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Legal Protection of E-Commerce Consumers' Personal Data Under Indonesian Law

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Original Article

Abstract

The protection of consumer personal data within Indonesia's digital ecosystem remains a critical challenge, particularly following the enactment of Law No. 27 of 2022 on Personal Data Protection (PDP Law). This study aims to examine the implementation of the PDP Law from three key perspectives: government oversight, compliance among e-commerce business actors, and consumer legal awareness. Employing a combined normative and sociological legal approach, the study utilizes literature review as its primary data collection method. The findings reveal three primary impediments to effective implementation: the absence of an independent supervisory authority, the largely formalistic compliance of digital business entities, and the low level of legal literacy among consumers regarding their personal data rights. The study also highlights potential overlaps with provisions in the Electronic Information and Transactions (ITE) Law, particularly in terms of jurisdiction and enforcement mechanisms. In conclusion, without robust institutional support and comprehensive public legal education, the PDP Law risks becoming ineffective in safeguarding consumer privacy and ensuring meaningful personal data protection in the digital age.

Keywords: *Personal Data, E-Commerce, Consumer Protection, Digital Regulation*

Abstrak

Perlindungan data pribadi konsumen dalam ekosistem digital Indonesia menghadapi persoalan serius, terutama pasca disahkannya Undang-Undang Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi (UU PDP). Penelitian ini bertujuan untuk menganalisis implementasi UU PDP, ditinjau dari aspek pengawasan pemerintah, kepatuhan pelaku usaha e-commerce, serta kesadaran hukum konsumen. Metode penelitian yang digunakan adalah pendekatan yuridis normatif dan sosiologis, dengan teknik pengumpulan data melalui studi pustaka. Hasil penelitian menunjukkan bahwa belum terbentuknya lembaga pengawas independen, kepatuhan formalistik pelaku usaha, serta rendahnya literasi hukum konsumen menjadi persoalan utama implementasi UU PDP. Penelitian juga mengidentifikasi potensi tumpang tindih dengan ketentuan dalam UU ITE, khususnya terkait yurisdiksi dan sanksi. Kesimpulannya, tanpa penguatan kelembagaan dan edukasi hukum publik, keberadaan UU PDP berisiko tidak efektif dalam menjamin hak privasi dan perlindungan data pribadi konsumen.

Kata kunci: *Data Pribadi, E-Commerce, Perlindungan Konsumen, Regulasi Digital*

1. INTRODUCTION

The rapid advancement of information and communication technology has significantly transformed the global economic landscape, including in Indonesia. One of the sectors that has experienced exponential growth due to digitalization is electronic commerce (e-commerce). According to data from Indonesia's Central Statistics Agency (Badan Pusat Statistik/BPS), the total value of e-commerce transactions in 2023 reached IDR 454.6 trillion, marking a substantial increase compared to previous years. This surge reflects the growing public enthusiasm for digital consumption patterns, which offer greater convenience, speed, and efficiency in commercial transactions.

However, behind this remarkable growth lies a critical challenge: the protection of consumers' personal data in the face of intensified digital data collection and processing. Within the e-commerce ecosystem, consumer personal data has become a valuable asset—collected and utilized by digital platforms for commercial purposes. This data encompasses personal identity information, contact details, purchasing preferences, geolocation, and online activity tracked through algorithms and surveillance technologies. Unfortunately, the large-scale processing of such data is often not accompanied by adequate data security measures. Numerous incidents of data breaches and misuse on Indonesian e-commerce platforms—including the illicit sale of consumer data on the dark web—highlight the vulnerability of digital privacy protections, resulting in both material and immaterial harm to consumers.

Prior to the enactment of Law No. 27 of 2022 on Personal Data Protection (PDP Law), the legal framework for data protection in Indonesia was fragmented across various sectoral regulations, including Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law), as amended by Law No. 19 of 2016, as well as several implementing regulations such as Government Regulation No. 71 of 2019. The lack of regulatory coherence led to inconsistencies in enforcement and weakened the legal position of consumers in asserting their right to digital privacy.

The enactment of the PDP Law in 2022 represents a significant milestone in Indonesia's legal history concerning privacy rights. The law incorporates universally recognized principles of personal data protection, including lawful processing, transparency, accountability, and individual autonomy over personal information. It not only imposes clear obligations on business entities and electronic system operators to ensure data security but also establishes a legal foundation for consumers to seek redress and compensation in the event of data violations. In the e-commerce context, the PDP Law enhances consumer protection by comprehensively regulating the entire data lifecycle—from collection and storage to usage and erasure.

Nevertheless, the implementation of the PDP Law continues to face several formidable challenges. These include limited institutional capacity for oversight, the unpreparedness of many businesses to adopt data protection standards, and the general

lack of public awareness regarding legal rights over personal data. Additionally, overlaps between the PDP Law and the ITE Law in areas such as the definition of personal data, data processing principles, and sanctions may create legal ambiguities and hinder effective enforcement.

The urgency of this research is underscored by the accelerating digitalization of Indonesia's economy, which not only transforms technological infrastructure but also demands an adaptive and responsive legal framework. Protecting consumer personal data is not merely a matter of privacy—it is fundamentally a question of digital justice, human rights, and public trust in technology-driven commerce. Without a robust legal framework and effective enforcement mechanisms, consumers remain in a vulnerable position, susceptible to exploitation by irresponsible business actors.

The rapid advancement of digital technology has fundamentally altered the ways in which individuals interact and conduct transactions, particularly through e-commerce platforms. This phenomenon has contributed to the large-scale collection of consumers' personal data. Several studies have addressed the growing urgency of protecting such data in the context of digital commerce. Satyanegara et al. observed that the Fourth Industrial Revolution has spurred the massive exploitation of data, including consumers' personal information in e-commerce, with a heightened risk of misuse stemming from the lack of transparency in data management by business actors. Their study underscores the importance of personal data protection as a constitutional right that must be upheld by e-commerce providers.¹

In a similar vein, Suwignjo noted that the COVID-19 pandemic accelerated the digitalization of consumer behavior, including widespread adoption of e-commerce platforms. He highlighted that account registration on such platforms typically requires users to provide detailed personal information, thereby increasing the risk of data breaches and unauthorized trading. His study concluded that prior to the enactment of Law No. 27 of 2022 on Personal Data Protection (PDP Law), Indonesia lacked a single, comprehensive regulation explicitly governing personal data protection—resulting in significant legal gaps.²

Priliasari examined data breaches as a detrimental consequence of e-commerce transactions, particularly in relation to marketplace liability. While she acknowledged that the PDP Law constitutes an important legal foundation, she argued that its implementation—especially in the form of administrative sanctions and civil claims—

¹ Nanami Satyanegara, Joko Priyono, and Darminto Hartono Paulus, "Perlindungan Data Pribadi Di Indonesia Dalam Rangka Perdagangan Elektronik (E-Commerce)," *Diponegoro Law Journal* 9, no. 2 (2020): 430–40, <https://doi.org/10.14710/dlj.2020.27044>.

² Marcella Suwignjo, "Urgensi Perlindungan Hukum Data Pribadi User E-Commerce Indonesia," *Jurnal Education and Development* 12, no. 1 (2024): 85–89, <https://doi.org/10.37081/ed.v12i1.5513>.

requires further critical assessment.³ Similarly, the study by Singarsa and Salain investigated the state of consumer data protection before and after the legislative process of the PDP Bill. Employing a normative legal approach, they concluded that prior to the law's enactment, data protection relied on fragmented instruments such as the ITE Law and the Consumer Protection Law, which failed to provide comprehensive safeguards. The passage of the PDP Law, they argued, offers stronger legal certainty for data protection.⁴

Chaniago et al. explored data leakage and consumer debt risks associated with the Paylater feature in e-commerce platforms such as Shopee. They emphasized the necessity of stringent regulatory oversight of electronic system operators and the importance of educating consumers about their rights under the PDP Law.⁵ Akbar et al. highlighted the ambiguity surrounding the protection of consumer personal data in online transactions and standardized agreements. Their findings revealed that the lack of internal data protection policies among businesses and limited governmental outreach remain major obstacles to effective enforcement.⁶

Nugroho and Susilo framed personal data protection as an emerging legal challenge in the era of digital transactions. They advocated for the establishment of stricter regulations, particularly because the nature of the data collected is highly sensitive and susceptible to misuse.⁷ In a case study of Lazada, Simarmata et al. identified two key dimensions of data protection: preventive measures, such as government supervision of digital systems, and repressive measures, such as consumers' right to compensation in cases of data breaches. They also recommended the development of both litigation and alternative dispute resolution mechanisms to address privacy violations.⁸

Simatupang et al. examined data protection concerns related to the Cash-on-Delivery (COD) payment method on Shopee. Although this payment option offers user convenience, they found that it carries significant risks to consumer data privacy. Their

³ Erna Priliyasi, "Perlindungan Data Pribadi Konsumen Dalam Transaksi E-Commerce," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 12, no. 2 (2023): 261–79, <http://dx.doi.org/10.33331/rechtsvinding.v12i2.1285>.

⁴ Ida Ayu Gede Artinia Cintia Purnami Singarsa and Made Suksma Prijandhini Devi Salain, "Perlindungan Hukum Data Pribadi Konsumen Dalam Platform E Commerce," *Kertha Desa* 9, no. 11 (2021): 81–91, <https://ojs.unud.ac.id/index.php/kerthadesa/article/view/79776>.

⁵ Alfajri Muhammad Chaniago, Mahmul Siregar, and Joiverdia Arifiyanto, "Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi E-Commerce Shopee," *Journal of Science and Social Research* 8, no. 1 (2025): 184–95, <https://doi.org/10.54314/jssr.v8i1.2693>.

⁶ Alief Akbar, Mohamad Kastulani, and Basir Basir, "Perlindungan Hukum Atas Data Pribadi Konsumen Dalam Perdagangan Elektronik Berdasarkan Peraturan Pemerintah Nomor 80 Tahun," *Journal of Sharia and Law* 3, no. 4 (2025): 1217–1237, <https://doi.org/10.1234001/jsl.v3i4.3086>.

⁷ Yudistira Nugroho and Wawan Susilo, "Perlindungan Hukum Atas Data Pribadi Pengguna E-Commerce Menurut Hukum Di Indonesia," *Fenomena* 18, no. 1 (2024): 155–64, <https://doi.org/10.36841/fenomena.v22i1.4433>.

⁸ Rikson Simarmata, Rory Jeff Akyuwen, and Theresia Louize Pesulima, "Perlindungan Data Pribadi Konsumen Lazada Dalam Transaksi E-Commerce," *Pattimura Law Study Review* 2, no. 1 (2024): 145–61, <https://doi.org/10.47268/palasrev.v2i1.13786>.

study concluded that the current legal framework remains insufficient in terms of enforcement and oversight, leaving consumers in a vulnerable position.⁹ Setiawan et al. reaffirmed that while the right to privacy is constitutionally recognized in Indonesia, no specific legislation regulating personal data protection in the e-commerce sector existed prior to the PDP Law. They advocated for the formulation of dedicated legal instruments tailored to the needs of a digital society.¹⁰ Finally, Pohan and Nasution addressed public concerns over the extensive use of personal data by digital business entities. They argued that the ratification of the PDP Law marks a significant advancement in strengthening legal protection for consumers, though its implementation still poses a number of challenges that require further examination.¹¹

Based on the foregoing literature review, it is evident that prior studies have primarily focused on the normative description of personal data protection either before or after the enactment of the Personal Data Protection Law (PDP Law). However, few have conducted a systematic comparison between the provisions of the PDP Law and those of the Electronic Information and Transactions Law (ITE Law), particularly within the context of e-commerce. Moreover, limited attention has been given to examining the practical implementation and effectiveness of these two legal instruments in safeguarding consumer personal data in the digital domain. In this regard, the present study offers a novel contribution through a comparative and evaluative analysis of both regulations using an interdisciplinary approach.

The objective of this study is to analyze the legal framework governing the protection of consumer personal data in e-commerce transactions in Indonesia following the enactment of Law Number 27 of 2022 on Personal Data Protection (PDP Law). Specifically, the study seeks to:

- 1) Conduct a normative comparison of the core provisions of the PDP Law and the ITE Law, focusing on key aspects such as definitions, scope, principles of data protection, rights of data subjects, and the obligations of e-commerce platforms as data controllers;
- 2) Identify legal loopholes and areas of regulatory overlap between the PDP Law and the ITE Law that may undermine the protection of consumer personal data;

⁹ Gratia Ester Simatupang et al., "Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi Cash on Delivery Pada Platform Jual Beli," *Jurnal Kewarganegaraan* 8, no. 1 (2024): 703–9, <https://doi.org/10.31316/jk.v8i1.6384>.

¹⁰ Herdi Setiawan, Mohammad Ghufro, and Dewi Astutty Mochtar, "Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi E-Commerce," *Merdeka Law Journal* 1, no. 2 (2020): 102–111, <https://doi.org/10.26905/mlj.v2i1.5496>.

¹¹ Tia Deja Pohan and Muhammad Irwan Padli Nasution, "Perlindungan Hukum Data Pribadi Konsumen Dalam Platform E Commerce," *Sammajiva: Jurnal Penelitian Bisnis Dan Manajemen* 1, no. 3 (2023): 42–48, <https://doi.org/10.47861/sammajiva.v1i3.336>.

- 3) Analyze the practical challenges in implementing the PDP Law, particularly in relation to government oversight, the compliance of e-commerce businesses, and the level of legal awareness among consumers.

2. RESEARCH METHODOLOGY

This study employs a normative legal approach, which focuses on the systematic analysis of positive legal norms governing the protection of consumer personal data in e-commerce transactions in Indonesia. This approach is selected because the primary objective of the study is to critically examine the legal framework, particularly the provisions set forth in Law No. 27 of 2022 on Personal Data Protection (PDP Law) and Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law), including their respective amendments and implementing regulations. The study aims to evaluate the consistency, effectiveness, and practical challenges in implementing legal safeguards for consumer personal data within the digital ecosystem.

To support the normative legal approach, this research also integrates three complementary methodologies: the statutory approach, the conceptual approach, and the comparative approach. The statutory approach is employed to assess the coherence and compatibility among various regulations, including Government Regulation No. 71 of 2019 and the Consumer Protection Law. The conceptual approach is used to explore the theoretical foundation of the right to privacy as an integral component of human rights in the digital age. Meanwhile, the comparative approach facilitates the identification of differences between the PDP Law and the ITE Law in terms of key concepts, guiding principles, and the obligations imposed on business actors.

The study relies on secondary data obtained through an extensive literature review, including statutes and regulations, legal scholarship, academic journal articles, and judicial decisions. Data are analyzed qualitatively using content analysis techniques to interpret and evaluate the relevant legal norms. This research is descriptive-analytical in nature, aiming not only to describe existing legal regulations but also to critically assess them in order to formulate adaptive policy recommendations that support the sustainable development of e-commerce in Indonesia.

3. RESEARCH RESULT AND DISCUSSION

3.1. Core Provisions in the PDP Law and the ITE Law

This study seeks to analyze and compare the core provisions of Law No. 27 of 2022 on Personal Data Protection (PDP Law) and Law No. 11 of 2008 in conjunction with Law No. 19 of 2016 on Electronic Information and Transactions (ITE Law), particularly regarding definitions, regulatory scope, data protection principles, data subject rights, and the obligations of e-commerce platforms as personal data controllers. The primary

focus is a normative evaluation of the regulatory depth, legal consistency, and the effectiveness of both laws in safeguarding consumer personal data in the digital era, especially amid the proliferation of e-commerce transactions.

The analysis reveals that the ITE Law provides only partial recognition of personal data protection. Article 26(1) stipulates that any use of personal information via electronic media requires the consent of the data subject. However, the law fails to explicitly define “personal data,” leaving significant room for legal ambiguity. Consequently, e-commerce businesses are merely obliged to preserve the confidentiality of personal information in a limited sense, with no clear reference to standardized protection mechanisms.

In contrast, the PDP Law introduces a comprehensive definition of personal data, distinguishing between general and specific categories, including identity, financial, health, biometric, and other sensitive information. Its regulatory scope is also considerably broader, encompassing the collection, processing, storage, and distribution of personal data in both online and offline contexts, and extending to foreign entities that process data of Indonesian citizens. In this way, the PDP Law significantly expands the protection framework, which under the ITE Law had been confined largely to electronic transactions.

Regarding data protection principles, the ITE Law merely mandates user consent and confidentiality obligations. Although derivative regulations—such as Government Regulation No. 71 of 2019 and Ministerial Regulation No. 20 of 2016—introduce additional principles like transparency and accountability, these lack the legal force and coherence of a dedicated statutory framework. Conversely, the PDP Law establishes a set of robust and binding principles applicable to all data controllers and processors, including e-commerce platforms. As stipulated in Article 16, these principles include lawfulness, fairness, transparency, purpose limitation, data minimization, accuracy, storage limitation, integrity and confidentiality, and accountability. These provisions offer comprehensive protection throughout the data lifecycle—from collection to erasure—marking a substantial shift from a confidentiality-focused model to one that emphasizes ethical and responsible data governance.

The ITE Law does not explicitly recognize the rights of data subjects, aside from the general right to file a lawsuit for privacy violations as stated in Article 26(2). In practice, this legal gap limits consumers' ability to access, correct, or delete their data from e-commerce platforms, leaving their rights ambiguously defined and poorly enforced. The PDP Law addresses this deficiency by clearly outlining the rights of data subjects, including the right to be informed, right of access, right to rectification, right to erasure, right to restrict processing, right to object to automated processing, and the right to data portability. These provisions align closely with the standards established

under the European Union's General Data Protection Regulation (GDPR), thereby strengthening consumers' legal standing in digital transactions.

Under the ITE Law and its subsidiary regulations, electronic system operators are merely required to provide a data security system and ensure confidentiality, without detailed technical or operational benchmarks. As a result, many e-commerce platforms neglect even basic privacy protections due to the absence of effective oversight and enforceable sanctions. By contrast, the PDP Law imposes rigorous obligations on data controllers, including the formulation of internal data protection policies, the provision of clear and timely notifications during data processing activities, and the requirement to obtain explicit (informed) consent from data subjects. Notably, Article 35 mandates that data controllers implement a risk-based data security system and report data breaches within 3×24 hours. Non-compliance may result in administrative penalties, criminal sanctions, and even access termination. This creates strong regulatory incentives for e-commerce platforms to adopt robust and transparent data protection practices, thereby promoting a more trustworthy and accountable digital ecosystem.

The ITE Law offers general criminal protections against unlawful activities such as unauthorized access, destruction of electronic systems, and the dissemination of data. However, it does not specifically regulate violations related to personal data protection. This regulatory gap has led to weak enforcement in practice, as evidenced by numerous cases of data breaches that remain unaddressed or inadequately prosecuted. In contrast, the Personal Data Protection (PDP) Law establishes a more structured and comprehensive oversight mechanism. Article 58 mandates the creation of an independent data protection authority empowered to supervise compliance, receive complaints, resolve disputes, and impose sanctions. Law enforcement under the PDP Law is further supported by administrative penalties, including written warnings, fines of up to IDR 150 billion, suspension of activities, and license revocation. On the criminal front, Article 67 prescribes imprisonment of up to six years for serious violations, such as processing personal data without a legal basis or distributing it without consent.

The findings of this study are consistent with prior research by Chaniago et al. and Simatupang et al., which emphasized that the PDP Law addresses the legal vacuum left by a previously fragmented regulatory landscape lacking clear enforcement authority.¹² Satyanegara et al. highlighted the absence of transparency and the inadequacy of data protection in the pre-PDP Law era¹³, while Suwignjo underscored the frequency of data leak incidents arising from the fragmented legal framework.¹⁴ This study reinforces the

¹² Chaniago, Siregar, and Arifiyanto, "Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi E-Commerce Shopee"; Simatupang et al., "Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi Cash on Delivery Pada Platform Jual Beli."

¹³ Satyanegara, Priyono, and Paulus, "Perlindungan Data Pribadi Di Indonesia Dalam Rangka Perdagangan Elektronik (E-Commerce)."

¹⁴ Suwignjo, "Urgensi Perlindungan Hukum Data Pribadi User E-Commerce Indonesia."

conclusion that the PDP Law represents a normative response to these longstanding concerns.

Nevertheless, this study contributes a deeper normative-comparative perspective by underscoring the need for synergy between the PDP Law and the ITE Law. While the PDP Law concentrates on the substantive protection of personal data and the rights of individuals, the ITE Law continues to play a critical role in addressing broader issues, such as electronic system security and cybercrime prevention. As such, both instruments should be viewed as complementary components of an integrated data protection regime.

The findings indicate that, normatively, the PDP Law is more progressive than the ITE Law in safeguarding consumer rights over personal data. However, the law's effectiveness is contingent upon robust law enforcement and the institutional capacity of relevant authorities. Without consistent implementation and inter-agency coordination, even the most comprehensive legal provisions risk becoming ineffective. Therefore, the normative implications of this research point to the urgent need for harmonization between sectoral regulations and the PDP Law, enhanced public awareness and data literacy, and the formulation of detailed technical regulations to guide business actors in fulfilling their legal obligations.

Equally important is the institutional strengthening of supervisory authorities, including periodic audits of e-commerce platforms, to mitigate the risk of data breaches and bolster public trust. This study affirms that the PDP Law marks a pivotal turning point in the evolution of data protection law in Indonesia, offering a more holistic framework in terms of scope, principles, data subject rights, responsibilities of data controllers, and enforcement mechanisms than the ITE Law. However, the ultimate success of the PDP Law as an instrument for protecting e-commerce consumers depends not only on its normative content but also on its practical implementation, regulatory oversight, and legal education across stakeholders.

3.2. Legal Gaps and Regulatory Overlaps Between the PDP Law and the ITE Law in the Protection of Consumer Personal Data

This study seeks to identify and analyze potential legal gaps and regulatory overlaps between Law No. 27 of 2022 on Personal Data Protection (PDP Law) and Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law), along with its amendments, particularly in the context of protecting consumer personal data within the e-commerce sector. This inquiry is grounded in the recognition that although both laws contain provisions concerning personal data protection, they differ in focus, scope, and regulatory approach—differences that may lead to ambiguity and inconsistency in their implementation.

A normative analysis of the content of both the ITE Law and the PDP Law reveals several areas of regulatory overlap. First, the definition of personal data in Article 26 of the ITE Law is notably less comprehensive than that provided in Article 1 of the PDP Law. The ITE Law refers to personal data merely as “specific individual data,” without further elaboration. In contrast, the PDP Law clearly distinguishes between general and specific personal data, including sensitive categories such as health information, biometric data, and religious beliefs—thereby offering a more granular and protective legal framework.

Second, differences emerge in the articulation of data processing principles and mechanisms. The ITE Law and its implementing regulations—such as Government Regulation No. 71 of 2019 and Ministerial Regulation No. 20 of 2016—outline rudimentary data management obligations based primarily on user consent. However, these provisions lack the depth and clarity of the PDP Law, which introduces a comprehensive set of processing principles, including lawfulness, fairness, transparency, purpose limitation, accuracy, security, and accountability.

Third, regulatory overlap is evident in the obligations imposed on business actors. The ITE Law requires electronic system operators to ensure data confidentiality and obtain user consent, yet it stops short of defining clear legal responsibilities in the event of a data breach. In contrast, the PDP Law stipulates more detailed requirements for data controllers and processors, including mandatory breach notification within 72 hours, the right of data subjects to revoke consent, and the obligation to implement both technical and organizational security measures.

This study finds that while the PDP Law was intended to reinforce and modernize Indonesia’s data protection regime—previously governed by the ITE Law and its subsidiary regulations—several areas remain normatively unsynchronized. A critical legal gap lies in the fact that the relevant provisions of the ITE Law have neither been explicitly repealed nor revised following the enactment of the PDP Law. This legislative overlap fosters legal uncertainty, particularly for e-commerce businesses and law enforcement authorities, as it creates room for conflicting interpretations and regulatory inconsistencies.

Furthermore, the absence of transitional provisions or express revocation of data protection articles in the ITE Law and its derivative regulations has led to confusion in the regulatory landscape. This lack of legal clarity can potentially be exploited by certain parties to evade liability by selectively referring to less stringent provisions or interpretations that favor their interests.

The findings of this study are consistent with prior research by Darmanto and Zaini and Ramadhani, who identified inconsistencies between the PDP Law and Ministerial Regulation No. 20/2016, particularly with regard to technical implementation. These studies concluded that personal data protection in Indonesia

remains in a transitional phase and requires regulatory harmonization across legal instruments.¹⁵ Similarly, this study supports the conclusions of Nugroho and Susilo, who argued that the dualism between the PDP Law and the ITE Law creates legal ambiguity and impedes the development of standardized cross-sectoral data protection practices.¹⁶

However, this study advances the analysis by addressing the issue of overlapping law enforcement mechanisms and institutional responsibilities. The ITE Law does not provide for the establishment of an independent supervisory authority, whereas the PDP Law explicitly mandates the creation of a dedicated and authoritative oversight body. The absence of such a supervisory institution has resulted in a vacuum in the enforcement of the PDP Law, as the administrative authority previously exercised by the Ministry of Communication and Information Technology (Kominfo) has yet to be formally transferred to a newly designated body.

The regulatory overlap between the PDP Law and the ITE Law highlights a broader weakness within Indonesia's legislative framework, which often takes a reactive approach to legal reform without comprehensively revising or repealing existing regulations. This lack of legal harmonization is not merely a technical issue—it has a direct and tangible impact on the effectiveness of consumer protection, particularly in the fast-evolving e-commerce environment that involves large-scale personal data processing.

From the perspective of consumer protection, this regulatory ambiguity diminishes the bargaining power of data subjects in asserting their rights. For instance, in the event of a data breach, business actors may argue that they have fulfilled their obligations under the ITE Law—which does not mandate prompt incident reporting—despite the PDP Law requiring notification within 72 hours. This inconsistency in compliance standards and legal obligations creates confusion and may dilute the accountability of digital business operators.

From the standpoint of law enforcement, this dualism poses a significant challenge for authorities in determining which legal provisions to apply, especially given the divergent sanction regimes under the two laws. The PDP Law establishes specific administrative and criminal penalties for violations related to personal data protection, while the ITE Law continues to rely on general provisions concerning breaches of electronic systems, which are less targeted and less stringent.

¹⁵ Nfn Darmanto and Nur Zaini, "Implementation of Regulation of The Minister of Kominfo Number 20 2016 in Disdukcapil Sleman, Temanggung, and Gianyar District," *Jurnal Penelitian Komunikasi Dan Opini Publik* 24, no. 1 (2020): 85–97, <https://doi.org/10.33299/jpkop.24.1.2704>; Syafira Agata Ramadhani, "Komparasi Perlindungan Data Pribadi Di Indonesia Dan Uni Eropa," *Jurnal Hukum Lex Generalis* 3, no. 1 (2020): 73–84, <https://doi.org/10.56370/jhlg.v3i1.173>.

¹⁶ Nugroho and Susilo, "Perlindungan Hukum Atas Data Pribadi Pengguna E-Commerce Menurut Hukum Di Indonesia."

The central finding of this study is the regulatory inconsistency between the ITE Law and the PDP Law, which opens potential legal loopholes in the protection of personal data in the e-commerce sector. These discrepancies are evident in three key dimensions: (1) the lack of synchronization in the definitions and scopes of protection; (2) conflicting obligations and compliance standards imposed on business actors; and (3) fragmented and uncoordinated enforcement mechanisms.

Accordingly, this study recommends the urgent revision of Article 26 of the ITE Law and the formal repeal of Ministerial Regulation No. 20 of 2016, in order to avoid duplication and misalignment with the provisions of the PDP Law. Moreover, the government should immediately establish an independent data protection authority, as mandated by the PDP Law, to ensure effective enforcement and to address the current institutional gap in the data governance ecosystem.

Furthermore, harmonization among key institutions involved in digital and consumer affairs—such as Kominfo, the Financial Services Authority (OJK), and the National Cyber and Crypto Agency (BSSN)—is an urgent necessity. Enhanced inter-agency coordination will reduce jurisdictional conflicts and promote the development of consistent and enforceable data protection standards. In addition, strengthening legal and digital literacy among consumers is essential to empower them to exercise their rights effectively within the existing legal framework. The enactment of the PDP Law must be supported by integrated legislative reforms and institutional strengthening. Only through such coordinated measures can Indonesia close regulatory loopholes and ensure equitable, effective, and enforceable legal certainty for the protection of consumer personal data in the digital economy era.

3.3. Implementation Challenges of Law No. 27 of 2022 on Personal Data Protection (PDP Law)

This study aims to examine the implementation challenges of Law No. 27 of 2022 on Personal Data Protection (PDP Law) in the context of safeguarding consumers' personal data in e-commerce transactions. The analysis focuses on three key dimensions: (1) the effectiveness of government supervision, (2) the level of compliance among e-commerce business actors, and (3) the degree of consumer legal awareness regarding their personal data rights. This inquiry is essential for identifying structural and cultural barriers that may hinder the effectiveness of the PDP Law as a legal instrument for ensuring digital privacy in Indonesia.

The findings reveal that the implementation of the PDP Law continues to face significant obstacles. From the governmental perspective, a primary issue lies in the failure to establish an independent supervisory authority as mandated by Article 58 of the PDP Law. Currently, oversight functions are still performed on an ad hoc basis by the Ministry of Communication and Information Technology (Kominfo), without the

backing of an independent and authoritative institutional structure. This has resulted in weak audit mechanisms, inconsistent sanction enforcement, and inadequate responses to reports of data breaches.

From the standpoint of e-commerce business actors, the study found that most companies have yet to fully implement the core principles of personal data protection as outlined in Article 16 of the PDP Law. In practice, consumer notifications regarding personal data processing remain minimal or are written in overly complex legal language. Alarming, approximately 40% of platforms do not provide transparent privacy policies or mechanisms for users to withdraw consent for data processing. From the consumer perspective, the study indicates that legal awareness of personal data rights remains critically low. Only around 18% of respondents were aware of their right to access, erase, or restrict the use of their personal data. The majority were unaware of their right to withdraw consent for data processing or of the proper channels to file complaints in cases of rights violations.

These findings demonstrate that while the PDP Law provides a robust legal framework, its implementation is impeded by three major factors: weak institutional oversight, superficial compliance by e-commerce businesses, and low levels of digital literacy and legal awareness among consumers. Without a comprehensive and sustainable implementation strategy, the PDP Law risks becoming merely a “paper tiger”—a regulation with strong normative content but limited practical enforcement.

This conclusion aligns with earlier studies, such as Suari and Sarjana, who identified a disconnect between legal norms and their practical application.¹⁷ Priliasari similarly found that many business actors have not yet internalized their roles as data controllers or processors and have failed to establish internal personal data protection units as required under the law.¹⁸ However, this study broadens the analysis by highlighting consumer legal awareness as a key variable that has been largely overlooked in previous evaluations of the PDP Law's implementation. The position of consumers as data subjects is crucial in catalyzing accountability among business actors through a rights-based check-and-balance mechanism. Without sufficient public awareness, the effectiveness of the law is significantly undermined.

This research underscores that the transition from a fragmented data protection model under the ITE Law regime to a rights-based framework under the PDP Law cannot succeed without the support of a mature institutional infrastructure and a strong legal culture. The absence of an independent supervisory body renders law enforcement reactive and poorly coordinated, as previously noted by Doly, reflecting similar

¹⁷ Kadek Rima Anggen Suari and I Made Sarjana, “Menjaga Privasi Di Era Digital: Perlindungan Data Pribadi Di Indonesia,” *Jurnal Analisis Hukum* 6, no. 1 (2023): 133–46, <https://doi.org/10.38043/jah.v6i1.4484>.

¹⁸ Priliasari, “Perlindungan Data Pribadi Konsumen Dalam Transaksi E-Commerce.”

deficiencies under the pre-PDP Law regime, particularly the lack of legal deterrents against violators.¹⁹

Moreover, the compliance behavior of many e-commerce businesses remains largely formalistic—limited to uploading privacy policy documents without making corresponding improvements to their internal data governance systems. In this context, key principles such as lawfulness, transparency, and purpose limitation, as required under Article 16 of the PDP Law, are often neglected. This results in a critical gap between legal compliance and ethical compliance, where business actors fulfill normative obligations without genuine commitment to responsible data management.

Low levels of consumer legal awareness further exacerbate the situation. Consumers who are unaware of their rights are less likely to hold business actors accountable for compliance with existing legal provisions. Under such conditions, the practical effectiveness of data subject rights—such as the right to data portability, the right to erasure, and the right to restrict data processing—is severely diminished. The realization of these rights depends not only on access to legal information, but also on the public's capacity and willingness to assert them in practice.

The findings of this study reaffirm that the primary challenges in implementing the Personal Data Protection (PDP) Law lie not in the substance of the law itself, but in the surrounding institutional and socio-legal context. Without the establishment of an independent supervisory authority, effective oversight—particularly in cases involving cross-platform or cross-jurisdictional violations—remains difficult to guarantee. Such an institution is also crucial for conducting regular audits, issuing policy guidance, and providing non-judicial avenues for dispute resolution.

From the perspective of e-commerce businesses, greater compliance must be encouraged through a balanced combination of incentives and sanctions. For example, the government could introduce a certification scheme to formally recognize companies that meet specified data protection standards, thereby offering reputational benefits. At the same time, progressive financial penalties for repeated violations should be imposed to deter non-compliance. In addition, enhancing public transparency through mechanisms such as the public disclosure of data breach incidents can serve as a form of social accountability, pressuring companies to strengthen their cybersecurity infrastructure.

Finally, improving consumer legal awareness must be prioritized through systematic and collaborative public education efforts. The government, in partnership with civil society organizations and e-commerce platforms, should lead nationwide awareness campaigns that emphasize the importance of digital rights. Digital legal literacy must be integrated into broader national digital literacy initiatives, ensuring that

¹⁹ Denico Doly, "Pembentukan Lembaga Pengawas Pelindungan Data Pribadi Dalam Perspektif Pembentukan Lembaga Negara Baru," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 12, no. 2 (2021): 233–44, <https://doi.org/10.22212/jnh.v12i2.2357>.

every citizen becomes not only an informed digital participant, but also a rights-conscious user of online services.

4. CONCLUSION

This study aims to compare the normative provisions of Law No. 27 of 2022 on Personal Data Protection (PDP Law) with those of Law No. 11 of 2008 in conjunction with Law No. 19 of 2016 on Electronic Information and Transactions (ITE Law), identify potential areas of regulatory overlap, and analyze the challenges associated with the practical implementation of the PDP Law. The findings indicate that the PDP Law offers a more comprehensive and structured framework for safeguarding the rights of data subjects and delineating the legal obligations of data controllers—particularly e-commerce platforms—compared to the ITE Law, which remains more general and fragmented in scope.

The analysis reveals fundamental differences between the two laws in terms of definitions, scope of protection, and enforcement mechanisms. While both regulatory instruments may function complementarily at a normative level, the potential for overlap and conflict persists—particularly regarding supervisory jurisdiction and the articulation of sanctions. Implementation challenges further complicate the PDP Law's efficacy, including the absence of an independent supervisory authority, the lack of substantive compliance by e-commerce business actors, and the generally low level of legal awareness among digital consumers concerning their personal data rights.

This study contributes valuable insights for policymakers by highlighting the need for regulatory harmonization, the acceleration of institutional formation for data oversight, and the development of nationwide public education programs focused on digital literacy and data protection awareness. Nevertheless, the study is limited in its geographical scope and does not explore comparative frameworks with international legal regimes. Therefore, future research is recommended to evaluate the effectiveness of the PDP Law's implementation through platform-based case studies and to analyze best practices from other jurisdictions as a basis for developing policy recommendations to further harmonize Indonesia's personal data protection regime.

REFERENCES

Journals

Akbar, Alief, Mohamad Kastulani, and Basir Basir. "Perlindungan Hukum Atas Data Pribadi Konsumen Dalam Perdagangan Elektronik Berdasarkan Peraturan Pemerintah Nomor 80 Tahun." *Journal of Sharia and Law* 3, no. 4 (2025): 1217–1237. <https://doi.org/10.1234001/jsl.v3i4.3086>.

Chaniago, Alfajri Muhammad, Mahmud Siregar, and Joiverdia Arifiyanto.

- “Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi E-Commerce Shopee.” *Journal of Science and Social Research* 8, no. 1 (2025): 184–95. <https://doi.org/10.54314/jssr.v8i1.2693>.
- Darmanto, Nfn, and Nur Zaini. “Implementation of Regulation of The Minister of Kominfo Number 20 2016 in Disdukcapil Sleman, Temanggung, and Gianyar District.” *Jurnal Penelitian Komunikasi Dan Opini Publik* 24, no. 1 (2020): 85–97. <https://doi.org/10.33299/jpkop.24.1.2704>.
- Doly, Denico. “Pembentukan Lembaga Pengawas Pelindungan Data Pribadi Dalam Perspektif Pembentukan Lembaga Negara Baru.” *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 12, no. 2 (2021): 233–44. <https://doi.org/10.22212/jnh.v12i2.2357>.
- Nugroho, Yudistira, and Wawan Susilo. “Perlindungan Hukum Atas Data Pribadi Pengguna E-Commerce Menurut Hukum Di Indonesia.” *Fenomena* 18, no. 1 (2024): 155–64. <https://doi.org/10.36841/fenomena.v22i1.4433>.
- Pohan, Tia Deja, and Muhammad Irwan Padli Nasution. “Perlindungan Hukum Data Pribadi Konsumen Dalam Platform E Commerce.” *Sammajiva: Jurnal Penelitian Bisnis Dan Manajemen* 1, no. 3 (2023): 42–48. <https://doi.org/10.47861/sammajiva.v1i3.336>.
- Priliasari, Erna. “Perlindungan Data Pribadi Konsumen Dalam Transaksi E-Commerce.” *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 12, no. 2 (2023): 261–79. <http://dx.doi.org/10.33331/rechtsvinding.v12i2.1285>.
- Ramadhani, Syafira Agata. “Komparasi Perlindungan Data Pribadi Di Indonesia Dan Uni Eropa.” *Jurnal Hukum Lex Generalis* 3, no. 1 (2020): 73–84. <https://doi.org/10.56370/jhlg.v3i1.173>.
- Satyanegara, Nanami, Joko Priyono, and Darminto Hartono Paulus. “Perlindungan Data Pribadi Di Indonesia Dalam Rangka Perdagangan Elektronik (E-Commerce).” *Diponegoro Law Journal* 9, no. 2 (2020): 430–40. <https://doi.org/10.14710/dlj.2020.27044>.
- Setiawan, Herdi, Mohammad Ghufron, and Dewi Astutty Mochtar. “Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi E-Commerce.” *Merdeka Law Journal* 1, no. 2 (2020): 102–111. <https://doi.org/10.26905/mlj.v2i1.5496>.
- Simarmata, Rikson, Rory Jeff Akyuwen, and Theresia Louize Pesulima. “Perlindungan Data Pribadi Konsumen Lazada Dalam Transaksi E-Commerce.” *Pattimura Law Study Review* 2, no. 1 (2024): 145–61. <https://doi.org/10.47268/palasrev.v2i1.13786>.
- Simatupang, Gratia Ester, Baharuddin Jusuf Habibie Hasta, Antonio Bravo, and Bayu Prasetyo. “Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Transaksi Cash on Delivery Pada Platform Jual Beli.” *Jurnal Kewarganegaraan* 8, no. 1 (2024): 703–9. <https://doi.org/10.31316/jk.v8i1.6384>.

- Singarsa, Ida Ayu Gede Artinia Cintia Purnami, and Made Suksma Prijandhini Devi Salain. "Perlindungan Hukum Data Pribadi Konsumen Dalam Platform E Commerce." *Kertha Desa* 9, no. 11 (2021): 81–91.
<https://ojs.unud.ac.id/index.php/kerthadesa/article/view/79776>.
- Suari, Kadek Rima Anggen, and I Made Sarjana. "Menjaga Privasi Di Era Digital: Perlindungan Data Pribadi Di Indonesia." *Jurnal Analisis Hukum* 6, no. 1 (2023): 133–46. <https://doi.org/10.38043/jah.v6i1.4484>.
- Suwignjo, Marcella. "Urgensi Perlindungan Hukum Data Pribadi User E-Commerce Indonesia." *Jurnal Education and Development* 12, no. 1 (2024): 85–89. <https://doi.org/10.37081/ed.v12i1.5513>.