

PERSPECTIVE ON THE PRINCIPLE OF LEGAL CERTAINTY: IMPLICATIONS OF LAW NUMBER 27 OF 2002 CONCERNING PERSONAL DATA PROTECTION FOR BANKING CUSTOMERS

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ABSTRACT

This article discusses the impact of the Industrial Revolution 4.0 on Indonesia, particularly the widespread use of digital technology and data privacy and protection concerns. The recent ratification of Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) is highlighted as a significant step towards addressing these concerns. It is emphasized that compliance with the PDP Law presents both challenges and opportunities for banking institutions in Indonesia, particularly in the context of cybercrimes. The principle of bank confidentiality is underscored as crucial in maintaining public trust, and the need for robust data protection measures, revised data collection and processing practices, and quick response and transparency in the event of data leaks is emphasized. Overall, the article stresses the importance of addressing these challenges and opportunities to ensure compliance with relevant laws and regulations while ensuring the security and protection of customer personal data.

Keywords: *Legal Certainty, Personal Data Protection, Banking Customers.*

ABSTRAK

Artikel ini membahas dampak Revolusi Industri 4.0 terhadap Indonesia, khususnya meluasnya penggunaan teknologi digital serta masalah privasi dan perlindungan data. Pengesahan Undang-Undang Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi (UU PDP) baru-baru ini dinilai sebagai langkah signifikan dalam mengatasi permasalahan tersebut. Ditekankan bahwa kepatuhan terhadap UU PDP menghadirkan tantangan sekaligus peluang bagi lembaga perbankan di Indonesia, khususnya dalam konteks kejahatan dunia maya. Prinsip kerahasiaan bank digarisbawahi sebagai hal yang penting dalam menjaga kepercayaan publik, dan perlunya langkah-langkah perlindungan data yang kuat, revisi praktik pengumpulan dan pemrosesan data, serta respons cepat dan transparansi jika terjadi kebocoran data. Secara keseluruhan, artikel ini menekankan pentingnya mengatasi tantangan dan peluang ini untuk memastikan kepatuhan terhadap undang-undang dan peraturan yang relevan sekaligus memastikan keamanan dan perlindungan data pribadi pelanggan.

Kata Kunci: *Kepastian Hukum, Perlindungan Data Pribadi, Nasabah Perbankan.*

A. BACKGROUND

Indonesia has entered the era of Industrial Revolution 4.0 since 2011. Marked by major changes in the IT field, all lines have been transformed into digital automation

such as Big Data Analytics, robot technology, Artificial Intelligence (AI), to the Internet of Things (IoT). Of course, as an Indonesian citizen, you must follow these developments to adjust. The Directorate of Elementary Schools released based on a survey in Indonesia in 2021 that 73.9 percent of the population uses digital technology, equivalent to 202 million people out of a total of 270 million Indonesians. These results prove that the Indonesian population has exploited the developing technology.¹

Indonesian citizens flock to create accounts on various online applications such as online shopping applications, online loan applications, online delivery applications, and online transaction applications. Indonesia is one of the countries with the most social media users in the world with the 4th most after China, India, and the United States, in Indonesia, there are approximately 150 million active social media users.²

This technological advancement is very helpful for humans in doing anything. We can feel these advances every day, such as smartphones that are often used to communicate with others over long distances. The discovery of the internet is one of the technological advances that have made it easier for people³, not only in Indonesia but all over the world to feel the impact of the internet. The development of the internet is also increasingly sophisticated with many applications on smartphones that are very helpful to facilitate the activities of many people. One of the developments in information technology that has a big impact on humans is innovation in the banking world.

One of the innovations carried out in the banking sector in line with the development of information technology is the use of the Internet in banking transactions through mobile banking and Internet banking for its customers.⁴ Banking transactions today are easier, faster, and more efficient because of services via the Internet. The efficiency that occurs in banking transactions is certainly not without risks that follow.

¹ Perpustakaan Universitas Brawijaya, 2022, "*Literasi Digital Menjadi Budaya Baru Di Era Digitalisasi*." <https://lib.ub.ac.id/news/literasi-digital-menjadi-budaya-baru-di-era-digitalisasi/>, visited on June 4, 2024

² Pertiwi, Endah, dkk. "Analisis Yuridis Terhadap Penyalahgunaan Data Pribadi Pengguna Media Sosial." *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia* 3.3 (2021): 10-16.

³ Kumar, Sachin, Prayag Tiwari, and Mikhail Zymbler. "Internet of Things is a revolutionary approach for future technology enhancement: a review." *Journal of Big data* 6, no. 1 (2019): 1-21.

⁴ Van der Boor, Paul, Pedro Oliveira, and Francisco Veloso. "Users as innovators in developing countries: The global sources of innovation and diffusion in mobile banking services." *Research Policy* 43, no. 9 (2014): 1594-1607.

A problem that is often present in Internet banking and mobile banking services is the issue of legal protection of data privacy. The definition of data privacy is any information that is related to identifying or can be used to identify someone. Privacy itself is an individual's right that must be given protection from misuse of information or the interests of other parties, whether misuse by related parties or from third parties.⁵

As digital consumption increases among Indonesian people, awareness of privacy rights needs to be increased. The right to privacy is a person's ability to choose who can access information about them and how that information is used. Usually, older people are easily fooled by misleading advertisements and end up giving personal information to random people on the internet.

In cyberspace, all data, whether in the form of writing, images, or even videos, can never be permanently deleted, and this is known as a digital trace record, where the upload leaves traces that can then be traced for information.⁶ Of course, this is very dangerous if good protection is not provided to avoid leakage of personal data that has been uploaded. To avoid being used as a dangerous weapon in the future because the unprotected identity is used by irresponsible individuals.

Recently, data leaks occurred in banking in Indonesia. It is known that banks in Indonesia experienced data leaks based on news circulating on social media. News of data leaks experienced by banks in Indonesia circulated widely on social media in early 2022. It was found that a Twitter account in the name "@darktracer_int" uploaded a screenshot complete with a description of the file in it, it was written that the file came from the site www.bi.go.id.⁷ After further investigation, it turns out that this data leak occurs periodically, it is estimated that it first occurred in 2021 to 2022. In the past two years, the number of Bank Indonesia data leaks has continued to increase and the number of devices hacked has also increased.⁸

In today's digital era, legal certainty is very important in protecting personal data. Technological advances, especially in the information sector, have given rise to

⁵ Parent, William A. "Privacy, morality, and the law." In *Privacy*, pp. 105-124. Routledge, 2017.

⁶ Plotkin, Robert. *Privacy, Security, and Cyberspace*. Infobase Holdings, Inc, 2020.

⁷ CNN Indonesia, 2022, "Kebocoran Data Bank Indonesia Belum Selesai, Naik Jadi 74GB", <https://www.cnnindonesia.com/teknologi/20220124163634-185-750569/kebocoran-data-bank-indonesia-belum-selesai-naik-jadi-74gb>. visited on June 7, 2024

⁸ Kusuma, Aditama Candra, dan Ayu Diah Rahmani. "Analisis Yuridis Kebocoran Data Pada Sistem Perbankan Di Indonesia (Studi Kasus Kebocoran Data Pada Bank Indonesia)." *Supermasi Jurnal Hukum* 5.1 (2022): 46-63.

new legal issues related to protecting the security of personal data. The development of information technology and the increasing number of internet service users in Indonesia require special arrangements to protect privacy and personal data. Legal certainty provides guarantees for human rights and increases consumer confidence. With clear and comprehensive regulations, the government can be more effective in supervising the implementation of personal data protection and providing security for citizens. Apart from that, legal certainty is also important in increasing public awareness about the importance of protecting personal data.

Legal certainty as one of the goals of law can be said to be part of efforts to realize justice. The real form of legal certainty is the implementation or legal enforcement of an action regardless of who carries it out. With legal certainty, everyone can predict what they will experience if they take certain legal actions. Certainty is needed to realize the principle of equality before the law without discrimination.⁹

Etymologically, the word "certainty" is closely related to the principle of truth, namely something that can be strictly defined in a legal-formal way. Through deductive logic, positive legal rules are placed as major premises, while concrete events become minor premises. Through a closed logic system, conclusions can be immediately obtained. The conclusion must be something that can be predicted so that everyone is obliged to stick to it. With this handle, society becomes orderly. Therefore, certainty will direct society towards order.¹⁰

Recently, the issue of personal data leakage has caused people to complain, this is indicated by the offer of various products in the financial services sector which are carried out both directly (telephone) and via short message service (SMS). Various products offered range from insurance, credit facilities, online loans, and also other types of products. Telemarket officers who offer these products usually say that the company they work for has a collaboration with a deposit bank. Situations like this of course cause discomfort for customers regarding financial institutions that have provided customer personal data to other parties without the customer's consent.

⁹ Rahardjo, Satjipto. *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung, 2006, hlm. 277.

¹⁰ Mahfud MD, Moh., *Penegakan Hukum Dan Tata Kelola Pemerintahan Yang Baik*, Bahan pada Acara Seminar Nasional "Saatnya Hati Nurani Bicara" yang diselenggarakan oleh DPP Partai HANURA. Mahkamah Konstitusi Jakarta, 8 Januari 2009.

The dissemination of customer personal data is one of the impacts of developments in information technology. This distribution of customer data is certainly a consumer data leak that occurs because consumer (customer) data is spread outside to the public. This data leak could be due to the company itself sending it to a third party or the data being hacked by an external party.

In this case, the Indonesian government is making efforts to tackle personal data leaks. This was realized on October 17, 2022, namely the ratification of Law Number 27 of 2022 concerning Personal Data Protection (PDP Law). The PDP Law is present in Indonesian society to enable us all to have data sovereignty, including the management and use of data by industry, as well as state institutions for the protection and security of society. The PDP Bill itself has been initiated since 2016 with the discussion of 72 articles of the Bill. The Ministry of Communication and Information (KOMINFO) claims that it is responsible for drafting the PDP Bill which covers other statutory provisions related to personal data in various sectors. The struggle to get the PDP Bill passed into law continues until 2022, the final stage is reaching the decision-making process on the PDP Bill by the DPR RI. On September 20, 2022, the Level II Discussion stage took place which resulted in the ratification of the Bill into the PDP Law with the contents of 16 chapters and 76 articles.¹¹

Legal certainty in Law Number 27 of 2022 concerning Personal Data Protection expressly states that the implementation and enforcement of this law must be based on the principle of legal certainty, as is the mandate written in Article 3 letter b of Law Number 27 of 2022 concerning Personal Data Protection. However, on the other hand, there are problems related to the protection of personal data for banking customers regarding the confidentiality of their data, in this case, the person responsible for the risk of personal data leakage is still confused. Based on this background, the author wants to examine how the principle of certainty is implemented for banking customers in terms of Law Number 27 of 2002 concerning Personal Data Protection.

B. RESEARCH METHODOLOGY

¹¹ IndonesiaBaik.id, 2022, “Perjalanan UU Perlindungan Data Pribadi” <https://indonesiabaik.id/infografis/perjalanan-uu-perlindungan-data-pribadi>. visited on June 8, 2024

In this research, the author uses normative legal research methods. Therefore, the nature of this research is library research, meaning a study by examining books or books related to this article that come from libraries (library materials) related to the theme raised. In this normative method, the legal approach used is the statutory approach or what is commonly known as the statute approach.

The data sources used are secondary data sources consisting of primary legal material sources in the form of laws and regulations related to data leaks, secondary legal materials in the form of books and journals related to research themes, and tertiary legal materials in the form of dictionaries, encyclopedias, newspapers, internet sources. other. Data presentation techniques in this research are presented descriptively and analytically. The data analysis technique is carried out qualitatively, and the technique for concluding is deductive.

C. FINDING AND DISCUSSIONS

1. Banking Regulations and Personal Data Protection in the Indonesian Legal System

Indonesia's economic development is experiencing very rapid development and progress. Banking institutions are one of the institutions that have a role in Indonesia's economic development.¹² National development aims to achieve a just and prosperous society based on Pancasila and the 1945 Constitution. In the current era of globalization, banks have also become part of the financial system and payment systems in the world. So, once a bank has obtained permission to establish and operate from the monetary authority of the country concerned, the bank becomes the property of the community whose existence must not only be maintained by the bank owner but also by the national and global community. The collapse of a banking institution will have a chain impact or domino effect, namely affecting other banks which can disrupt the function of the financial system and payment system of the country concerned.¹³

¹² Ps, Bambang Catur. "Pengamanan Pemberian Kredit Bank Dengan Jaminan Hak Guna Bangunan." *Jurnal Cita Hukum* 2.2 (2014).

¹³ Faisal, Fitriah. "Pengaruh Prinsip Kerahasiaan Bank Terhadap Tindak Pidana Pencucian Uang." *Jurnal Al-Amwal* 3.1 (2018).

Banking institutions are one of the institutions that have a strategic role in national development in Indonesia. Banks as financial institutions are defined as all bodies that through their activities in the financial sector attract funds from the public and distribute them to the public. It cannot be denied that in achieving national development goals, namely to create a just and prosperous society based on Pancasila and the 1945 Constitution.

Article 1 paragraph (1) of Law Number 10 of 1998 concerning Banking (Banking Law) states that banking is everything that concerns banks, including institutions, business activities, as well as methods and processes for carrying out business activities. Furthermore, this law defines a bank as a business entity that collects funds from the public in the form of savings and distributes them to the public in the form of credit and/or other forms to improve the standard of living of many people. The Banking Law also classifies banks into two main types, namely Commercial Banks or banks that carry out business activities conventionally and/or based on Sharia principles whose activities provide services in payment traffic. Then, Rural Banks (BPR) or banks that carry out business activities conventionally and based on Sharia principles, whose activities do not provide services in payment traffic. Banking itself has a function as stated in Article 3 of the Banking Law, the main function of Indonesian banking is as a collector and distributor of public funds, then Article 4 of the Banking Law also explains the main objective of banking, namely to support the implementation of national development to increase equality, economic growth and stability. national direction towards improving people's welfare.

In economic democracy, banking activities in Indonesia always use the precautionary principle. In a democratic economic system, the government also should provide direction and guidance on economic growth (banking) and create a healthy climate for the development of the business world.¹⁴ In line with the functions and objectives of banking, the Bank itself has activities including collecting funds, distributing funds (lending), and providing banking

¹⁴ Djumhana, Muhammad. *Hukum Perbankan di Indonesia*, PT. Citra Aditya Bakti, Bandung, 1993, hlm. 24

services. Furthermore, regarding the Bank's activities in providing services, the services provided by the Bank itself are supporting activities to support the smooth activities of collecting and distributing funds.¹⁵ There are several bank activities in providing services, namely Money Transfers, Clearing, Collections, Safe Deposit Boxes, Pension Fund Payments, Credit Cards, and so on.

Bankers are required to be able to work professionally, be able to read, study, and analyze all business activities and the national economy. Therefore, banking institutions need to be developed and supervised continuously so that they can function efficiently, healthily, and fairly, can compete can protect funds saved by customers properly, and can channel these savings funds to truly appropriate production sectors. truly productive following development targets.¹⁶

One of the factors that can increase public trust in a bank is the bank's compliance with bank confidentiality obligations, which concerns whether or not the bank can be trusted by customers to store their funds and/or use other services from the bank not to disclose the condition of the customer's money and transactions as well as other circumstances of the customer concerned to other parties.¹⁷

It turns out that the relationship between a bank and its customers is not like an ordinary contractual relationship, but in this relationship, there is also an obligation for the bank not to disclose the secrets of its customers to any other party unless otherwise determined by applicable legislation. This relationship can be said to be like the relationship between a lawyer and a client, or a doctor and his patient.¹⁸

¹⁵ Silvestro, Rhian, and Paola Lustrato. "Integrating financial and physical supply chains: the role of banks in enabling supply chain integration." *International journal of operations & production management* 34, no. 3 (2014): 298-324.

¹⁶ Labetubun, Muchtar AH. "Kompetensi Pengadilan Agama Terhadap Penyelesaian Sengketa Perbankan Syariah Berdasarkan Hukum Islam." *Sasi* 18.1 (2012): 56-62.

¹⁷ Hasima, Rahman. "Implikasi Hukum Terhadap Akad yang Memuat Klausula Penyelesaian Sengketa Perbankan Syariah Melalui Pengadilan Negeri Pasca Putusan Mahkamah Konstitusi Nomor 93/PUU-X/2012." *Sasi* 26.3 (2020): 286-296.

¹⁸ Yusuf, Burhanudin, Riana Puspita Sari, dan Rahelia Adisti Fransiska. "Pembukaan Prinsip Kerahasiaan Bank sebagai Perbuatan Melawan Hukum." *Jurnal Syntax Admiration* 4.9 (2023): 2202-2213.

In banking dynamics, customer data is at the core of everything. However, despite its value, this data is often the target of crime. Therefore, protecting customer data is a top priority for financial institutions. Customer data collected in banking can be likened to a treasure trove because personal data is a realm of privacy that not just anyone can access.

Privacy is a universal concept that is known in various laws and norms that exist in society. The concept of the right to privacy was developed by Samuel D. Warren and Louis Brandeis in a journal entitled "The Rights of Privacy". Quoting Justice Thomas Cooley, Warren and Brandeis defined the right to privacy simply as "the right to be left alone." These rights relate to human spiritual needs which must be protected by the state as well as the need to respect feelings and thoughts as well as the right to enjoy life.

The constitutional rights regulated in the 1945 Constitution include 40 citizen rights. One of them is the right to personal protection regarding a person's right to privacy which is regulated in Article 28G paragraph 1 of the Constitution of the Republic of Indonesia which reads:¹⁹

"Every person has the right to protection of himself, his family, honor, dignity, and property under his control, and has the right to a sense of security and protection from the threat of fear of doing or not doing something which is a human right."

This is also strengthened in the Universal Declaration of Human Rights 1948 Article 12 which reads:²⁰

"No one should have their personal affairs, their family, their household, or their correspondence arbitrarily disturbed; nor are they permitted to violate their honor and good name. Everyone has the right to legal protection against disturbances or violations like this."

According to Article 1 number 1 of Law Number 27 of 2022 concerning Personal Data Protection, it is stated that:²¹

¹⁹ The 1945 Constitution of the Republic of Indonesia

²⁰ Universal Declaration of Human Rights 1948

²¹ Law Number 27 of 2022 concerning Personal Data Protection

“Personal Data is data about an individual who is identified or can be identified individually or combined with other information, either directly or indirectly, through electronic or non-electronic systems.”

Then in Article 1 number 29 of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions states the same understanding regarding personal data as that written in the PDP Law.

Personal data is a person's personal information consisting of facts, communications, and opinions that are related to the individual and the individual feels that the information is sensitive and its collection, use, or distribution is restricted or prohibited.²²

There are various forms of personal data, the first is general personal data. This general personal data contains full name, gender, nationality, and religion, or can also be added to data that can identify a person. The second is specific data, namely data from a person which includes a person's health data, genetic data, biometric data, and others. In general, there are three aspects of privacy:²³

1.	Privacy of a Person's Persona	In general, the right to human privacy is based on the general principle that everyone has the right to be left alone. In general, there are four types of individual privacy violations: 1) Publications that include a person's photo in the wrong place. 2) Inappropriate use of someone's name or preferences for commercial purposes. 3) Publication of someone's facts that are embarrassing or confidential to the public. 4) Disturbing someone's silence or solitude.
2.	Privacy of Data About a Person	Privacy rights may also relate to or relate to information about a person that is collected and used by others. For example, information about personal habits, health history, religious and political affiliations, tax records, employee records, insurance records, criminal records, etc. Misuse of

²² Shofiyah, Erni Nur, dan Indri Fogar Susilowati. “Penyalahgunaan Data Pribadi Penerima Pinjaman Dalam *Peer To Peer Lending*.” *Novum: Jurnal Hukum* 6.2 (2019).

²³ Makarim, Edmon. *Himpunan Peraturan Perundang-Undangan Telematika*, PT. Raja Grafindo Persada, Jakarta, 2005, hlm. 27

		Information or any information collected about users (organizations/institutions) or customers (business customers) constitutes a violation of individual privacy rights.
3.	Privacy of a Person's Communications	In certain circumstances, privacy rights may also extend to online communications. In some cases, monitoring and disclosure of the contents of electronic communications by persons other than the sender or person receiving them may constitute a violation of privacy.

Table 1. Aspects of Privacy

Based on several definitions and terms related to data and information as well as data protection, data and information are related to individual lives and are closely related to the concept of confidentiality or individual legal privacy rights which must be maintained and protected by statutory regulations.²⁴

So, it can be concluded that the principle of confidentiality in banks is very important, this is because the development and growth of a bank is very dependent on the trust of the public. Therefore, the way for banks to maintain the trust of the people who are their customers is by keeping secrets regarding their identities and everything related to their customers.

Confidentiality of information that arises in banking activities is necessary both for the interests of the bank and for the interests of the customers themselves. The principle of confidentiality is a principle that requires or obliges banks as financial institutions to keep everything related to finances and other matters confidential from customers which, according to the banking world, must be kept confidential.²⁵ This provision emphasizes that banking institutions must uphold the information recorded by them. This provision also applies to affiliated parties in banking operational activities. These principles or principles in the financial sector, including banking secrets, have long been

²⁴ Devara, I. Gusti Dama Galang, Anak Agung Sagung Laksmi Dewi, dan Ni Made Puspasutari Ujianti. "Perlindungan Hukum Terhadap Data Pribadi Pengguna Jasa Transportasi Online." *Jurnal Preferensi Hukum* 1.1 (2020): 1-7.

²⁵ Putra, I. Made Aditya Mantara, I. Nyoman Putu Budiarta, and Johannes Ibrahim Kosasih. "PRUDENTIAL BANKING PRINCIPLES CONCEPTION IN BANK PICK UP SERVICE CASH SERVICE AGREEMENT IN AN EFFORT TO PROTECT CUSTOMERS BASED ON LEGAL CERTAINTY." *Journal Equity of Law and Governance* 4, no. 1 (2024): 63-75.

known in financial and financial history. Even since medieval times, secret matters in the financial sector have been regulated in the German Civil Code and in northern Italian cities.²⁶

2. Implementation of the Principle of Certainty for Banking Customers Judging from Law Number 27 of 2002 concerning Personal Data Protection

According to Sudikno Mertokusumo, legal certainty means that the law must be implemented properly and there must be a legal product in the form of a law made by the authorities so that the law has a juridical aspect. The juridical aspects contained in the law will be obeyed by the subject who is the target of the legal product.²⁷ Legal certainty has a close correlation with legal positivism.²⁸ The formulation that can be made from this correlation is that:²⁹

- a. Laws must be made in positive law by a competent authority;
- b. Law must be seen from its formal manifestation, not its material; And
- c. The existence of law is acknowledged, not as material for legal science, because it would cause scientific truth to be unattainable.

From this correlation, it is appropriate that personal data protection arrangements must be made in a legal product. Legal certainty is the underlying principle that the law must be clear, predictable, and applied consistently in a society.³⁰ It creates a stable and reliable framework for individuals and organizations to interact, invest, and participate in social and economic life without uncertainty or confusion. With legal certainty, everyone has confidence that their rights will be respected and their obligations will be regulated fairly,

²⁶ Rani, Marnia. "Perlindungan Otoritas Jasa keuangan Terhadap Kerahasiaan dan Keamanan Data Pribadi Nasabah Bank." *Jurnal Selat* 2.1 (2014): 168-181.

²⁷ Asikin, Zainal. *Pengantar Tata Hukum Indonesia*, Rajawali Press, Jakarta, 2012, hlm. 81

²⁸ Julyano, Mario, dan Aditya Yuli Sulistyawan. "Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum." *Crepido* 1.1 (2019): 13-22.

²⁹ Halim Barkatullah, Abdul dan Teguh Prasetyo, *Filsafat, Teori & Ilmu Hukum Pemikiran: Menuju*

Masyarakat yang Berkeadilan dan Bermartabat, Rajawali Press. Jakarta, 2014, hlm. 200-201.

³⁰ Lifante-Vidal, Isabel. "Is legal certainty a formal value?." *Jurisprudence* 11, no. 3 (2020): 456-467.

thereby creating a solid foundation for sustainable development and justice in society.³¹

Regarding personal data, since 2022 Indonesia has provided a legal forum in Law Number 27 of 2022 concerning Personal Data Protection. Some of the efforts and efforts that have been regulated in the regulations regarding personal data protection are as follows:

- a. Collection of personal information. Every individual has the right to be informed and to have control over the collection of personal information about them. Personal data can only be collected with valid permission and in a transparent manner.
- b. Personal information may only be used by the reason for which it was obtained; this means that the data may not be used for additional purposes without a valid reason.
- c. The security of personal data needs to be protected from unlawful access, inappropriate use, and accidental or intentional manipulation.
- d. Authority to disclose and manage personal information. Everyone has the right to view and manage their personal information. A person has the right to request that their data be corrected or deleted if there are errors or inaccuracies.
- e. Transfer of personal information. Everyone has the right, whenever possible, to have data
b. personal information is transferred to another location or service provider.

Legal protection of personal data in Law Number 27 of 2022 has two important elements, namely the personal data subject and the personal data controller. The natural person to whom personal data is attached is referred to as the personal data subject. On the other hand, any individual, or public body, including international organizations, acting alone or jointly to determine the purposes and exercise control over the processing of personal data is a personal data controller.

³¹ Koswara, Wenderlin. "Implementasi Aturan Perlindungan Data Pribadi Oleh Penyelenggara Sistem Elektronik Dikaitkan Dengan Teori Keadilan dan Kepastian Hukum." *Jurnal Paradigma Hukum Pembangunan* 7.2 (2022): 86-103.

This law, which was passed on October 17, 2022, is based on the basis that the right to personal data is a property right inherent in every individual as the subject of personal data. This personal data protection applies to anyone, both Indonesian citizens and foreign citizens residing in Indonesia, about all processing of personal data which includes collection, use, disclosure, storage, transmission, and deletion of data. Personal data protection is defined as comprehensive measures to safeguard Personal Data during its processing to uphold the constitutional rights of every individual who owns that data. In other words, this regulation contains protection for every personal data processing activity where the activity is in the form of collection, use, or disclosure of personal data. This law is based on protection, legal certainty, public interest, expediency, prudence, balance, accountability, and confidentiality.³²

The Personal Data Protection Law regulates efforts to protect personal data through several things, such as the preparation and implementation of operational technical measures to protect personal data from personal data processing interference that is contrary to statutory provisions, as well as determining the level of security of personal data by taking into account the nature and risks of personal data that must be protected in the processing of personal data. This aims to provide adequate protection for personal data so that people can provide personal data for the greater benefit of society without misusing or violating their rights.

Current regulations in the banking industry have adapted to overcome the challenges faced in the digital era.³³ These changes cover various aspects, ranging from data security, electronic fraud, compliance with anti-money laundering regulations, and consumer protection, to fintech developments. As previously discussed, banking customer data is like treasure, customer data is always a target for crime, so customer data must be protected based on the principle of bank confidentiality.

³² Navisa, Fitria Dewi, Angelina Septa Roekmanda Sari, dan Delfi Yumita Ramadhani. "Perlindungan Hukum Atas Kebocoran Data Dan Informasi Pribadi Pada Penumpang Transportasi Udara." *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 5.1 (2022): 125-140.

³³ Moşteanu, Narcisa Roxana. "Green sustainable regional development and digital era." In *Green buildings and renewable energy: Med green forum 2019-part of world renewable energy congress and network*, pp. 181-197. Springer International Publishing, 2020.

Regulations on the confidentiality of customer data are not explicitly regulated in the Banking Law.³⁴ The Banking Law regulates the principles of bank secrecy in general only, namely in the form of the term 'bank secrecy', which is defined as everything related to information regarding depositors and their deposits.

Based on this, this means that information regarding bank customers does not only involve information about financial conditions but also all forms of information regarding depositing customers, and telephone (cellular) numbers are something that must be kept confidential by banks holding customer funds. If the bank can maintain confidentiality regarding customer deposits, this will make customers feel comfortable and safe in depositing funds in the bank, then this will also have an impact on public trust in the bank. The principle of confidentiality applied in banking business activities is aimed at the interests of the bank itself. To overcome this problem, intervention from the authorities in the consumer protection sector in the financial services sector is required. Consumer protection in the financial services sector based on Law Number 21 of 2011 concerning the Financial Services Authority rests with the Financial Services Authority institution. The Financial Services Authority as an institution that has regulatory and supervisory authority in the financial services sector, is expected to be able to protect consumers from Financial Services Business Actors (PUJK) who are deemed to be detrimental to the interests of consumers, which in this case are bank customers.

3. Challenges and Opportunities in Compliance for Banking Institutions in Indonesia

The implementation of Law Number 27 of 2022 concerning Personal Data Protection presents both challenges and opportunities for banking institutions in Indonesia. One of the primary challenges is ensuring compliance with the new regulations while continuing to meet the needs of customers. Banking institutions will need to invest in robust data protection measures,

³⁴ Polontoh, Herry, and Sinta Suwanti Silambi. "ANALYSIS OF LEGAL PROTECTION OF BANKING CUSTOMER DATA IN REVIEW OF LAW NUMBER 8 OF 1999 CONCERNING CONSUMER PROTECTION." *MSJ: Majority Science Journal* 2, no. 1 (2024): 416-423.

including encryption, access controls, and data breach response protocols, to ensure that they are in full compliance with the law.

Furthermore, banking institutions will need to review and potentially revise their data collection and processing practices to align with the requirements of the new law.³⁵ This may involve obtaining explicit consent from customers for the collection and use of their data, as well as providing greater transparency about how data is being used and shared. Additionally, banking institutions will need to establish processes for responding to customer requests for access to, correction of, or deletion of their data.

The challenges and opportunities in compliance for banking institutions in Indonesia are significant, particularly in the context of cyber-crimes.³⁶ These crimes can result in damage and disruption to the banking system, as well as theft of customer data. There are at least two groups of victims in the banking system: the banking companies themselves and the customers whose data has been stolen. Cybercriminals employ various tactics such as sending Malware, Ransomware, and Viruses to achieve their objectives, which include damaging the system, stealing confidential data, and obtaining illegal financial benefits. These activities can have a detrimental impact on the bank's reputation, operations, finances, compliance, and legal challenges.

In the event of a bank data leak, responsibility lies with both the bank and the customer, depending on the cause of the leak. Banks have a responsibility to maintain the security of customer data and protect their data, while customers are required to actively provide information regarding irregularities or losses they have suffered to the bank. Additionally, they are obliged to provide information in the judicial process as a witness if a legal problem occurs.

Customers have the right to receive protection for their savings or accounts held at a bank, obtain information relating to possible risks of loss in connection with their transactions, and receive compensation for lost or stolen

³⁵ Saffady, William. *Records and information management: fundamentals of professional practice*. Rowman & Littlefield, 2021.

³⁶ Yusup, Deni Kamaludin. "Cyber Security Sharing Platform: Indonesia Approach in Law Enforcement of Financial Transaction Crimes." *J. Legal Ethical & Regul. Isses* 25 (2022): 1.

funds or accounts from the bank holding the deposit rights. On the other hand, customers are obliged to actively provide information regarding irregularities or losses they have suffered to the bank.

Banks have a crucial responsibility in protecting customer personal data. This includes addressing security by ensuring that their data security systems continue to be improved, implementing appropriate policies and protocols to protect customers' data, and having strong systems and infrastructure to detect and prevent unauthorized access to customer data. In the event of a suspected customer data leak, banks must provide a quick and transparent response to affected customers, carry out thorough investigations, report incidents to competent authorities, and provide relief and recovery to affected customers.

Furthermore, banks also have a responsibility to increase customer awareness about data security threats and how to protect themselves. This can be achieved through educational campaigns, providing advice on digital security practices, and ensuring customer compliance with applicable security policies.

By Article 46 of the PDP Law, if there is a failure to protect customer personal data, the bank is obliged to provide written notification no later than 3 x 24 hours to the customer and the bank supervision agency. Additionally, banks are required to ensure that information security is implemented effectively and efficiently on aspects of human resources, technological processes, and physical or environmental aspects in the overall implementation of instructional technology.

Compliance for banking institutions in Indonesia presents both challenges and opportunities, particularly in the context of cyber-crimes. Banks must address security, prevention, detection, quick response, and transparency, carrying out investigations and reporting, providing relief and recovery, and increasing awareness to protect customer personal data and maintain compliance with relevant laws and regulations.

D. CONCLUSION AND RECOMMENDATIONS

Based on the provided material, it is evident that Indonesia has embraced the Industrial Revolution 4.0, leading to significant changes in the IT field and the

widespread use of digital technology among its citizens. The rapid development of technology has brought about numerous benefits, including easier and faster banking transactions. However, it has also raised concerns about data privacy and protection.

The issue of personal data leaks, especially in the banking sector, has become a growing concern. The recent ratification of Law Number 27 of 2022 concerning Personal Data Protection (PDP Law) is a significant step towards addressing these concerns. This law aims to provide comprehensive measures to safeguard personal data during its processing and uphold the constitutional rights of individuals who own that data.

In the context of banking regulations, the principle of bank confidentiality is crucial in maintaining public trust. While the Banking Law regulates the principles of bank secrecy, it does not explicitly address the confidentiality of customer data. Therefore, compliance with the new regulations presents both challenges and opportunities for banking institutions in Indonesia.

Compliance with the PDP Law requires banking institutions to invest in robust data protection measures, revise their data collection and processing practices, and establish processes for responding to customer requests regarding their data. Additionally, addressing cybercrimes and ensuring quick response and transparency in the event of data leaks are essential responsibilities for banking institutions.

While compliance with the PDP Law poses challenges for banking institutions, it also presents opportunities to enhance data protection measures, build customer trust, and increase awareness about data security threats. By addressing these challenges and opportunities, banking institutions can maintain compliance with relevant laws and regulations while ensuring the security and protection of customer personal data.

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