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## Legal Formulation Policy on the Privacy Protection of Children and Persons with Disabilities in Indonesia

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### ABSTRACT

The Law of the Republic of Indonesia Number 27 of 2022 Concerning Personal Data Protection contains provisions regarding the privacy data of children and persons with disabilities that are specifically regulated. The rules regarding the protection of personal data are important, especially in light of the rapid development of technology. The existence of Personal Data Protection Law must be motivated by the purpose of law as a tool to integrate and coordinate various interests in society by regulating the protection and limitations of these various interests. This study falls under the category of normative-juridical research, which employs prescriptive methods such as logic and legal reasoning. Using a statutory, philosophical, and conceptual approach, this study will examine the existing privacy regulations for children and persons with disabilities and the principles of protection and ideal rules regarding the privacy of children and persons with disabilities in the future. The results of the study show that there are still weaknesses in the protection of children's and persons with disabilities' data; all data on children and persons with disabilities tends to be at risk of being misused because there is still a legal vacuum regarding technical rules for protecting children's and persons with disabilities' data. Unfortunately, the Personal Data Protection Law does not regulate the "special" process in question. Furthermore, there is no definite age standard regarding the classification of children in the Personal Data Protection Law. The Personal Data Protection Law, which regulates the privacy of children and persons with disabilities, is not in accordance with the theory of legal protection and the theory of legal certainty.

**Keywords:** Children, Disabilities, Personal Data Protection

### ABSTRAK

Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 Tentang Pelindungan Data Pribadi memuat ketentuan tentang data privasi anak dan penyandang disabilitas yang diatur secara khusus. Aturan tentang pelindungan data pribadi ini menjadi penting terutama terkait perkembangan teknologi yang tumbuh sangat cepat. Adanya UU Pelindungan Data Pribadi harus dilatarbelakangi oleh tujuan hukum sebagai alat untuk mengintegrasikan dan mengkoordinasikan berbagai kepentingan dalam masyarakat dengan cara mengatur pelindungan dan pembatasan terhadap berbagai kepentingan tersebut. Penelitian ini termasuk dalam jenis penelitian yuridis normatif dengan

metode preskriptif menggunakan logika dan penalaran hukum. Menggunakan pendekatan perundang-undangan, filosofis, dan konseptual, penelitian ini akan mengkaji aturan privasi anak dan penyandang disabilitas yang ada saat ini dengan prinsip perlindungan dan aturan ideal tentang privasi anak dan penyandang disabilitas di masa mendatang. Hasil penelitian menunjukkan bahwa masih terdapat kelemahan terhadap perlindungan data anak dan disabilitas, seluruh data anak dan penyandang disabilitas tersebut cenderung berisiko untuk disalahgunakan karena masih terdapat kekosongan hukum terhadap aturan teknis perlindungan data anak dan disabilitas. Sayangnya, UU Pelindungan Data Pribadi ini belum mengatur proses 'khusus' yang dimaksud. Lebih lanjut, tidak ada standar usia yang pasti mengenai klasifikasi anak dalam UU Pelindungan Data Pribadi. Hal tersebut tidak sesuai dengan teori perlindungan hukum dan teori kepastian hukum.

**Kata Kunci:** Anak, Disabilitas, Pelindungan Data Pribadi

### **Introduction**

Personal data protection is one of the human rights which is part of personal protection. As stated in the Preamble of the 1945 Constitution of the Republic of Indonesia in paragraph IV, one of the objectives of the Republic of Indonesia is that the state is obliged to protect the entire Indonesian nation and the entire Indonesian homeland and to promote public welfare, educate the nation's life, and participate in implementing world order based on independence, lasting peace and social justice. The protection of one's self is not only to the physical person, but also related to one's personal data. In connection with the rapid development of information and communication technology, this state goal is realized in the protection of personal data of every Indonesian resident or citizen.

As a form of innovation, information technology can now collect, store, share and analyze information. This rapid development has caused the use of information technology to be applied in various sectors of human life. In addition, what is offered in the development of information technology is that it can be reached anytime and anywhere. This personal data relates to data provided by individuals to provide access to them in the use of information technology, because at this time where everyone is closely related to information technology, be it social media or websites. Moreover, there was an outbreak of Corona Virus Disease-19 (Covid-19) that attacked Indonesia, reducing the number of in-person meetings. The alternative is a meeting that is

conducted online (in the network) which requires everything to be connected to the internet network. The use of information technology is not only limited to browsing the internet to find information, but also used to conduct buying and selling transactions, online learning, health services and services in the government environment. Internet users who increase from time to time require users to register personal data in order to use the internet. Registration is usually done by providing personal data such as name, NIK, email, cellphone number and so on.

The collection and processing of this data is very vulnerable to interference with privacy. A person's personal data is easily exposed and arbitrarily transferred, without control from the data owner. Moreover, the possibility of data flow involving more than one jurisdiction is a concern, especially from a national security perspective. Considering globalization and rapid technological development, regulation at the national level is not enough, but also requires regulation at the international level. (Siti Yuniarti, 2019) However, before reaching the international level, it would be better to improve the regulation at the national level first.

Personal data protection is related to the concept of privacy, which is the idea of maintaining personal integrity and dignity. (Wahyudi Djafar & Asep Komarudin, 2014, p. 2) The right to privacy relates to the ability of individuals to determine what they want, such as who holds information about them and how that information will be used. The right to privacy through data protection is a key element for individual freedom and dignity. Data protection is an enabler for the realization of political, spiritual, religious and even sexual freedoms. The right to self-determination, freedom of expression and privacy are rights that are essential to making us human. However, it is unfortunate that lately there has been a lot of misuse of personal data which originated from the leak of personal data. The leaking of personal data is one of them due to hackers who break into a website and then the data obtained is used by them both for their own interests and for sale to other parties. One of the hackers who has been troubling in Indonesia recently is Bjorka.

But there is no clear action that can be taken to handle the case. This is because when the case was taking Indonesia by storm, there was no legislation that

could serve as an adequate legal umbrella. As a result, no government party was responsible for handling the case and ended up blaming each other without obtaining a solution.

This is the main factor in the need for adequate regulations to resolve cases related to personal data leakage. Therefore, on October 17, 2022, Law Number 27 of 2022 on Personal Data Protection (Personal Data Protection Law) was passed. The law was made with the aim of guaranteeing citizens' rights to personal protection and fostering public awareness and ensuring recognition and respect for the importance of personal data protection. The existence of the Personal Data Protection Law must be motivated by the purpose of law as a tool to integrate and coordinate various interests in society by regulating the protection and limitation of these various interests.

The Personal Data Protection Law regulates several things, such as the rights of personal data subjects, processing of personal data, obligations of personal data controllers and personal data processors in processing personal data, and so on. The law also explains who is a personal data subject. A personal data subject is a natural person to whom personal data is attached. This includes children and persons with disabilities. However, there are different things related to the processing of personal data of children and persons with disabilities compared to people in general. Because Article 25 and Article 26 of the Personal Data Protection Law states that the processing of personal data of children and persons with disabilities is organized specifically. Unfortunately, the Personal Data Protection Law has not regulated the 'special' process in question. Furthermore, there is no definite age standard regarding the classification of children in the Personal Data Protection Law. This tends to risk misuse because there is still a legal gap on the technical rules of data protection for children and people with disabilities.

Therefore, this research draws several problem formulations such as whether the current privacy rules for children and persons with disabilities are in accordance with the principles of legal protection and how the ideal rules regarding the privacy of children and persons with disabilities in the future.

## **Research Method**

This research is included in the type of normative juridical research with a prescriptive method using logic and legal reasoning. Normative research aims to provide juridical arguments when there is a vacuum, vagueness and conflict of norms. (I Made Pasek Diantha, 2017, p. 12) This is intended to find the truth of coherence, whether existing legal rules are in accordance with legal norms and whether norms in the form of orders or prohibitions are in accordance with legal principles, and whether a person's actions are in accordance with legal norms (not just in accordance with legal rules) or legal principles. This research uses statutory, philosophical, and conceptual approaches. A conceptual approach is taken when the researcher does not depart from the existing legal rules, examining all laws and regulations related to the legal issues discussed. Legal materials obtained from library research are analyzed descriptively qualitatively, namely. legal materials are carefully collected and selected in accordance with the questions then described to obtain a picture or conclusion that is in accordance with the actual situation in order to enter the problem being examined. The collection of legal materials is carried out through library research, which is carried out by examining books, journals and laws related to the matter under study.

## **Result and Discussion**

### **Personal Data Protection Law based on the Principle of Legal Protection of Privacy of Children and Persons with Disabilities**

Cyberattacks on Indonesia have increased from year to year. BSSN's national cybersecurity operations center noted this trend. Cases of attempted data theft (data breach) during the period January to August 2020, there were 190 million cyber attacks, and 36,771 stolen data accounts, in a number of sectors, including the financial sector. The attacks were recorded to have increased fivefold from 2019. 2021 is also on the rise. According to Kapersky, a cybersecurity company revealed that 40% of consumers from Asia Pacific faced incidents of personal data leaks that were accessed by others without the owner's consent. (Subiakto, 2021, p. 54)

Actually, related to data protection, the Government of the Republic of Indonesia has prepared a special agency, based on Presidential Regulation 28/2021 articles (2) and (3) BSSN is an agency tasked with assisting the President (Government) regarding cyber security. In charge of making standards and supervision. Various systems need to be strengthened considering that internet usage is getting higher and higher, regardless of age and gender. The Central Bureau of Statistics (BPS) noted that the majority of children aged 5 years and over in Indonesia have accessed the internet for social media. The percentage reached 88.99%, aka the largest compared to other internet access purposes.(Enny Nurbaningsih, 2015, p. 44)

In addition to social media, 66.13% of children aged 5 years and over in Indonesia also access the internet to get information or news. There are also those who access the internet for entertainment as many as 63.08%. Then, as many as 33.04% of children aged 5 years and over access the internet to do schoolwork. There are also 16.25% of children who say they access the internet for the purpose of purchasing goods / services and 13.13% to get information on goods / services.

Then, as many as 13% of children aged 5 years and over access the internet to send or receive emails. There are also those who use the internet to access financial facilities 7.78%, sales of goods/services 5.33%, and others 4.74%. Meanwhile, 98.70% of children aged 5 years and over access the internet using smart phones. The rest use laptops 11.87%, desktop computers 2.29%, and others 0.18%.(Risपालman & Islami, 2019, p. 47).

The rise of internet use among children still needs parental supervision. This is because internet use can have a negative impact on children such as cyber bullying, exposure to pornographic content, and so on. Personal data protection is very important to reduce data security risks. Various types of hacking possibilities can arise, including hackers accessing server data through errors in input filters; Hackers accessing other user account data through personal accounts (Brute force ID); Applications that are used are not updated, or hardware that has vulnerabilities; lack of data confidentiality education, or individual worker crimes (illegal access); and others all aspects that appear security gaps.(Widjaja et al., 2020, p. 11).

Personal data protection is related to the concept of privacy. The concept of privacy itself is the idea of maintaining personal integrity and dignity. The right to privacy is also the ability of individuals to determine who holds information about them and how that information is used. The concept of data protection implies that individuals have the right to determine whether or not to share or exchange their personal data. In addition, individuals also have the right to determine the conditions under which the transfer of personal data will take place. Furthermore, data protection also relates to the concept of the right to privacy. The right to privacy has evolved so that it can be used to formulate the right to protect personal data. (Ndaumanu, 2020, p. 11)

The right to privacy through data protection is a key element for individual freedom and dignity. Data protection is an enabler for the realization of political, spiritual, religious and even sexual freedoms. The right to self-determination, freedom of expression and privacy are rights that are essential to making us human. The collection and dissemination of personal data is a violation of privacy. Personal data is an asset or commodity of high economic value. Moreover, there is a correlative relationship between the level of trust and the protection of certain data from private life. Unfortunately, the protection of personal data is currently not regulated in a separate law but is still scattered in various laws and regulations, for example Law Number 36 of 2009 concerning Health regulates the confidentiality of patients' personal conditions, and Law Number 10 of 1998 concerning Banking regulates personal data about depositors and their deposits.

The legal provisions related to the protection of personal data are still partial and sectoral, seemingly unable to provide optimal and effective protection of personal data, as part of privacy. Potential violations of the right to privacy of personal data exist not only in on-line activities but also off-line activities. Potential privacy violations of personal data on-line, for example, occur in mass personal data collection activities (digital dossier), direct marketing (direct selling), social media, implementation of the e-KTP program, implementation of e-health programs and cloud computing activities.

Furthermore, the potential violation of privacy rights in the various activities above will be described one by one. (Sodiqin, 2021, p. 13)

Digital dossier, which is a collection of a person's personal data in large quantities using digital technology, has been started since 1970 by the government, especially in European countries and the United States. Now, private parties have also become digital dossier actors using internet technology. The practice of digital dossier conducted by private parties has the potential to violate a person's right to privacy over their personal data. In addition to digital dossier, there is also the practice of direct selling, which is a practice carried out by sellers to market goods by direct marketing. With the development of this marketing method, a data bank industry has developed that specializes in collecting consumer information. To date, there are more than 550 data collection companies or now called data banks (databases) that trade consumer information. Companies conducting transactions over the Internet will obtain consumer information by purchasing the information from the services of these data collection companies. (Government of Queensland, 1999, p. 11)

The value of consumer personal data sales transactions in 2006 globally has reached 3 billion US dollars. The growth of the data bank industry has been so rapid that it has spawned data bank companies that have globally positioned themselves to become major revenue generating companies. Thus, customers' personal information has become a very valuable asset for the aforementioned companies. As a result, various means are used to collect as much personal data as possible in ways that often do not respect one's right to privacy.

Direct marketing practices in Indonesia have been prevalent, especially in the financial industry, particularly in credit card management. In practice, consumers' personal information has been traded through agents without seeking prior permission from the owner of the information. The need for urgency in regulating personal data is motivated by the emergence of various complaints from the public, both submitted by individuals, groups and organizations. Privacy over personal data is often disturbed through print or electronic media. In line with the sharp increase in the use of social media such as Facebook, Twitter, Line, Path in Indonesia, statistical data shows that

internet users in 2015 reached 72.7 million active internet users as well as active social media users. As many as 62 million social media users access social media using mobile devices and 32 million users are teenagers who are very vulnerable to practices that expose all personal data to social media. These teenagers are very vulnerable to becoming victims of crimes such as kidnapping, harassment and human trafficking. The existence of the Personal Data Protection Law is expected to lead the public, especially children, to be more careful and for the perpetrators of crimes will get severe sanctions. (Information Commissioner's Office, 2018, p. 41).

Previously, Indonesia did not have legislation that specifically regulates the protection of personal data. The various problems above require the Indonesian government to protect the public and regulate the issue of protection of personal data and prepare various forms of legal protection. In addition, Law No. 17/2007 on the 2005-2025 Long-Term Development Plan also stipulates that in order to realize a competitive nation, the utilization of science and technology must be increased. One of them is through regulations related to privacy.

Basically, the protection in the PDP Law is intended to protect several things, including the protection of personal data is the recognition and protection of basic human rights that have been protected under International, Regional and National Law; protection of privacy including personal data is a direct mandate of the constitution of the Republic of Indonesia; protection of personal data is a need to protect individual rights in society in connection with the collection, processing, management, and dissemination of personal data; adequate protection of privacy regarding personal data will be able to provide public confidence to provide personal data for a variety of greater public interests without being misused or violating their personal rights.

Sociologically, after two years of the pandemic and also the development of online learning in Indonesia, children and students are flocking to use various education technology (edtech) platforms. This brings students to various learning opportunities - as well as threats to personal data. Children are not legally competent and do not understand the consequences of personal data processing. This puts them

in a very vulnerable position to be exploited by these platforms. (Witzleb et al., 2020, p. 49)

The recent passing of the Personal Data Protection Law (PDP Law) is certainly a breath of fresh air for the prevention of these risks. In the PDP Law, children's data is categorized as specific personal data, and requires 'special processing' by governments and companies. This privacy threat is also recognized by the United Nations (UN) through General Comment No. 25 (2021) of the Convention on the Rights of the Child, especially regarding children's rights in the digital environment.

According to this document, threats to children's privacy can arise from data collection by public institutions, businesses and other organizations. Some digital practices - such as user profiling, behavioral targeting, and mass surveillance - are routine among these institutions, including in the edtech sector. Moreover, as a group that lacks legal capacity, children (and their data) are more likely to be caught up in such practices, and more vulnerable to adverse impacts if their data is leaked.

The right to privacy, including in the digital realm, is one of the child rights guaranteed in the UN Convention on the Rights of the Child. As one of the countries that ratified the convention, Indonesia has a responsibility to fulfill these rights, and must have a strong legal foundation to support it. The PDP Law is a good first step. However, the regulation of children's personal data in the PDP Law is still relatively minimalist. In the PDP Law, all children's personal data is categorized as 'specific' data. This means that data that is sensitive and poses a high risk to the subject (owner) of the personal data is equivalent to financial data, medical data, or criminal records.

Therefore, the PDP Law also stipulates that platforms holding children's data must 'organize it specifically' and must obtain the consent of parents and/or guardians. Unfortunately, aside from parental consent, the PDP Law does not explicitly regulate what this 'special arrangement' should look like, leaving providers and platforms lacking clear legal protection standards in processing children's data. The PDP Law also does not regulate the age standards that fall into the category of children's personal data. In fact, the standard of 'child age' varies in Indonesian law from the Child Protection Law to the Civil Code. This difference can lead to multiple interpretations of

the age limit of children, which has great potential for abuse by platforms (Guide et al., 2004, p. 51).

This minimalist provision for the protection of children's personal data is a dilemma, especially in the education sector. The digital world, which offers opportunities for children to learn and socialize, is becoming increasingly commercialized. Educational platforms have also been proven to sell children's personal data to develop their business, which is clearly reflected in the Narasi and Human Rights Watch reports. Taking into account the current development of educational technology, it is possible that in the future a child, who by law is required to receive an education, will inevitably have to surrender to invasive data practices from educational technology platforms, which are currently ironically considered commonplace. (Sobsey, 2007, p. 11).

Seeing these various threats of privacy violations, it is necessary to take joint steps to protect children's privacy in the digital world, especially in the education sector. For the government (and the House of Representatives), the passing of the PDP Law is a step that should be appreciated because finally Indonesia has a stronger legal basis in protecting people's personal data even though the provisions for protecting children's data are still minimal. (Recommendations of the Council of Ministers, 2018)

However, agreeing with one of the points in General Comment No. 25 (2021) of the Convention on the Rights of the Child, the PDP Law and its derivative rules will need to provide stronger and more transparent protections, accompanied by independent oversight, and guarantee access to (legal) remedies. (Weber, 2017, p. 32) Furthermore, the government must also ensure that businesses and edtech companies that process children's data do not target them specifically using various mechanisms that prioritize commercial interests over the interests of children. (Hartung, 2020, p. 27)

For edtech platforms, the conduct of business involving children's data must implement high cybersecurity and privacy standards, including the concepts of 'privacy-by-design' and 'safety-by-design' (considering data privacy and security from the start) in all their services. This is a form of compliance with the Personal Data

Protection Law and other international data protection standards, while minimizing violations of children's privacy. The government also needs to continue to promote digital literacy programs for parents and children about this privacy threat. This is important so that parents can also provide an understanding of privacy when their children utilize edtech platforms. Parents can also encourage schools not to use edtech platforms that are indicated not to respect and protect children's privacy.

### **Ideal Rules on Privacy of Children and Persons with Disabilities**

Personal protection cannot be separated from human rights. As explained in Article 28G paragraph (1), "Every person shall have the right to the protection of his/her person, family, honor, dignity, and property under his/her control, and shall have the right to security and protection from the threat of fear to do or not to do something which is a human right." Personal protection also includes a person's personal data. According to Article 1 point 2 of the Personal Data Protection Law, personal data protection is the overall effort to protect Personal Data in the course of personal data processing in order to guarantee the constitutional rights of personal data subjects. According to Article 1 point 1 of the Personal Data Protection Law, Personal Data is data about an identified or identifiable individual individually or in combination with other information either directly or indirectly through electronic or non-electronic systems. This personal data is confidential and attached to the subject of personal data.

The number of cases of personal data leaks that have caused concern for the public, the government finally provided a way out by passing the Personal Data Protection Law. However, just after the law was passed, it has raised several debates regarding the content material in the law. Because the law is considered to still need additions in order to improve and avoid a legal vacuum.

Some things that need to be added in the Personal Data Protection Law are First, there needs to be further explanation of the special process referred to in the processing of personal data of children and persons with disabilities. Because the meaning of this special word can refer to various things. If we talk about the language

of laws and regulations, it is basically subject to the rules of Indonesian grammar, both word formation, sentence construction, writing techniques, and spelling. However, the language of laws and regulations has its own style characterized by clarity or clarity of understanding, straightforwardness, rigidity, harmony, and adherence to principles in accordance with legal needs both in formulation and writing methods. (Ahmad Redi, 2018, p. 157) This is what distinguishes the language of laws and regulations from Indonesian in general.

If we look at Article 25 paragraph (2) of the Personal Data Protection Law, the processing of children's personal data must obtain consent from the child's parents and/or guardian in accordance with the provisions of laws and regulations. It needs to be clarified what form of consent is intended so that there is no misunderstanding between the personal data processor and the personal data subject. The uniformity of the form of consent desired by one personal data processor to another is also necessary to facilitate supervision. This also applies to the processing of personal data for persons with disabilities, which also includes special processes. There needs to be an additional explanation in the explanation section of the Personal Data Protection Law which aims to provide understanding to ordinary people. Because as a country that is subject to written law, the laws and regulations are the strongest legal basis. There also needs to be clarity of meaning in the laws and regulations, because the laws and regulations will be obeyed and bind everyone. For persons with disabilities, there is a need for confidentiality of the conditions that exist in them. This is done as a form of legal protection for persons with disabilities.

This is not in line with what Muchsin stated regarding legal protection, which is an activity to protect individuals by harmonizing the relationship of values or rules that are incarnated in attitudes and actions in creating order in the association of life between fellow human beings. (Muchsin, 2003, p. 14) In Indonesia, individual protection measures are outlined in a legislation. The legislation was formed starting from the existence of problems that exist in society which then require legal resolution and are outlined in it.

According to Muchsin, there are two kinds of legal protection, namely preventive legal protection and repressive legal protection. (Muchsin, 2003, p. 20) First, preventive legal protection is protection provided by the government with the aim of preventing violations before they occur. This is contained in legislation with the intention of preventing a violation and providing signs or limits in performing an obligation. The existence of this Personal Data Protection Law is for preventive measures in the event of harmful things for the community related to their personal data. Because the purpose of a legislation is not only to solve current problems, but also must be able to provide solutions when more complex legal problems occur later. Second, repressive legal protection which is the final protection in the form of sanctions such as fines, imprisonment, and additional penalties given if a dispute has occurred or a violation has been committed. In the Personal Data Protection Law, there are no rules if the offenders are children or persons with disabilities. This also causes confusion because the punishment for violators of children or persons with disabilities is in accordance with what is stated in the Personal Data Protection Law or there is special handling for children and persons with disabilities. Considering that the processing of personal data for children and persons with disabilities is given a special process.

Second, the criteria for children in the Personal Data Protection Law must be given a limit for age. Because the age categories in various laws and regulations differ from one another. For example, Law No. 11/2012 on Juvenile Justice System states that the category of children is those aged 12 years to 18 years. Meanwhile, the Civil Code states that a person is categorized as a child if he or she reaches the age of 21. This relates to the treatment of personal data processing for children and adults regulated in the Personal Data Protection Law which is different. It is better for children to be given additional and stricter conditions for using the internet, given that the internet contains a lot of information that is allowed and prohibited for children. Because if we look at the purpose of the approval of parents or guardians so that the use of the internet for children can be more controlled and not fall into things that contain elements of criminality, violence, immorality, and so on that are prohibited.

Third, it has not been explained how the form of supervision carried out by the government regarding the protection of personal data. There is no article that regulates the establishment of an independent organization that handles personal data protection specifically and with integrity, such as the existence of a special commission that handles acts of corruption in Indonesia, whose existence and authority are mandated by law. (Muhammad Saiful Rizal, 2019) Whether to continue using BSSN as an agency that performs duties in terms of monitoring personal data protection or to form a new institution that is more focused on protecting personal data from personal data subjects. The institution is expected to provide independent supervision and no intervention or interference from other parties in order to provide legal certainty to the public.

According to Jan Michiel Otto, legal certainty is actually more juridical in dimension. Legal certainty according to Jan Michiel Otto defines as the possibility that in certain situations: (Soeroso, 2011)

- a) There are rules that are clear (clear), consistent and easy to obtain, issued by and recognized because of the state (power).
- b) Ruling (government) agencies apply these legal rules consistently and also submit and obey them.
- c) Citizens principally conform their behavior to these rules.
- d) Independent and impartial judges apply the legal rules consistently as they resolve legal disputes.
- e) Judicial decisions are concretely implemented.

The law enforced by law enforcement agencies assigned to it must guarantee "legal certainty" for the sake of order and justice in public life. Legal uncertainty will cause chaos in people's lives and will do as they please and act vigilante. This situation makes life in an atmosphere of "social disorganization or social chaos". (Shidarta, 2006, p. 85)

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law must be carried out in a good way. Legal certainty requires efforts to regulate the law in legislation made by the authorized and authoritative parties, so that these rules

have juridical aspects that can guarantee the certainty that the law functions as a rule that must be obeyed. (Asikin Zainal, 2012)

In addition, supervision related to the subject of personal data of children and persons with disabilities must be given more special supervision, because they are prone to misuse of personal data of children or persons with disabilities. This is because the processing of personal data for children and people with disabilities involves other parties, be it their families or guardians, who are worried that the data will be misused for the wrong interests. Therefore, the institution that will be appointed to supervise the protection of personal data must be clear and stipulated in laws and regulations and is a permanent institution.

## **Conclusion**

Personal data protection relates to the concept of privacy, which is the idea of maintaining personal integrity and dignity. The right to privacy through data protection is a key element for individual freedom and dignity. As a form of innovation, information technology can now collect, store, share and analyze information. This rapid development has led to the use of information technology in various sectors of human life. This data collection and processing is very vulnerable to interference with privacy. A person's personal data is easily exposed and arbitrarily transferred, without control from the data owner. This is one of the main factors for the emergence of the Personal Data Protection Law to overcome public unrest due to the rampant cases of data leakage.

However, there are still several things that need to be added in the Personal Data Protection Law. First, there needs to be a further explanation of the special process referred to in the processing of personal data of children and persons with disabilities. Because the meaning of this special word can refer to various things. Because the language of laws and regulations has its own style characterized by clarity or clarity of understanding, straightforwardness, rigidity, harmony, and adherence to principles in accordance with legal needs both in formulation and writing. Second, related to the criteria for children in the Personal Data Protection Law must be given a

limit for age. Because the age categories in various laws and regulations differ from one another. Third, it has not been explained how the form of supervision carried out by the government regarding the protection of personal data. There is no article that regulates the establishment of an independent organization that handles personal data protection specifically and with integrity. Is it still using BSSN as an agency that performs duties in terms of supervision of personal data protection or is a new institution formed that is more focused on protecting personal data from personal data subjects.

It is expected that the above matters that have not been regulated in the Personal Data Protection Law will be immediately explained so as not to cause confusion for the public. This is because laws and regulations are guidelines for the community in carrying out their daily lives. The addition can be included in the amendment of the law or government regulation as the implementing regulation of the Personal Data Protection Law.

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#### **Laws and Regulations**

Law of the Unitary State of the Republic of Indonesia Year 1945

Law Number 27 of 2022 on Personal Data Protection

Presidential Regulation Number 28 of 2021 concerning the National Cyber and Crypto Agency

