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Urgency Public Data Protection Based on Data Leakage Cases at The Indonesian Child Protection Commission

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Abstract

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Abstract

Privacy is the essential thing regulated in Human Rights. As a country that recognizes human rights, Indonesia is a state that adheres to the principles of human rights and also recognizes that privacy is a human right that the state must protect. However, no law addresses the issue of public data protection in Indonesia comprehensively. On Monday, October 18, 2021, data leaks on the identity of the complainant and underage victim, case summary, and mediation results were found. It has at least two significant impacts, firstly it can impact the inhibition of KPAI's performance due to public trust, and secondly, it will have a worse impact on victims and whistleblowers, both physically and mentally, because this can trigger predatory movement. The research method used is normative legal research based on secondary data library research which is descriptive, evaluative, and prescriptive. Several approaches are used, namely the legal and conceptual approach, in an attempt to answer the first question, the point of contact between an individual and state interest, and a comparative approach to answer the second problem regarding the dynamics of personal data protection arrangements in the problem of data leakage experienced by KPAI. Therefore, Indonesia needs to immediately legitimate the Draft Law on Public Data Protection (RUU PDP) so that the urgency of the legalization of public data protection can be immediately resolved.



A. Introduction

The Analysis of the usefulness of public data has been widely developed in recent years, especially in the fields of government administration, business activities, and trade with personal data, from national, regional, to international levels focusing on how public data collections can offer new insights on previously tricky issues resolved. Nevertheless, at the same time, public data poses new problems for privacy rights¹. One area that raises serious legal issues regarding information disclosure contains two interests: protecting individual privacy rights and guaranteeing public human rights to access news that has implications for many people's lives.² Therefore, a comprehensive set of security and rules is needed regarding personal data.³

Security in the public sector, especially in the implementation of the e-government system, is something that the government needs to pay attention to because it is a sensitive matter that is vulnerable to being misused by unauthorized parties and will affect public trust in its implementation.⁴ Public data protection in Indonesia is currently viral on social media and is causing public anxiety⁵. In the Indonesian Cyber Attack Case Report data from the Indonesian National Police from January-September 2020, there were at least 18 reports regarding electronic system hacking, 39 data theft cases, and 71 data cases⁶. The crucial reason personal data must be guarded and protected is that personal data is part of a person's privacy aspect.⁷

Several significant cases demonstrate the urgency of public data protection in Indonesia. In May 2021, BPJS, Social Security Administration in Indonesia, experienced a data breach as many as 279 million Indonesian population data from BPJS health was leaked⁸, public data leaks on commercial e-platforms such as Tokopedia⁹, Shopback, even the Covid-19 vaccine certificate belonging to the President of the Republic of Indonesia Joko Widodo was also leaked to the public¹⁰. This situation provides a logical consequence of the increasing threat of cyber attacks that can infiltrate every social activity through information and communication technology.¹¹

¹ Kate Crawford and Jason Schultz, "Big Data and Due Process: Toward a Framework to Redress Predictive Privacy Harms by Kate Crawford, Jason Schultz :: SSRN," *Boston College Law Review*, 55, no. 93 (2014): 37, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2325784.

² Rahandy Rizki Prananda, "Batasan Hukum Keterbukaan Data Medis Pasien Pengidap Covid-19: Perlindungan Privasi VSTransparansi Informasi Publik", *Jurnal Law, Development & Justice Review*, Vol 3 No. 1, Juni 2020. <https://doi.org/10.14710/ldjr.v3i1.8000>

³ Lia Sautunnida, "Urgensi Undang-Undang Perlindungan Data Pribadi Di Indonesia; Studi Perbandingan Hukum Inggris Dan Malaysia", *Kanun Jurnal Ilmu Hukum Vol. 20, No. 2, (Agustus, 2018) : 370*, <https://doi.org/10.24815/kanun.v20i2.11159>

⁴ Bunga Asoka Iswandari, "Jaminan Atas Pemenuhan Hak Keamanan Data Pribadi Dalam Penyelenggaraan E-Government Guna Mewujudkan Good Governance", *Jurnal Hukum IUS QUIA IUSTUM NO. 1 VOL. (28 JANUARI 2021)*. <https://doi.org/10.20885/iustum.vol28.iss1.art6>

⁵ Lia Sautunnida, "Urgensi Undang-Undang Perlindungan Data Pribadi Di Indonesia: Studi Perbandingan Hukum Inggris Dan Malaysia," *Kanun Jurnal Ilmu Hukum* 20, no. 2 (August 18, 2018): 369–84, <https://doi.org/10.24815/KANUN.V20I2.11159>.

⁶ Deanne Destriani Firmansyah Putri and Muhammad Helmi Fahrozi, "Upaya Pencegahan Kebocoran Data Konsumen Melalui Pengesahan R UU Perlindungan Data Pribadi (Studi Kasus E-Commerce Bhinneka.Com)," *Borneo Law Review Journal* 5, no. 1 (July 5, 2021): 46–68, <https://doi.org/10.35334/BOLREV.V5I1.2014>.

⁷ Tiara Almira Raila, Sinta Dewi Rosadi, Rika Ratna Permata, "Perlindungan Data Privasi Di Indonesia Dan Singapura Terkait Penerapan Digital Contact Tracing Sebagai Upaya Pencegahan Covid-19 Serta Tanggung Jawabnya", *Jurnal Kepastian Hukum dan Keadilan*, Volume 2 Nomor 1, Desember 2020 : 3. <https://doi.org/10.32502/khdk.v2i1.3044>

⁸ "Polri Minta Bantuan Ahli Pecahkan Kasus Kebocoran Data BPJS Kesehatan - News Liputan6.Com," accessed October 25, 2021, <https://www.liputan6.com/news/read/4581596/polri-minta-bantuan-ahli-pecahkan-kasus-kebocoran-data-bpjs-kesehatan>.

⁹ "7 Kasus Kebocoran Data Yang Terjadi Sepanjang 2020 Halaman All - Kompas.Com," accessed October 25, 2021, <https://tekno.kompas.com/read/2021/01/01/14260027/7-kasus-kebocoran-data-yang-terjadi-sepanjang-2020?page=all>.

¹⁰ Syahrizal Sidik, "Geger Sertifikat Vaksinasi Jokowi Bocor. Ini Respons Kemenkes," CNBC Indonesia, accessed October 23, 2021, <https://www.cnbcindonesia.com/tech/20210905121451-37-273736/geger-sertifikat-vaksinasi-jokowi-bocor-ini-respons-kemenkes>.

¹¹ Ratnadi Hendra Wicaksana, Adis Imam Munandar, Palupi Lindiasari Samputra, "Studi Kebijakan Perlindungan Data Pribadi dengan Narrative Policy Framework: Kasus Serangan Siber Selama Pandemi Covid-19", *Jurnal IPTEK-KOM(Jurnal Ilmu*

On Monday, October 18, 2021, a data leak was found from the Indonesian Child Protection Commission (KPAI)¹², an independent state institution, to protect the nation's children from all harmful actions¹³. The leaked data consists of the complete identity details of the complainant, including name, identity number, nationality, telephone, mobile number, religion, occupation, education, address, email, place, date of birth, gender, province, city, age, and reporting date. In addition, there is also monthly income data, case summaries, mediation results, and even a list of identity data for underage victims. Data that is very sensitive and private is protected by the state and is very likely to trigger online predators and harm mentally and physically¹⁴.

The data protected by the state has been sold on the internet and can be quickly owned by everyone for only spending around 35 thousand rupiahs¹⁵. It can cause losses for related parties within the KPAI, for example, the emergence of doubts from the complainants or parties who previously intended to report the problems they experienced, thus triggering the emergence of KPAI because of public trust¹⁶.

In the Faculty of Law, Gadjah Mada University, Faiz Rahman has written the Legal Framework for Personal Data Protection in implementing an Electronic-Based Government System in Indonesia¹⁷. In the *Prasada Law Journal*, Fransiska Novita Eleanora and Andang Sari have written about the Role and Function of the Indonesian Child Protection Commission in Providing Protection for Victims of Violence on the Road¹⁸, not including the KPAI's protection of fundamental rights that regulate the security of protected child privacy¹⁹.

Then what is the guarantee that the state can maintain the privacy of the reporter and victim who is still in the child age category and is more vulnerable to being physically and mentally disturbed²⁰ how can the state protect the fundamental rights of its people related to their privacy? In Indonesia, no rules are regulated comprehensively in discussing this personal data protection issue²¹.

Pengetahuan dan Teknologi Komunikasi) Vol. 22 No. 2, (Desember 2020). <https://doi.org/10.33164/iptekkom.22.2.2020.143-158>.

¹² "Pencurian Database KPAI | Komisi Perlindungan Anak Indonesia (KPAI)," accessed October 24, 2021, <https://www.kpai.go.id/publikasi/pencurian-database-kpai>.

¹³ Dwi Puji Lestari, "Peran Komisi Perlindungan Anak Indonesia (KPAI) Dalam Perlindungan Korban Kekerasan Anak," *Martabat: Jurnal Perempuan Dan Anak* 2, no. 2 (December 20, 2018), <https://doi.org/10.21274/MARTABAT.2018.2.2.315-338>.

¹⁴ "Data KPAI Yang Bocor Disebut Bisa Pancing 'Predator' Online," October 21, 2021, <https://www.cnnindonesia.com/teknologi/20211021160626-185-710569/data-kpai-yang-bocor-disebut-bisa-pancing-predator-online>.

¹⁵ "Data KPAI Yang Bocor Disebut Bisa Pancing 'Predator' Online."

¹⁶ "Kebocoran Data Kembali Terjadi, Apa Penyebabnya? - Tekno Liputan6.Com," accessed October 29, 2021, <https://www.liputan6.com/teknologi/read/4563541/kebocoran-data-kembali-terjadi-apa-penyebabnya>.

¹⁷ Faiz Rahman, "Kerangka Hukum Perlindungan Data Pribadi Dalam Penerapan Sistem Pemerintahan Berbasis Elektronik Di Indonesia," *Fakultas Hukum Universitas Gadjah Mada*, accessed October 28, 2021, <https://www.cnnindonesia.com/teknologi/20180305204703-213-280691/>.

¹⁸ Fransiska Novita Eleanora and Andang Sari, "Role and Function of Indonesian Child Protection Commission in Providing Against Victims of Violence in the Street," *Jurnal Hukum Prasada* 6, no. 2 (September 19, 2019): 103–8, <https://doi.org/10.22225/JHP.6.2.2019.103-108>.

¹⁹ Rahman, "Kerangka Hukum Perlindungan Data Pribadi Dalam Penerapan Sistem Pemerintahan Berbasis Elektronik Di Indonesia."

²⁰ Dies Nurhayati, "Dampak Psikologis Tindak Pidana Kekerasan Seksual Terhadap Perempuan," *Perspektif* 12, no. 3 (September 19, 2020): 269–81, <https://doi.org/10.30742/PERSPEKTIF.V12I3.287>.

²¹ Maulana Yusup and Neni Ruhaeni, "Peraturan Perlindungan Data Pribadi Berdasarkan Instrumen Hukum Internasional Dan Implementasinya Di Indonesia," *Prosiding Ilmu Hukum; Vol 5, No 1, Prosiding Ilmu Hukum (Februari, 2019); 109-116*, January 17, 2019, <http://repository.unisba.ac.id:8080/xmlui/handle/123456789/20751>.

The research method used is normative legal research based on secondary data library research²² which is descriptive²³, evaluative, and prescriptive²⁴. Several approaches are used, namely the legal approach, conceptual, to answer the first question, the point of contact between individual and state interests and a comparative approach²⁵ to answer the second problem regarding the dynamics of personal data protection arrangements in the problem of data leakage experienced by KPAI. Therefore, in this case, the urgency of legalizing public data protection upholds human beings' fundamental rights to minimize the increasing number of victims due to public data leakage.

Based on this background, the author tries to analyze the urgency of protecting public data based on cases of data leakage at the Indonesian Child Protection Commission. The author examines the dynamics of personal data protection arrangements. Through this research, the author is expected to be able to contribute to the regulations, especially in the study of human rights and one's privacy. The novelty of this research will make an outstanding contribution to determining the implementation, protection and fulfillment of human rights.

B. Discussion

1. Human Rights for Privacy as A Fundamental Right

Privacy is one of the fundamental human rights that cannot be contested. The OECD 1980, which regulates the Privacy Guidelines, defines *privacy* as "all information relating to an identifiable individual."²⁶ Privacy is one of the most critical things regulated in Human Rights. It is even written in various international conventions and declarations regarding Human rights.

The Universal Declaration of Human Rights (UDHR) clearly states in Art. 12 that "No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, not to attack upon his honors and reputation. Everyone has the right to the protection of the law against such interference or attacks."²⁷ It is also regulated by the International Covenant on Civil and Political Rights (ICCPR), which regulates the right to liberty and security. It states that everyone has the right to the liberty and security of a person²⁸, and no one shall be subjected to arbitrary or unlawful interference with his privacy.²⁹

Indonesia recognizes the human rights principles and has regulations, generally discussed in Law no. 39 of 1999, concerning Human Rights.³⁰ Indonesia has several provisions regarding the protection of privacy and personal data in Indonesia in general in the 1945 Constitution (UUD 1945), namely Art.28G (1) "Everyone has the right to protection of personal, family, honor, dignity, and property under authority, and has the right to a sense of security and protection from the threat of fear to do or not do something which is a human right."³¹ From

²² Soerjono Soekanto, "Pengantar Penelitian Hukum / Soerjono Soekanto | OPAC Perpustakaan Nasional RI," 9, accessed October 28, 2021, <https://opac.perpusnas.go.id/DetailOpac.aspx?id=3796>.

²³ Soerjono Soekanto, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, accessed October 29, 2021, <https://opac.perpusnas.go.id/DetailOpac.aspx?id=1174906>.

²⁴ Soekanto, "Pengantar Penelitian Hukum / Soerjono Soekanto | OPAC Perpustakaan Nasional RI."

²⁵ PM Marzuki, "Penelitian Hukum," 2005, https://repository.unsimar.ac.id/index.php?p=show_detail&id=2734&keywords=.

²⁶ "OECD Guidelines Governing The Protection Of Privacy And Transborder Flows Of Personal Data-11 Recommendation of the Council Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data (2013)" (2013).

²⁷ United Nations, "Universal Declaration of Human Rights | United Nations," accessed October 23, 2021, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

²⁸ "International Covenant on Civil and Political Rights," accessed October 23, 2021, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

²⁹ International Covenant on Civil and Political Rights.

³⁰ "Republik Indonesia. UU No. 39 Tahun 1999 Tentang Hak Asasi Manusia," accessed October 19, 2021, <https://peraturan.bpk.go.id/Home/Details/45361/uu-no-39-tahun-1999>.

³¹ "Undang-Undang Dasar Negara Republik Indonesia 1945" (n.d.).

this constitution, it can be said that Indonesia recognizes that privacy is a human right that the state must protect.

Provisions regarding data and privacy rights are also regulated in the Electronic Information and Transaction Law No. 19 of 2016 Art.26 (1), which states that the use of any information through electronic media concerning a person's data must be carried out with the consent of the person concerned.³² However, no comprehensive regulation addresses Indonesia's public data protection issue.³³ As a concrete manifestation that Indonesia protects the dignity of children, Law No. 23 of 2002 on Child Protection and Presidential Decree 77 of 2003 was created to establish the Indonesian Child Protection Commission or commonly referred to as KPAI.³⁴

In this case, following the regulations and guidelines regarding human rights and privacy of a person that has been recognized in the international community and also been recognized in Indonesia, talking about public data, especially regarding identity data of minors who do not know whom the data will fall into. It is a severe violation of the privacy of a person the state should protect. It must be handled as a severe urgency that must be addressed immediately to bring more victims due to public data leakage.

2. Data Leaking at The Indonesian Child Protection Commission and Its Impact

KPAI is an independent state institution whose job is to protect the nation's children from all actions that harm them. Every child has the right to survive, grow and develop and has the right to protection from violence and discrimination."³⁵

The Indonesian Child Protection Commission is tasked with supervising the implementation of the protection and fulfillment of children's rights, collecting data and information on child protection, receiving and reviewing public complaints regarding violations of children's rights, then mediating disputes over violations of children's rights.³⁶

The latest data released by KPAI is around 24974 registered cases³⁷ from 2016 to 2020. Furthermore, around 3178 cases are classified as perpetrators and victims of Pornography and Cyber Crime. Specifically, there are 544 children classified as Child Victims of Online Sexual Crime. And 361 children were classified as Child Victims of Bullying on Social Media.³⁸ From the data, it can be said that many victims and reporters have entrusted their identities and complained about their problems to be resolved by KPAI.

On Monday, October 18, 2021, there was a leak of data on the identity of the complainant and underage victim, a summary of the case, and mediation results.³⁹ This has at least two significant impacts, firstly it can have an impact on the inhibition of KPAI's performance due to the loss of public trust, and secondly, it will have a worse impact on victims and the complainant both physically and mentally because this can trigger the movement of predators.

³² "UU No. 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik," accessed October 23, 2021, <https://peraturan.bpk.go.id/Home/Details/37582/uu-no-19-tahun-2016>.

³³ Rahman, "Kerangka Hukum Perlindungan Data Pribadi Dalam Penerapan Sistem Pemerintahan Berbasis Elektronik Di Indonesia."

³⁴ Lestari, "Peran Komisi Perlindungan Anak Indonesia (Kpai) Dalam Perlindungan Korban Kekerasan Anak."

³⁵ Undang-Undang Dasar Negara Republik Indonesia 1945.

³⁶ "UU No. 23 Tahun 2002 Tentang Perlindungan Anak," accessed October 24, 2021, <https://peraturan.bpk.go.id/Home/Details/44473/uu-no-23-tahun-2002>.

³⁷ "Data Kasus Pengaduan Anak 2016 – 2020 | Bank Data Perlindungan Anak," accessed October 24, 2021, <https://bankdata.kpai.go.id/tabulasi-data/data-kasus-pengaduan-anak-2016-2020>.

³⁸ "Data Kasus Pengaduan Anak 2016 – 2020 | Bank Data Perlindungan Anak."

³⁹ "Data KPAI Yang Bocor Disebut Bisa Pancing 'Predator' Online."

Children with backgrounds as victims or perpetrators of sexual crimes, pornography, and bullying have vulnerable conditions.⁴⁰ One of the impacts is that the condition of the victim who experiences stress after becoming a victim of sexual violence or what is commonly called Post Traumatic Stress Disorder (PTSD) is a condition in which a person experiences excessive anxiety disorders, causing unstable emotional conditions and different from people in general.⁴¹ Victims who experience violence can cause psychological disturbances or trauma to the victim and are ostracized by their family and surrounding environment, including their peers.⁴²

The state should protect its citizens' privacy and the nation's future generations from violence and discrimination.⁴³ Based on the research above, it can be said that the condition of victims and whistleblowers protected by KPAI who are classified as still the age of children and have experienced various bad things in the past tend to have more vulnerable conditions than children in general. With this mental condition, victims and whistleblowers can quickly become easy targets for predators.⁴⁴

Suppose it turns out that KPAI's protection against reporting data and victim data from this act of violence is considered lacking. In that case, this will raise doubts on the part of potential complainants and victims, and public anxiety about guaranteeing their privacy security will increase and have a significant impact on handling cases of violence against children in Indonesia in Indonesia future.

Public data has a significant role in people's lives in the 21st century. Public data offers solutions to problems that were previously difficult to solve. But at the same time, public data raises new problems for privacy rights.⁴⁵ Therefore, this is not the first time Indonesia has experienced a public data leak. It is time for the government to start protecting human rights in the field of privacy rights of every human being, including, in this case, the privacy rights of the whistleblowers and the victim who are still children.

The law is felt to be lacking in protecting the privacy of public data owned by the government.⁴⁶ This is because legal changes are often slower than technological changes, with the rule of law lagging behind technology. Therefore, to minimize the occurrence of more victims of public data leakage, Indonesia already has a draft law on protecting public data, often called the PDP draft bill. The emergence of the Personal Data Protection draft bill has led to an efficient and effective government administration system in providing services to the public. The need for regulation of various matters involving information and communication technology is felt to be increasingly urgent, and this design is deemed capable of guaranteeing the protection of a person for their information data.⁴⁷

⁴⁰ Susanti Noli And Pebriyenni Pebriyenni, "Peran Dinas Sosial Pemberdayaan Perempuan Dan Perlindungan Anak Dalam Menanggulangi Kekerasan Seksual Di Kabupaten Merangin," October 23, 2021.

⁴¹ Mifta Hanif Muslimah and Usmi Karyani, S.Psi, M.Si -, "Kesehatan Mental Pada Anak Korban Kekerasan Seksual," *Universitas Muhammadiyah Surakarta.*, 2019.

⁴² Nurhayati, "Dampak Psikologis Tindak Pidana Kekerasan Seksual Terhadap Perempuan."

⁴³ UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA 1945.

⁴⁴ "Data KPAI Yang Bocor Disebut Bisa Pancing 'Predator' Online."

⁴⁵ Crawford and Schultz, "Big Data and Due Process: Toward a Framework to Redress Predictive Privacy Harms by Kate Crawford, Jason Schultz :: SSRN."

⁴⁶ Neil Richards and Jonathan King, "Big Data Ethics by Neil M. Richards, Jonathan King :: SSRN," *Wake Forest Law Review*, 2014, 2014, 40, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2384174.

⁴⁷ Anita Indah Widiastuti, "Urgensi Pengesahan RUU Perlindungan Data Pribadi (PDP) Di Tengah Pandemi COVID-19," *Universitas Negeri Semarang* 6, no. 1 (December 29, 2020), <https://doi.org/10.15294/SNHUNNES.V6I1.540>.

C. Conclusion

Privacy is one of the most critical things regulated in Human Rights, written in various international conventions and declarations regarding Human rights. Indonesia, as a country that recognizes human rights, also recognizes privacy as a human right that the state must protect. However, no law comprehensively addresses Indonesia's public data protection issue.

On Monday, October 18, 2021, data leaks on the identity of the complainant and underage victim, case summary, and mediation results were found. This has at least two significant impacts, firstly it can have an impact on the inhibition of KPAI's performance due to the loss of public trust, and secondly, it will have a worse impact on victims and the complainant both physically and mentally because this can trigger the movement of predators.

Therefore, to address this urgency and minimize the occurrence of more victims of public data leakage and the impact on public anxiety, Indonesia needs to immediately ratify the Draft Law on Public Data Protection (RUU PDP) so that the urgency of legalizing public data protection can be resolved immediately. Indonesia can always guarantee the implementation of human rights as fundamental rights.

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