requests from certain

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³ Rosadi.
organizations to sell their products without realizing it. One example of misuse of identity (privacy) that often occurs in Indonesia for commercial purposes is the sale of databases.

The situation in Indonesia is different from abroad, where a person's personal identity, for example name, place, date of birth, address, status and religion, is information that needs to be properly protected, then abroad the situation is much different. Deformation is also related to privacy. Actions that damage someone's privacy or reputation are known as defamation. Including defamation that damages the reputation of a company or institution.

Regarding the issue of personal data security, news about the Tokopedia data leak highlights the importance of personal data security in the digital era, when consumers increasingly choose to do business online. Of course, not many customers realize how important it is to safeguard personal information during transactions; It could be that the data provided is used by unreliable parties. The incident that occurred is a new understanding regarding data breaches which cause data leaks on large platforms in Indonesia, this shows that there is still a lack of supervision in the electronic trading system.

Data leaks are the disclosure of confidential information to parties whose capacities do not have the authority. These acts are carried out either through deliberate threats or unintentional threats against parties whose capacities do not have rights. An unintentional threat leak is a data leak that has an element of negligence or intention.

This can happen because of a weak system in e-commerce namely in the consumer's personal data security system.

Privacy for consumers and their personal data has a big influence on a country, including Indonesia, in the development of the digital economy. This protection is an important factor for trust in online transactions and is especially important in digital transactions. Privacy and personal data are important because network users will not participate in digital transactions if they feel that the privacy and security of their personal data is compromised.

Guaranteeing the protection of personal data information is a fundamental part of consumer protection security. There are consumers and business people or service providers in e-commerce use data as part from transaction activities. However, there are still weaknesses for consumers in their rights to the policy for data protection.

The 1945 Constitution of the Republic of Indonesia regulates that the protection of personal data requires a strong legal basis as one of the protections of human rights.

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4 Rosadi.
Protection of personal data information is directed at ensuring citizens guarantee the security of personal data and increasing public awareness. Specifically, the protection of personal data is also regulated in.

Even so, in the strategic guidelines for utilizing data innovation, there are still gaps that make it very easy for a person's information to be collected and transferred from one party to another, where the subject's responsibility for information and data is not clear, this may actually weaken human rights. The policy regarding personal data and information in the event of a data leak still does not specifically regulate the provisions for liability in e-commerce, there are still limits to liability in the disclaimer policy carried out by business actors and service providers.

A disclaimer is a statement used by business actors to transfer or transfer responsibilities, rights and obligations in an agreement and legal act, known as a disclaimer clause. The inclusion of this disclaimer clause seems to be an obligation for business actors to freely transfer their responsibilities in order to protect themselves, while consumers are disadvantaged because they are unable to file a lawsuit or hold the company accountable if a default occurs. ⁷

The scope of the problem in this research is limited to electronic commerce in the formulation of the problem which is the principle of dignified responsibility for users of e-commerce services in the context of protecting personal data in Indonesia based on the provisions of Law Number 27 of 2022 concerning Protection of Personal Data which focuses on on the terms of liability.

2. Research Method

This legal research is normative legal research based on library research. Normative legal research is a type of examination which is generally carried out in order to perfect legitimate examinations. In this article we refer to law as a scientific discipline whose activities include recording, explaining, interpreting, systematizing and assessing all positive law in a society or country using specially designed concepts (definitions), categories, theories, classifications and methods, to achieve that goal. carry out these tasks. Normative research in this study provides legal arguments if there are gaps, ambiguities or even conflicting norms and still maintains the theoretical aspects of legal science. ⁸ This research will ultimately be directed at preparing efforts to find legal solutions through a legislative approach to potential legal problems in society.

3. Results and Discussion
  a. Personal Data as a Privacy Right

Personal data relating to privacy which has a universal concept is known abroad in written format in the form of laws or unwritten in the form of moral rules. Privacy is the basis of human dignity and the values of freedom, both freedom of association and freedom of opinion.

The concept of privacy was first developed by Warren and Brandeis in their journal entitled The Right to Privacy, stating that privacy is the right to enjoy life and the right to be left alone. This legal development cannot be avoided and is demanded by society. legal recognition. Privacy is the right to enjoy life and the right to be left alone. This legal development cannot be avoided and demands legal recognition.  

The reasons why privacy must be protected are:
1) In building relationships with other people, a person must cover up part of his personal life in order to maintain his position at a certain level.
2) Someone in their life needs time to be alone (alone) so privacy is really needed by someone.
3) Privacy is a right that stands alone and does not depend on other rights, but this right will be lost if someone publishes their personal matters to the public.
4) Privacy also includes a person's right to carry out domestic relationships, including how a person builds a marriage, raises his family and other people may not know about these personal relationships, so Warren then calls it a right that is contrary to that word.
5) Violations of privacy result in losses suffered and are difficult to assess. The loss is felt to be much greater than the physical loss, because it has disrupted their personal life, so that if any loss is suffered, the victim must receive compensation. 

Warren also said, when explaining his concept, that privacy is not absolute because there are limitations, namely:
1) does not rule out the possibility of publishing personal information for the public interest;
2) If there is no harm, there is no privacy protection;
3) There is no sense of security in assuming that the person concerned has provided that his or her confidential information will be made available to the general public;
4) Consent and security deserve legitimate guarantees because the misfortunes experienced are difficult to survey. Because it impacts a person's personal life, the losses are much greater than physical losses. 

b. Philosophy of Responsibility

Responsibility is a characteristic of civilized human existence. Humans are responsible for realizing the good and bad consequences of their actions. There is an awareness that the other party requires dedication or sacrifice. So responsibility is an obligation or burden that must be borne or fulfilled, as a result of the actions of a person or party towards another person or party, or vice versa. Responsibility has a unique nature, it means that it has become part of human life, so that

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9 Rosadi, Cyber Law, Aspek Data Privasi Menurut Hukum Internasional, Regional Dan Nasional.
10 Rosadi.
11 Rosadi.
every individual must be confused about responsibility. If he chooses to be unreliable, then at that
time there will be another party who will enforce this obligation. Therefore, there are two
perspectives regarding responsibility: the perspective that actually does something and the
perspective that considers the interests of other parties. According to the manufacturer's point of
view, he must know the results of his activities, then in the end he must return it to good condition.
On the other hand, if the producer prefers to be unable, other parties will carry out recovery either
individually or socially.12

Postmodern in the field of ethics in the 20th century, according to him, ethics is the first
philosophy. The ethics of responsibility becomes the main center when explaining ethical actions.
The essence of responsibility according to Levinas is responsibility as an existential fact, non-
normative responsibility, responsibility towards others, substitutitional responsibility, responsibility
as an essential structure of subjectivity, responsibility as the basis of existence, responsibility for
humanizing humans, and also responsibility answer as a characteristic of a person. Levinas's concept
of responsibility has two characteristics, namely concrete and asymmetric responsibility. The
responsible subject is a concrete subject and must be real in action.13 Real actions that are
responsible for a party are carried out without demanding compensation from the other party.

The concept of responsibility is related to the concept of obligation. So legal responsibility
(or responsibility) replaces the idea of legal obligation. A person who is legally responsible for
certain actions and can be punished if his actions are against the law. Because individuals are
responsible for their own actions, sanctions are vulnerable to delinquent, or antisocial and
antinormative behavior or activities. Legal obligations and responsibilities have the same subject
matter. There are two types of responsibility in traditional theory: responsibility for want and direct
obligation.

c. Philosophy of Responsibility for Personal Data Protection in Indonesia

Philosophically, regulations regarding the right to privacy over personal data are a form of
recognition and protection of human rights. Pancasila as a philosophical basis for the protection of
personal data in Indonesia which is rechtsidee (ideal law) has become a construction of thought
(ideas) that directs the law towards what it aspires to.14

According to Rudolf Stamler, rechtsidee functions as a guide for the realization of society's
ideals. From this rechtsidee, legal thoughts and government issues in a nation are gathered. Legal
ideals are something that is standardizing, and furthermore constitutive. Regularization means that
ability is the essential thing that underlies every noble positive regulation, and is the ethical premise
of regulations and at the same time becomes the benchmark for a set of positive laws in general. In
accordance with the constitutional ideals of law, rechtsidee functions to direct the law to the desired

12 Sukron Ma’mun, “Makna Tanggung Jawab Dalam Islam,” n.d., https://binus.ac.id/character-building/2020/05/makna-
tanggung-jawab-dalam-islam/.
https://doi.org/10.22146/jf.31281.
14 Wulansari, “Konsep Perlindungan Data Pribadi Sebagai Aspek Fundamental Norma Dalam Perlindungan Terhadap
Hak Atas Privasi Seseorang Di Indonesia.”
results. According to Gustaf Radbruch, rechtsidee gives meaning to law and is the basis for positive law. Rechtsidee is a benchmark that tests whether positive law is fair or not. This is regulatory in nature. The objectives of regulations will influence and function as broad regulations that provide direction (core values), analysis standards (assessment rules), and driving elements in managing regulations (preparation, disclosure, use of regulations and halal ways of behaving).\textsuperscript{15}

The philosophical basis for the protection of personal data is contained in the second principle of Pancasila, namely, "Just and civilized humanity" which remembers that the protection in question will create justice and form a human civilization that respects and respects personal data. As a consequence of the position of Pancasila contained in the Preamble to the 1945 Constitution of the Republic of Indonesia as the basic norm of the state, juridically, the values of Pancasila must be included in the 1945 Constitution of the Republic of Indonesia and subsequently in all statutory regulations. In this framework, the Indonesian legal state can also be called the Pancasila legal state.

In accordance with Jeremy Bentham's principle of cumulative justice which states that the main function of law is to provide livelihoods, promote equality, and maintain security for all people, the ideal of protection summarizes the meaning of legal ideals that guarantee protection, the entire Indonesian nation. Laws that guarantee social justice are reflected in the ideals of social justice, which prioritize fair treatment for all Indonesian people regardless of race, class or religion. According to Aristotle and Thomas Aquinas, this kind of justice is distributive justice, namely the distribution of merchandise and differences to each citizen according to their position in the public arena. The ideal of the use of law by the state is the state's ideal of its usefulness.\textsuperscript{16}

Protection of personal data as a need to protect the rights of individuals in society regarding the collection, processing, management and distribution of personal data. Guarantee adequate information security and individuals certainly want to provide certainty to the public to provide individual information for the greater public interest without misuse or ignoring their own freedom. Thus, this arrangement will create a balance between individual rights and the rights of society, whose interests are represented by the state. The progress and order of the information society will greatly benefit from the existence of this personal data protection regulation.\textsuperscript{17}

d. Systems in Data Protection

Protection of large amounts of data and larger sizes, stored and shared with the help of cloud systems. This cloud system concept is the basis for big data development. In big data, various shapes and sizes of data will be stored in a container called a Data Center. Currently, the application of big data and data analysis is really needed by various companies to collect user data for the benefit of the company's business progress. Meanwhile, for users, the benefits depend on the type of service they receive. User data is stored and processed without the intent and purpose being known.

\textsuperscript{15} Wulansari.
\textsuperscript{16} Wulansari.
\textsuperscript{17} Wulansari.
and it is not even known how long the data will be used. There is a loophole where the data can be misused by the company that owns it for other purposes or even sold to other parties without the data owner's knowledge. So the importance of a regulation that is able to regulate clearly and firmly regarding the implementation of big data in data system analysis.\textsuperscript{18}

The use of big data in various sectors, organizations and companies still pays attention to aspects of cyber security and available network infrastructure, so that it can be implemented effectively and on target. However, every sophisticated technological concept still has gaps, especially issues of privacy and information security. Big data systems that store large amounts of data must always be guaranteed security, especially on the infrastructure side. So that there are no leaks in it. Cyber security can also be guaranteed if there is involvement and synergy between the various parties involved. The government has an obligation to prepare regulations or rules that can guarantee data security.\textsuperscript{19}

Information Security or information security is how to understand and control threats to the assets we own and protect. Information security can also mean preventive measures against user attacks or irresponsible access to a system.

The basic principles of information security are:

1) Confidentiality (secrecy). This means that the information we have in our system is confidential and unauthorized users/other people cannot see/access it.

2) Integrity . This means that the information is in accordance with the original, has not been changed by unauthorized parties, so that the consistency, accuracy and validity of the information is maintained.

3) Availability (availability). This means ensuring that information is always available and can be accessed by parties who need and have authority over the information.\textsuperscript{20}

Misuse of data can be detrimental to system owners and data owners. Some things that can pose a threat to information security are:

1) Interruption . Namely a threat to data availability, by means of data in the system being damaged or deleted so that the information contained in the data no longer exists.

2) Interception . This is a threat to the confidentiality of the data contents. The information contained in the data is intercepted or can be known by people who do not have the right to the data.

3) Modification. Namely a threat to data integrity, by accessing the traffic flow of information sent and then changing it according to the person's wishes.

4) Fabrication . Namely by falsifying the information content of data so that the party receiving the data thinks that the information comes from a trustworthy person.\textsuperscript{21}

e. Concept of Dignified Personal Data Protection Responsibility

The concept of legal responsibility is the implementation of legal rights and obligations that

\textsuperscript{18} Wulansari.


\textsuperscript{20} Kurmiawan, Setiyawan, and Winandi.

\textsuperscript{21} Kurmiawan, Setiyawan, and Winandi.
require legal responsibility. Dignified responsibility prioritizes the protection of the right to privacy as part of human rights. In the context of personal data protection, carrying out responsibilities is the authority assigned to legal subjects who have the capacity to act as service providers. Every specialist organization, especially commercial centers, has the opportunity to carry out activities, but its opportunities are limited by the things that have been determined and it is obliged to complete them. The clause that creates responsibility, as an obligation for the parties bound by the principle of pacta sun servanda, where the agreement made is valid as law, is another obligation that has been stipulated in an agreement.

The ideas of rights and responsibilities are closely related to the ideas of responsibility, especially in the legal field. The idea of privilege is an idea that emphasizes the idea of freedom combined with the idea of commitment. It is generally accepted that a person's rights are always related to his responsibilities towards others. The idea linked to the idea of legitimate commitment is the idea of legitimate obligation (responsibility). That a person is legally responsible for a particular activity or that he assumes legal responsibility implies that he is responsible for an agreement assuming that his activity is contrary to the relevant guidelines.

Personal Data Protection in Indonesia aims to protect the right to privacy and maintain dignity. The Indonesian Personal Data Protection Law serves as a legal framework for protecting personal data. In some cases of information leakage, the security of security information becomes blurred, so that the legitimate risks in the related cases provide an overview of the direct responsibility guidelines regarding specialist cooperatives in safeguarding their clients' individual information. The standard of direct liability (severe item of responsibility) is a guideline for liability that does not depend on fault (shortcomings/carelessness) and contractual relationships (privacy of agreement), but is based responsibility on coincidence or misfortune experienced by the buyer (risk based).

Responsibility for protecting personal data is based on Article 3 letter g in Law Number 27 of 2022 concerning Personal Data Protection. This provision specifically regulates one of the principles of protecting personal data, namely the principle of responsibility. So the government has implemented the Personal Data Protection Law in an effort to protect personal data, the dignity of a person's privacy, and their privacy rights so that they are not violated or harmed by service providers. Accountability which provides a balance between rights and obligations in the Data Protection Law provides the concept of proportional responsibility.

f. Proportional Balance

Balance in responsibility is closely related to understanding proportion. Regarding business activities such as e-commerce, business relationships that exist between parties are generally because they aim to exchange mutual interests. In business, the interests of the parties are always expressed in the form of an agreement made.

Thoughts regarding the principle of proportionality need to be put forward in addition to the

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principle of balance in contracts. To differentiate between the two, you can first trace the lexical meaning between the two terms, namely the meaning of 'balance' and 'proportionality'. The meaning of the principle of proportionality can be traced from the origin of the word "proportion" (proportion - English; proportie - Dutch) which means comparison, balance, while "proportional" (proportional - English; proportioneel - Dutch) means according to proportion, comparable, balanced. To find the characteristics and meaning of 'balance' and 'proportionality', several relevant dictionaries were explored and elaborated.

The measure of proportionality in the exchange of rights and obligations is based on the values of equality (equitability), freedom, proportional distribution, of course also cannot be separated from the principles of accuracy (zorgvuldigheid), appropriateness (redelijkheid; reasonableness) and propriety (bijkheid; equity). The principle of proportionality does not question the mathematical balance (equality) of results, but rather emphasizes the proportion of distribution of rights and obligations between the parties that takes place in a fair and reasonable manner.

Proportional is the distribution of rights and obligations for the parties according to the proportion or position in the transaction agreement. Meanwhile, balance is the final result that establishes a position for the parties in a transaction to determine their rights and obligations.

Protection of personal data is not only the responsibility of consumers and business actors, but the government also has the responsibility to create regulations regarding personal data protection. The concept of proportional responsibility in protecting consumer personal data in e-commerce activities involves all parties interested in this matter. The concept of legal responsibility is of course closely related to the rights and obligations of each party.

Business actors in their responsibilities have a portion in carrying out their obligations as personal data management. Organizers of personal data are obliged to carry out appropriate supervision of people involved in the process of holding personal data under the orders and supervision of personal data organizers. Personal data providers are obliged to ensure that the personal data obtained will be managed accurately and completely in the event that the personal data used will affect the legal position of the personal data subject, as well as personal data that is disclosed to other parties based on the consent of the owner of the personal data.

Service providers as business actors are proportionally responsible and must also be involved in the policy-making consultation process regarding personal data protection, so that the interpretation and implementation of a policy can be effective. This collaboration can connect, socialize, promote and encourage service provider initiatives to be more compliant. Collaboration also encourages service providers to improve self-regulatory mechanisms.

Consumers also have a responsibility to utilize appropriate technology, and must also be given access to information to increase their literacy regarding consumer rights and obligations, especially how to fight for their rights. Personal data is attached to individual rights, so the individual determines how important privacy and security of data is to him.

However, the principle of responsibility which prioritizes balance in the rights and obligations


25 Hernoko.
of each party is still not guaranteed if there is still a disclaimer policy, especially in the protection of personal data, so there must be a clear concept of responsibility in ensuring the protection of personal data.

4. Conclusion

Personal Data Protection in Indonesia aims to protect the right to privacy and maintain dignity. The Personal Data Protection Law is the legal umbrella for personal data protection in Indonesia. Legal responsibility is based on the principle of absolute responsibility for service providers in protecting their users' personal data which can guarantee its completeness, especially for e-commerce users. Law Number 27 of 2022 concerning Protection of Personal Data is based on the responsibility for balancing the rights and obligations of the parties, which is closely related to the understanding of proportion. This applies to business activities such as e-commerce, where there is a balanced business relationship between the parties.
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