



PROTECTION OF PERSONAL DATA IN THE CARE APPLICATION

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Abstract:

The purpose of this study is to solve public doubts about the security of personal data in the PeduliLindungi application. This study uses a normative research method that is oriented to the rule of law and a case approach. The law in Indonesia has not regulated the violation of personal data leakage, so there are no strict sanctions against the perpetrators who leak personal data. Because there is no legal certainty in the protection of personal data, there are many crimes and result in the misuse of personal data. Currently the guarantee of personal data protection is only based on the ITE Law but there are no criminal provisions against perpetrators of spreading personal data. Because there is a legal vacuum, a draft law on the protection of personal data has been made, rules that can protect citizens' personal data have been made, but these regulations have not been ratified. The government should provide provisions so that legal certainty is achieved. In this era of technological development 4.0, the government is required to be firm in establishing regulations related to cyber crime. Another way is to add the KTP function to replace the PeduliLindungi application to track the spread of the Corona virus because the KTP has guaranteed the security of one's personal data.

Keyword: PeduliLindungi, Personal Data, COVID-19

1. Introduction

COVID-19 is a contagious and deadly virus. The spread of this virus is widespread and more and more people are dying from this virus. There were 222,051,739 positive cases of people infected with the corona virus, with a total death of 4,590,290 people and 198,668,020 recoveries worldwide.(Dadax, 2020) This virus begins to attack animals, such as camels and bats. There are six types of coronavirus that grow in the human respiratory tract. There are 229E, NL63 of the genus Polygonum, OC43, and HPU of the genus beta, Middle East Respiratory Syndrome-Associated Corona Virus (MERSCoV).(Wang, Qiang and Ke, 2020)

Indonesia is now entering the 4.0 era or the 4th industrial revolution by following technological developments, humans are greatly helped by technological developments that are connected to the internet network. Just like what humans do, most of them have used digital-based technology for their daily life.(Syaifudin, 2020)

Through a survey of e-marketer research institutions 2015, 70% of the Indonesian population uses smart phones, and the rest don't use smartphones.(Laksana and Pramira Harja, 2020) The government is assisted by the Ministry of Communication and Information, the Ministry of Health, and the Ministry of State-Owned Enterprises in collaboration with PT. Telekomunikasi Indonesia stopped the spread of the Covid-19 virus, by creating an application called PeduliLindungi. The way this application works is by downloading the PeduliLindungi on the Appstore, then registering by filling in personal data and the application can be used. The system will ask the user to enable location data. So users of this application can provide information regarding the crowds and zoning status of the spread of Covid-19 in the area the user is currently occupying.(Olivia, Rosadi and Permata, 2020)

Even though it is in the form of an application, personal data information must still be protected. Like names, e-mails, mobile phone numbers. This application is to help government agencies track the extent to which vaccination programs are spread.(RI, 2020) In the case of the leak of personal data of the President of the Republic

of Joko Widodo, data that should be protected can easily be leaked. Personal data is data in the form of specific personal identity, symbols, letters or numbers as a masker of a person's personal self.(Smits, 2012)

The Electronic Information and Transactions Law (ITE) is often used as a source of law when there is a violation of the protection of personal data. Article 26 paragraph 1 and paragraph 2 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions regulates the use of any information through a gadget or electronic media related to a person's personal data must be carried out with approval the person concerned because this is a human right which, if violated, the owner of personal data can file a lawsuit for the losses incurred under this law. If there is a leak of personal data, it is feared that it will result in misuse and even have a negative impact on the account owner. As explained in Article 1 of Law Number 24 of 2013 concerning Population Administration, hereinafter referred to as the Adminduk Law, point 22: Personal Data is certain individual data that is stored, maintained, and kept the truth and confidentiality. With this background, the authors found the problem formulation of how the PeduliLindung application maintains the security of personal data on users? And who is responsible for the security of the PeduliLindung application's personal data?

Personal data is a sensitive thing owned by everyone person. Personal data is a person's privacy right that must be protected from various aspects life.(Kusnadi, 2021) Previous research related to the material is Fanny Priscyllia's research, entitled Personal Data Privacy Protection from Comparative Legal Perspectives, 2019. The conclusion from the journal is, Personal data privacy protection is a person's personal foundation principle. Privacy of personal data is a constitutional right of every citizen so that the regulation is a form of respect and protection for that right. Privacy protection arrangements for personal data can have a positive impact, one of which is increasing Indonesia's economic value in the world marketplace. The protection of personal data privacy in the perspective of comparative law, places the right to privacy as one of the constitutional rights of citizens so that the form of respect and protection of constitutional rights is specifically regulated and establishes or appoints a special supervisory agency to be able to guarantee the implementation of the data privacy protection law. the personal.(Priscyllia, 2019)

The second research is the research of Nurhidayati, Sugiyah, and Kartika Yuliantari. Journal with the title Personal Data Protection Settings in PeduliLindung Application Users, 2021. The conclusion of the journal is, The use of digital technology today is a necessity to carry out an activity in various fields of life. Especially with the Covid-19 pandemic, which requires social restrictions. The rapid and massive spread of Covid-19 requires the government to make various efforts to reduce the spread. One of them is by launching the Cares Protect Application. Protection of Personal Data of PeduliLindung application users is based on regulations in the field of Information and Communication Technology, Health and the implementation of Population Administration because there is no law that specifically regulates Personal Data Protection.(Nurhidayati, Sugiyah and Yuliantari, 2021) In this study using normative legal research.(Michael and Sudini, 2021)

2. Research Results and Discussion

2.1 Human Rights Theory

The government is trying to break the chain of spread of the COVID-19 virus by limiting community activities by distributing COVID-19 vaccinations. At the beginning of the COVID-19 vaccine was carried out by all medical personnel. Then continued giving to the elderly, essential sector workers and teachers. Until now, the overall percentage of vaccines has reached 44.5% of the government's target.

With the stipulation of the Government that requires vaccination as a condition for activities with the aim of establishing herd immunity, the body's immunity is formed for associations of people with a wide scope against disease transmission so as to provide protection against a virus. This method is believed to be able to suppress the spread of the COVID-19 virus, if many people are immune to a disease, the more difficult it is for the virus to spread.(KENCANA, 2020) This violates a person's human rights. Human rights are different from human rights. It is explained in a book entitled Human Rights: A Basic Handbook for UN Staff, United Nations, that human rights are inherent in humans.(United Nations, 2010) This means that these human rights exist because humans exist, and since humans are born, humans have human rights. This right is not owned by creatures other than humans, and this right is not granted from any party. The basic rights that are the subject of human rights are called human rights. As in Article 28A of the 1945 Constitution of the Republic of Indonesia which stipulates the rights of citizens and residents to live, the right to form a family, to have a decent life, to be protected from discrimination and violence, to get justice before the law, the right to express opinions, and other rights.

Human rights in this study, namely, the community is required to vaccinate against Covid-19 to suppress the spread of the virus. Choosing to accept or reject this vaccination is a human right, because humans have the right to choose and are responsible for health services for themselves. In accordance with Article 5 paragraph (3) concerning Health, Law no. 36 of 2009.

People who are not vaccinated can still live and have the possibility of being free from the corona virus. Humans can choose to be vaccinated or reject it because humans have reason, we can find out in advance whether the vaccine is suitable and feasible for our bodies. As stated in Article 8 of Law no. 36 of 2009 concerning Health "Everyone has the right to obtain information about their own health data including actions and treatments that have been or will be received from health workers."

Privacy was first defined by Warren and Brandeis which was written in an article in a scientific journal with the title "The right to privacy" or the right not to be disturbed. According to Warren and Brandeis, everyone has the right to enjoy life with the times and technological advances, humans are expected to understand the privacy rights of each individual more and more. (Benuf, 2019)

2.2. Personal Data Protection

Before the pandemic, people were free to choose the health services they needed for themselves. in accordance with article 5 of Law number 36 of 2009 concerning health item 3: "Every person has the right to independently and responsibly determine the health services needed for himself".

However, since a global pandemic occurred, Article 14 paragraph (1) of Law No. 4 of 1984 concerning infectious disease outbreaks applies, that anyone who deliberately hinders the implementation of epidemic control as regulated in this Law, is threatened with imprisonment for a maximum of 1 year. or a maximum fine of 1 million.

The government's effort to suppress the spread of the virus is by vaccinating against Covid-19. In accordance with Article 9 of Law No. 6 of 2018 concerning Health Quarantine, everyone is obliged to comply with and participate in the implementation of Health Quarantine. And applies Article 93 of Law no. 6 of 2018 that anyone who does not comply with the implementation of health quarantine as referred to in Article 9 paragraph 1 and or hinders the implementation of health quarantine so as to cause a public health emergency shall be punished with a maximum of 1 year and or a maximum fine of one hundred million rupiah.

In this case, vaccination is mandatory. The principle of *Lex specialis derogat legi generali* applies. Law No. 4 of 1984 and Law No. 6 of 2018 abolished Law No. 36 of 2009 on the grounds of a health emergency and in the public interest overriding personal interests.

In relation to the PeduliLindung application which contains personal data that must be protected, several regulations discuss the meaning of personal data according to Article 1 number 29 of the Government Regulation (PP) Concerning the Implementation of Electronic Systems and Transactions Number 71 of 2019 concerning personal data is any data about a person, who is identified or which can be identified separately or combined with others, either directly or indirectly, through electronic or non-electronic systems.

According to Philip M. Hadjon, the theory of legal protection is the protection of dignity and worth, as well as the recognition of human rights to the subject of law. (Hadjon, 2007) Therefore, the protection of personal data includes individual rights that must be protected, stored, and kept confidential so that the security must be guaranteed by the state. (Benuf, Mahmudah and Priyono, 2019)

Legal protection comes from the word "protect" which means an act that can protect, defend, prevent something. Meanwhile, law is a rule that exists in a country to regulate people's behavior. Consumers have the right to share their personal data or not. PeduliLindung contains a secret Population Identification Number and in the NIK there is information on Province, city code, sub-district code, date of birth, month of birth, year of birth, and computerized numbers that are vulnerable to being misused by others if leaked. Electronic KTP, hereinafter referred to as KTP-el according to Article 1 of the Administrative Law point 14: E-KTP is a resident identity card equipped with a chip which is the official identity of the population as proof of self issued by the Implementing Agency. The chip is guaranteed security so that people don't worry about personal data on their ID cards. Meanwhile, PeduliLindung is an application that, when compared to data security on an ID card, is much more secure and guaranteed. The possibility of data leakage on the KTP is less because the KTP is a card that is only owned by 1 resident. It is different with PeduliLindung because it is an application that can be accessed freely by anyone and uses any gadget.

In the provisions regarding PeduliLindung's Data Confidentiality Policy, it is stated that the data stored in the data storage includes the mobile number, user ID and location and time of data exchange. Written data is stored securely and not shared with the public. However, the information in the PeduliLindung application does not explain who can access and process the relevant data. Although the government and PT. Telkom has stated that the data in the PeduliLindung application is safe, but as secure as an electronic system is, nothing is truly 100% secure. (Nurhidayati, Sugiyah and Yuliantari, 2021)

3. Conclusion

PeduliLindung is an application made by PT. Telekom Indonesia with the aim of helping the government carry out contact tracing, contact tracing, which actually does not require the collection of users' personal data. The author supports the use of the PeduliLindung application because its goal is to create better conditions during the Covid-19 pandemic.

However, in its implementation there is a great risk of the user being harmed if PeduliLindung uses the user's personal data in its operation. Because there is no certainty about the protection of users' personal data and there is no definite and clear information regarding the person in charge of the PeduliLindung application. This is a violation of the theory of legal protection and the theory of human rights, because the government requires the use of the PeduliLindung application but does not provide clear legal protection for users' personal data, so that people's human rights are not ignored. Although the government and PT. Telkom has stated that the data in the PeduliLindung application is safe, but as secure as an electronic system is, nothing is truly 100% secure.

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