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The Urgence Personal Data Protection Law in Indonesia Perspective

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Abstract— This article goals to reply the significance of enactments assertive and complete felony guidelines in Indonesia which could offer private statistics safety on digital media. This trouble emerges with the current improvement of statistics generation which has caused new felony problems. The problems are approximately safety and safety in the direction of private statistics that occured via digital media. There are individuals who use digital media as a device of conversation and transaction which might also additionally result in the abuse of private statistics. Some international locations along with the European Union, the United States, the United Kingdom, Hongkong, Singapore and Malaysia have already got assertive and complete regulation concerning the safety of private statistics; however, to this point there may be no precise regulation in Indonesia that regulates private statistics safety. In Indonesia, the law approximately private statistics safety is said in Article 26 of Law Number eleven Year 2008 on Information and Electronic Transactions and additionally this private statistics safety law indexed in numerous separate felony guidelines. Nevertheless, it's Article is taken into consideration general. Therefore, it's miles deemed important to be right away ratified withinside the shape of regulation to offer safety and safety and can impose sanctions in each crook and civil paperwork for folks who misuse the private statistics.

Keywords— Data Protection, Law,Indonesia.

1. INTRODUCTION

The Personal Data Protection Law (UU PDP), which had been anticipated since 2019, was ultimately approved for dissemination yesterday (20/9). The timing of this permission is appropriate given the rise in instances of resident data leaking.

As mentioned in the considerations, the purpose of this law is to guarantee citizens' right to personal protection, create public awareness, and ensure recognition and respect for the importance of personal data protection.

This law is anticipated to serve as a robust legal framework for the administration of and protection of personal data of people and public servants.

One of the human rights that is related to personal protection is the protection of personal information. Article 28G of the 1945 Constitution specifies this right to personal protection. In the sense that many nations recognize it, this personal safety or privacy is universal.

The General Data Protection Regulation (GDPR) has been in effect in 28 European Union (EU) member countries since May 2018. This number is growing in response to the necessity to protect its residents' data.

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Prior to the passage of this Law, several laws and regulations in Indonesia covered the protection of personal data, including Law No. 11 of 2008 in conjunction with Law No. 19 of 2016 regarding information and electronic transactions, Law No. 39 of 1999 regarding human rights, Law No. 14 of 2008 regarding openness of public information, and Law No. 23 of 2006 in conjunction with Law No. 24 of 2013.

In Indonesia, the emergence of the digital age has been fueled by Industry 4.0. There are currently 204.7 million internet users in Indonesia, and 93.5 percent of them are engaged social media users, according to data from Hootsuite (We are Social) 2022. A number of new cultures and habits were also created as a result of the rise of the digital world, from online commerce to uploading anything.

The public and the government are not aware of this requirement to secure personal data. In reality, it has been established that the uncontrolled disclosure of personal data increases the danger of numerous criminal offenses.

It is impossible to prevent bullying, threats, fraud, and account break-ins. The most recent is the hacker Bjorka, who asserts to possess private information on various governmental leaders and Indonesian citizens.

2. DISCUSSION

There would be a lot of difficulties in putting this PDP Law into practice. Risk reduction is a shared responsibility, although the government is largely responsible for it. The majority of people's personal information is handled by the government for use in providing public services.

Some people were compelled to give over their identities, including their family card number and population identification number. For instance, some are voluntary, such as applying to work for the government. Two critical points must be emphasized in this regard: how to use it and how to preserve its security. Do not allow the information to turn into a commodity on the market.

The institutional challenge is the second. According to this law, a body chosen by and answerable to the president is responsible for implementing personal data protection. Regarding the role, the institutional setup, and the authority granted to this entity, there is no regulation.

The General Election of 2024 will be the next biggest challenge. For positions as president, regional leader, or council member, a lot of politicians are prepared to run. Various measures were made, such as looking for information on the candidates' backgrounds, in order to avoid it being like buying a cat in a sack.

This information might serve as the foundation for the public's judgment on whether the candidate deserves to be elected or not. The controllers and processors of personal data in this case must exercise caution because doing so could result in a 6-year prison sentence and/or a fine of up to IDR 6 billion. It's possible that the data is abused or even traded.

Lastly, in relation to the actions of those who readily reveal personal information. Therefore, it is imperative to widely spread digital literacy and socialization to ensure that everyone is aware of the need of preserving personal information. To expedite the goal of protecting personal data, collaborative governance must be promoted.

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The fight to protect personal data is still ongoing in spite of the PDP Act. To develop regulations and put them into effect as soon as possible, the government still has a lot of work to do. Particularly in defining the different, as of yet vague ideas of embodiment, guaranteeing the smooth operation of their implementation and oversight, and coordinating with various other laws and regulations.

The last three years have seen an abundance of articles with titles like "The Urgency of the Personal Data Protection Law," "Indonesia's Emergency Law on Personal Data Protection," and "Customer Data Leaks, Personal Data Protection Law is Increasingly Important."

It may be claimed that the common theme running across all of these publications is the lack of a personal data protection law in Indonesia. As a result, there is no assurance that personal data owners will be protected, and it is not always obvious when business actors are using public personal data for their own gain. Therefore, the government must pass a Personal Data Protection Act right away.

Of course, there is nothing wrong with the preceding narrative. In fact, the current norms for personal data protection (distributed over different laws and regulations that are out of sync with one another and are not complete) are far from appropriate, and greater law-level regulation is required.

However, it is now time for the discussion on the subject of personal data protection in Indonesia to transcend from merely stating the need for a legislative product (act) to one that is more specific, i.e., what actual steps (actions) must be made by all stakeholders in order to achieve the aim.

When the draft policy is "approved" in Senayan, the Law on the Protection of Personal Data can be accomplished. Despite the fact that there are numerous parties involved in this situation, the government, which has the authority to run the country, must be the one to take the first action.

As is well known, early this year the administration transmitted a draft of the Personal Data Protection Bill (RUU PDP) to the House of Representatives. Progress has been made on this side, regardless of whether the PDP Bill will be finished soon or not. Additionally, the two state institutions have vowed to quicken the PDP Bill's discussion so that it might become law before the year 2020 is over.

The government's efforts to develop a roadmap or other comparable document with instructions and preparation procedures so that the Law on the Protection of Personal Data can be implemented successfully have not yet been made public. We all want to avoid the situation when a legislation is passed, the transition period expires, but is unsuccessfully implemented as a result of a lack of planning.

Education and Awareness Raising Personal Data Protection

How to educate the parties who will be impacted by the Personal Data Protection Law will need to be one of the key factors taken into account when creating a plan for its implementation. This is significant since the Personal Data Protection Law's provisions, which use the General Data Protection Regulation as the basis for its personal data protection standards, contain numerous terms that are difficult to comprehend.

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There are numerous lessons that our government can learn from the mistakes of other nations that have already implemented thorough legislation in the area of personal data protection. Consider Singapore. The Personal Data Protection Act (PDPA), which is the third ASEAN nation to have a personal data protection law, is deemed to be making "huge" efforts to guarantee that the parties covered by the PDPA have an adequate grasp of their rights and obligations.

The Personal Data Protection Commission of Singapore or the Personal Data Protection Commission is in charge of the aforementioned initiatives (PDPC). Since it was established in 2012, the primary goal of the PDPC has been to inform companies who collect personal data about the value of preserving that data and about the duties set forth in the PDPA so that they can be ready and begin implementing everything before the PDPA takes effect.

Officers and employees who are in charge of safeguarding the personal data handled by the company they work for are the target audience for the educational program developed by PDPC to accomplish the aforementioned goals (also known as Data Protection Officer or DPO). The program is delivered by PDPC through the holding of frequent seminars and workshops, and these educational activities are designed as an intensive and interactive training with the aim that DPOs can gain a comprehensive understanding of PDPA and have the necessary capabilities to create specific action plans for organizational needs.

Additionally, in order to expand its network and promote educational programs linked to PDPA, PDPC works with dozens of business associations from a variety of industries. They are the ones who will eventually offer PDPA advice to the associations' members through these groups. The PDPC education program may undoubtedly reach more parties thanks to this collaboration. By visiting schools and setting up booths at social events hosted by the community, PDPC also carried out a number of projects aimed at promoting awareness across all age groups, from the young to the old.

The socialization attempts made by PDPC online are likewise quite strong. This is accomplished through producing PDPA-related educational information in the form of written works as well as films, all of which can be found on the official PDPC website. Additionally, the PDPC offers a free e-learning curriculum on its official website that was created for DPOs to master the fundamentals of the PDPA. The final option is for PDPC to launch a consultation line that will be accessible by phone, email, and chat through the “Ask Jamie @ PDPC” chatbot function on the organization's official website.

The National Privacy Commission or the Philippine Personal Data Protection Commission carry out essentially the same actions (NPC). The key difference is that the NPC concentrates its efforts through a variety of online venues in order to spread instructional materials and raise public knowledge of the Data Privacy Act, the Philippines' personal data protection laws.

The official NPC website, social networking sites like Facebook and Twitter, and the “AskPriva” AI chatbot function on the NPC website are a few examples of these platforms. NPCs use all of these online channels not just to spread the word about their educational initiatives to the general public, but also to assist with inquiries regarding the Data Privacy Act.

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Implementing Regulations

The Personal Data Protection Law's implementation is equally crucial to ensuring that the Law can be implemented as effectively as possible, even though education and awareness-raising campaigns are the key factors. Because, as we all know, laws typically contain highly general and abstract rules, some of which can even be considered to be at the level of principles.

In order for the existing principles to be effectively applied by the parties involved and to facilitate the execution of the Personal Data Protection Law, the government still has to publish implementing rules. For instance, the PDP Bill specifies that the processing of personal data can only take place if it complies with one or more legal requirements (lawful basis), such as those set forth in Article 20 and others, in order to carry out the official authority granted to the personal data controller.

Even though it says "very obvious" in the explanation of the clause, the reality is quite the reverse. There is ambiguity surrounding the actions that meet the standards for “exercise of official authority” as stated in Article 20. It is envisaged that the implementing regulations will emphasize and clarify what the parties involved must do in order to implement the principles set forth in the Personal Data Protection Act.

According to the PDP Bill, parties who process personal data have two years from the date the Personal Data Protection Law goes into effect to abide by its rules. The government often only starts creating implementing regulations for a legislation during the transitional period and finishes and issues the regulation shortly after the transitional period ends, according to past experience in the sector. However, it happens frequently in practice, with implementing regulations for new laws being successfully passed years after the law's initial transitory phase.

There are hence at least two things. The Law may contain provisions that are challenging or perhaps impossible to apply without implementing rules, which could lead to the creation of legal doubt. The second is the inability to quickly accomplish the Act's goals once it was established.

In fact, Law No. 11 of 2008 concerning Information and Electronic Transactions demonstrates the issue of delays in the publication of implementing regulations (UU ITE). The government must specify its implementation rules under the ITE Law no later than two years after 2018.

To further regulate the ITE Law's provisions, including those relating to electronic signatures, electronic system operators, and electronic certification providers, implementation regulations are required. Unfortunately, the government was only able to finish the UUITE implementing regulations in 2012, specifically Government Regulation No. 82 of 2012 concerning the Implementation of Electronic Systems and Transactions. Since the ITE Law was passed in 2008, electronic signatures, operators of electronic systems, and providers of electronic certification have all been surrounded by legal uncertainty.

The difficulty described above is not meant to diminish our admiration for the government; rather, it is meant to serve as a reminder so that the government can avoid making the same mistakes in the future, including while enforcing the Personal Data Protection Law. The government can emulate Singapore's achievements in this area.

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Before the PDPA goes into full force on July 2, 2014, the majority of the implementing regulations (also known as Personal Data Protection Regulations) have been created. All PDPA rules can be properly enforced after December 2, 2014 because the implementing regulations have already been published and made available to the public. July 2014. The PDPC issues advisory guidelines that the parties involved can use as a guide in interpreting the provisions in the PDPA and its implementing regulations, even if there are some provisions in the PDPA for which there are no implementing regulations or for which the existing implementing regulations still have multiple interpretations. unclear

3. CONCLUSION

The Personal Data Protection Law's existence will mark a significant turning point for Indonesia because it will place Indonesia on par with other nations that have stringent personal data protection laws and will position Indonesia as having an international standard personal data protection regime. comprehensive.

The discussion of the PDP Bill is still moving along, which suggests that the outcomes of reading the current situation can actually calm us down quite a little. Therefore, from this point forward, everyone's attention must be on how to meticulously prepare everything so that the Personal Data Protection Act can be implemented without any problems.

The Government does not have to shoulder this burden alone in planning for this. Other interested parties, such as community representatives, business actor associations, academics, and practitioners, will undoubtedly be pleased and supportive if they are included in this preparation process, as the proper implementation of the Personal Data Protection Law is solely for the good and benefit of all parties.

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