

The Urgency of Human Rights Protection in the Digital Age in the Perspective of Data Security and Privacy

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ABSTRACT

This research aims to provide a better understanding of current technological developments, how the challenges of the digital era can affect human rights and how the law can be used as a tool to protect these rights. This research also explains cases of human rights violations related to data security and privacy, as well as looking for legal solutions that can help maintain a balance between technological progress and human rights. This research was prepared using a literacy approach or literature review using various secondary library sources to answer all problems in the research carried out.

Keywords:

Digital; Human Right;
Data Security;
Privacy

INTRODUCTION

Technological developments in the current era of globalization are taking place rapidly, especially in the field of information technology, which allows people to easily access and convey information to the general public. The impact of these advancements is seen in the evolution of the legal world and all its aspects. However, in the midst of this progress, there are concerns regarding the challenges of data security and privacy, which are important issues in safeguarding human rights.

Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to protection of self, family, honor, dignity, and property under their control, as well as the right to security and protection from threats of fear to do or not do something that is a human right. Related to personal rights as human rights, Danrivanto Budhijanto explained that "Protection of personal rights or private rights will increase human values, improve relations between individuals and their communities, increase independence or autonomy to exercise control and obtain appropriateness, as well as increase tolerance and keep away from discrimination and limit government power.

When looking at the explanation above, the protection of privacy as mentioned in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia has a close relationship with efforts to protect personal rights or private rights. In the course of its history, the concept of privacy is an idea that is universal and recognized in various countries, both in the form of written and unwritten laws in the form of moral norms.

This right is related to the spiritual needs of human beings, namely the desire to be respected in their feelings, thoughts, and the right to enjoy their lives, which is often referred to as "the right to be let alone". The concept of data protection is often considered an integral part of privacy protection. Essentially, data protection can be specifically related to privacy, as first defined by Allan Westin. He defines privacy as the right of individuals, groups or institutions to determine whether information about them will be shared with others, so Westin's definition is often referred to as information privacy due to its focus on personal information.

Data protection is also a fundamental human right, and some countries have recognized data protection as a constitutional right or in the form of "data habeas"

which entitles individuals to protect their data and seek rectification in the event of errors against their data. Countries such as Albania, Armenia, the Philippines, Timor Leste, Colombia, and Argentina, with different historical and cultural backgrounds, have recognized the important role of data protection in facilitating democratic processes and have guaranteed its protection in their constitutions.

Personal data is an asset or commodity with high economic value. The importance of personal data protection is increasingly prominent along with the growth in the number of mobile phone and internet users. The emergence of a number of cases, especially those related to personal data leakage and resulting in fraud or pornography-related crimes, has strengthened the discussion on the need for legal rules to protect personal data.

Cases of data misuse, massive privacy breaches and incidents of data leakage have shown significant negative impacts on society. Privacy and security of personal data are now at the forefront of human rights conversations in the digital age. It is not only a local challenge, but also has a global dimension. Being vulnerable to hacking and cyber-attacks that cross national borders underscores the complexity of protecting human rights in the digital age in an international context.

In an effort to protect human rights in the digital age, various parties including governments, international organizations, and private companies have taken steps to improve data security and privacy. This research focuses on the crucial issues related to data security and privacy in the context of protecting human rights in the digital age. Therefore, we will review the various protective measures that have been taken and also identify the challenges and solutions that need to be addressed in protecting human rights in the increasingly complex digital age.

METHOD

The research method applied in this research is a normative approach supported by various literature sources, including reading literature such as philosophy books, journals, online articles, media, Laws, papers, and Government Regulations. The main focus of the research is given to the literature review rather than an emphasis on the dialectical process.

RESULTS AND DISCUSSION

1. Challenges to Human Rights Protection in the Digital Age

Challenges to the Protection of Human Rights in the Digital Age include various complex issues that arise as a result of the development of information and communication technology. Some of the challenges that are likely to be faced include:

- a. Privacy Violations: The accumulation and analysis of large amounts of personal data by tech companies and governments can threaten the privacy of individuals.
- b. Internet Censorship and Control: Government censorship and internet restrictions can hinder free speech and access to information.
- c. Algorithm Discrimination: Algorithms used in decision-making may exacerbate discrimination based on race, gender, or other attributes.
- d. Cyber Security and Threats: Cyber threats such as data hacking can threaten the security of personal data and digital infrastructure.
- e. Dissemination of Misinformation: Digital technologies facilitate the dissemination of untrue or false information that can damage an individual's reputation and influence public opinion.

- f. Inappropriate Regulations and Policies: Inappropriate regulations and policies can result in legal uncertainty in terms of human rights protection in the digital era.
- g. Digital Access Gap: Not all individuals have equal access to digital technologies, which can result in inequalities in access to information and opportunities.
- h. Outdated International Human Rights Protections: International human rights concepts established before the digital age may need to be adapted to new challenges arising in the digital world.

2. Human Rights Violation Cases in the Perspective of Data and Privacy

Human rights violations in the digital age have attracted global attention, with a number of controversial cases emerging. Here are some examples of cases of human rights violations in the digital era viewed from the perspective of Data Security and Privacy.

- a. Cambridge Analytica Facebook Data Use Scandal
 In 2018, it was revealed that political consulting firm Cambridge Analytica had utilized and used personal data from millions of Facebook users without permission, with the intention of influencing the political election process. According to experts, this case highlighted the vulnerability of personal data of online users and raised questions regarding privacy, ethics, and data protection.
- b. The Spread of False Information during the 2016 United States Election involved the widespread dissemination of false information and disinformation through social media platforms, potentially influencing public views and the outcome of the election. According to experts, this case illustrates how the spread of false information online can threaten the integrity of democracy and free speech.
- c. The use of this technology in surveillance systems in China involves many private and government companies that have adopted facial recognition technology for various purposes, including security monitoring in public places and consumer data collection. The consequences of implementing facial recognition technology can threaten individual privacy and have the potential to violate human rights. In addition, it can also lead to racial and ethnic discrimination, as well as misuse of facial data.
- d. Mass Surveillance conducted by the US government through the NSA surveillance program includes several countries conducting surveillance on their citizens for national security purposes. The program collects communications data and personal information without individual consent. The impact of government invasion of privacy can threaten civil liberties and human rights. It can limit freedom of speech and communicate privately without fear.
- e. Privacy violations on Messaging Apps: The "Gurita" WhatsApp Group incident (2018): A WhatsApp group called "Gurita," consisting of members of the TNI and Polri, is indicated to have shared personal information, such as phone numbers and addresses, of activists and journalists suspected of supporting the Papuan separatist movement. This situation poses a threat to the privacy and safety of the individuals concerned.

3. Legal Solutions to Human Rights Protection Challenges in the Digital Age

Safeguarding human rights in the digital age through legal solutions is an important need to ensure the protection of individual rights in line with technological advancements. Various legal solutions have been proposed by experts to address this challenge, and their views on the matter are as follows :

- a. Regulation of Personal Data Protection: Establish strict laws to regulate the collection, processing, and storage of personal data by companies and governments.
- b. Transparency and Accountability of Technology Companies: Requires tech companies to transparently inform users about the use of their data, as well as provide accountability mechanisms in cases of privacy violations.
- c. Right to Be Forgotten: Strengthens the right of individuals to have their personal information removed from search engines or online platforms if the information is no longer relevant or legitimate.
- d. Regulating Algorithms: Develop regulations that oversee the use of algorithms in decision-making to ensure that algorithms do not result in discrimination or injustice.
- e. Protection of the Right to Speech and Access to Information: Ensure freedom of speech and access to information online by avoiding censorship or unauthorized restrictions by governments.
- f. Public Education and Awareness: Increase public education and awareness on the importance of digital privacy and human rights in the context of technology.

CONCLUSION

Challenges to human rights protection in the Digital Age involve privacy violations, internet censorship and control, algorithm discrimination, cybersecurity, misinformation dissemination, inappropriate regulation, digital access gaps, and lack of international human rights protections. It is important to find legal solutions to these challenges, such as establishing strict laws to regulate the collection, processing, and storage of personal data by companies and governments and transparency and accountability of technology companies to provide information to users about the use of their data. As well as providing accountability mechanisms in cases of privacy violations, experts also recommend regulation of personal data protection, the right to be forgotten, regulation of algorithms, protection of the right to speech and access to information, and improving public education and awareness.

Reference

- Azhargany, R. (2020). Da'wah Regarding Human Rights (HAM) in Indonesia in the Concept of Maslahah Mursalah. *Dakwatuna: Journal of Islamic Da'wah and Communication*, 6(2), 176-197.
- Alan Westin: Privacy is the claim of individuals, groups or institutions to determine for themselves when, how, and to what extent information about them is communicated to others in, Allan Westin, Alan F. Westin, *Privacy and Freedom*, London, 1967, p. 7. 7.
- Ball, J. (2014). *The Snowden Files: The Inside Story of the World's Most Wanted Man*. Vintage.
- Fauzi, A. A., Kom, S., Kom, M., Budi Harto, S. E., Mm, P. I. A., Mulyanto, M. E., ... & Rindi Wulandari, S. (2023). *Utilization of Information Technology in Various Sectors during Society 5.0*. Sonpedia Publishing Indonesia.
- Garvie, C., Bedoya, A., & Frankle, J. (2016). *The Perpetual Line-Up: Unregulated Police Face Recognition in America*. Georgetown Law Center on Privacy & Technology.
- Ginanjar, D., Firdausyi, M. F., Suswandy, S., & Andini, N. T. (2022). *Human Rights*

- Protection in the Digital Age: Legal Challenges and Solutions. *Journal on Education*, 4(4), 2080-2094
- Graham Greenleaf, 76 Global Data Protection Laws, Privacy Laws & Business Special Report, September 2011.
- Greenwald, G. (2014). *No Place to Hide: Edward Snowden, the NSA, and the U.S. Surveillance State*. Metropolitan Books.
- Jingga, E. (2023). Protection of Economic Rights of Private Scope PSE Account Owners from Blocking Due to Unregistered in Indonesia. *COMSERVA: Journal of Research and Community Service*, 3(03), 849-861.
- Kusnadi, S. A. (2021). Legal Protection of Personal Data as a Privacy Right. *AL WASATH Journal of Legal Science*, 2(1), 9-16.
- Mutiara, U., & Maulana, R. (2020). Personal Data Protection as Part of the Human Right to Personal Self-Protection. *Indonesian Journal of Law and Policy Studies*, 1(1), 42-54.
- Naufal, R. A. (2020). PT TOKOPEDIA's Responsibility in the Case of User Personal Data Leakage.
- Nasution, S. H. (2021). Data Governance and Personal Data Protection through the ASEAN Digital Masterplan 2025.
- Compiler, T., IGJ, O. G., Saputra, A. F., & Aziz, M. F. (2021). *PERSONAL DATA PROTECTION IN INDONESIA*.
- Putra, W. U. (2023). Human Rights in the Digital Realm: An Analysis of Cyber Law and Online Freedom. *Journal of Law and Human Rights Wara Sains*, 2(08), 669-682.
- Ruslan Renggong, S. H., Ruslan, D. A. R., & SH, M. K. (2021). Human Rights in the Perspective of National Law. *Prenada Media*.
- Sinaga, E. M. C., & Putri, M. C. (2020). Legislation Formulation of Personal Data Protection in the Industrial Revolution 4.0. *Journal of Rechts Vinding: Media for National Law Development*, 9(2), 237.
- Tufekci, Z. (2019). *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*. Public Affairs.
- Wijaya, T., & Nidhal, M. (2023). International Experiences with Innovative Credit Scoring: Lessons for Indonesia.
- Vide Constitution of the Republic of Indonesia Year 1945 Article 28G paragraph (1).
- United Nations. (2013). The right to privacy in the digital age. Retrieved from <https://www.ohchr.org/EN/Issues/DigitalAge/Pages/DigitalAgeIndex.aspx> accessed on November 22, 2023
- Yunita Oktavia, "Octopus Group WA Case, Why is the Data in the Hands of TNI-Polri?" (<https://tirto.id/mengapa-datanya-ada-di-tangan-tni-polri-di-kasus-wa-grup-gurita-eQSh>), Tirto.id, 2018. accessed on November 22, 2023.