
LEGAL POLITICS: PERSONAL DATA PROTECTION IN PEDULI PROTECT APPLICATIONS IN INDONESIA

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Abstract. The purpose of this study was to determine the application of personal data protection to the use of the Peduli Protect. This is because, application users are required to register an account which will automatically include personal data. Practically, the use of the Peduli Protect application can benefit the wider community even though it has to intersect with the protection of personal data. The author finds that the implementation of the Cares Protect application is still vulnerable to misuse of personal data, therefore comprehensive and detailed rules are needed to protect users of the Care Protect application. So, the use of the Care Protect application to stop the spread of Coronavirus Disease (COVID-19) which relies on public awareness and participation can run effectively without any misuse of personal data and clear sanctions for violators after the COVID-19 pandemic ends.

Keywords: political law; protection; personal data; care protect application.

INTRODUCTION

Three years ago, at the end of 2019, the world was shocked by the emergence of a new deadly virus that attacks the human respiratory system, this virus is named Novel Coronavirus Disease or abbreviated as COVID-19. The virus was first discovered in Wuhan, Hubei Province of the Republic of China, the COVID-19 virus has spread to almost all countries in the world.

The World Health Organization (WHO) officially designated COVID-19 as a disease outbreak on January 5, 2020 through a publication and media broadcast. The COVID-19 virus attacks the respiratory system and is at risk of transmitting and is caused by Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-Cov-2).

The COVID-19 virus was first discovered in Indonesia on March 02, 2020, the Government through the National Disaster Management Agency (BNPB) has established an emergency status for a disease outbreak caused by the COVID-19 virus through a BNPB Head Decree.

The existence of this pandemic has resulted in a new order of life for people in various fields. The pattern of interaction in activities that are usually carried out face-to-face have begun to be adjusted using a digital platform. The use of information technology is absolutely necessary to respond to the COVID-19 pandemic. Various approaches have been taken to overcome the rate of spread of the COVID-19 virus, one of the most dominant ways is the technological approach.

In the current era of digitalization, personal data has become a very valuable asset and has "*high-value*", therefore,

protection of personal data is important considering that many people now use information technology in their daily activities. Moreover, during the COVID-19 pandemic the use of digital technology increased sharply.

The Indonesian government released community surveillance known as the Peduli Protect Application. This application is intended to handle the spread of COVID-19, among others, to conduct tracing, tracking, and giving warnings (tracing, tracking, warning and fencing).

Peduli Protect application was formed by PT. Telekomunikasi Indonesia, Tbk while the copyright for the Peduli Protect application was granted to the Government of Indonesia "Casu Quo" the Ministry of Communication and Information and the Ministry of State-Owned Enterprises (Decree of the Minister of Communication and Information Technology Number 171 of 2020, 2020).

This Peduli Protect application was then used in Indonesia during the COVID-19 pandemic to verify a person's vaccination status and efforts to break the chain of spread of the COVID-19 virus. In its use the Peduli Protect application requires a registration process by inputting information related to personal data.

What is the relationship between data and legal politics? We understand that a data can be categorized as personal data if it relates to a person who is used to identify that person ([McCarty-Snead & Hilby, 2014](#)). In more detail, personal data can be defined as certain individual data that is stored, maintained, and kept true and confidential (Regulation of the Minister of Communication and Information

Technology No. 20 of 2016 concerning Protection of Personal Data in Electronic Systems ([Şik, Aydınoğlu, & Son, 2021](#)).

In relation to the legal politics of implementing this application, the government through the Peduli Protect application wants to involve the community in the policy implementation process by registering an account on a digital platform. The involvement of the Indonesian people to participate in using the Peduli Protect application in daily activities is what then contains elements which in the academic realm are called Legal Politics.

The development of the times and we are stretching digitalization is carried out by almost everyone around the world, activities that used to be done conventionally, now people are starting to migrate and surf a lot in the digital space. Changes are so fast, especially technical matters where in the past the registration process took a long time and was done in black and white, now it can be connected anywhere and anytime.

Progress or change will always be followed by consequences. On the one hand, technological sophistication can facilitate activities that will be carried out by humans and can even help increase productivity. Like two sides of a coin, technological sophistication guarantees that personal data is inputted through a digital system and becomes a connected entity.

So why is this Personal Data Protection important? This is because the protection of personal data is a manifestation of the right to privacy. This right also includes the right to enjoy a private life and be free from

all kinds of interference, the right to communicate with other people without the intent of suspecting, and the right to monitor access to information about a person's private life and virginity, this explanation is contained in Article 26 paragraph 1 ([Mantelero, 2016](#)).

Privacy can be understood as a measure of individual control over various aspects of his personal life, in this case there are several types of privacy including:

- a. Information Privacy, namely information about himself personally.
- b. Body Privacy, namely privacy over one's body.
- c. Communication Privacy, namely the privacy of a person's communications; and
- d. Territorial Privacy, namely the privacy of a person's place of residence ([Taddicken, 2014](#)).

The protection of personal data is also one of the most basic human rights. In the paradigm of personal data protection legal instruments in the form of Data Protection Directives, Data Protection Conventions and the OECD Guidelines, what is meant by personal data is: "*Information relating to an identified or identifiable natural person*".

Personal data will be followed by data protection owned by each individual.

Personal data protection and privacy rights are regulated in Article 26 paragraph (1) of Law Number 19 of 2016 concerning Electronic Information and Transactions (or hereinafter referred to as the ITE Law), namely as follows: "*... the use of any information through electronic media concerning a person's personal data must*

carried out with the consent of the person concerned”.

Access to distribute personal information must first obtain approval from the parties concerned, so it can be understood that in the use of information technology, protection of personal data is part of personal rights (*privacy rights*). The personal rights are:

- a. The right to enjoy a private life and be free from all kinds of distractions.
- b. The right to be able to communicate with others without spying.
- c. The right to monitor access to information about a person's personal life and data (APEC Privacy Framework Singapore: APEC Secretariat, 2005)

Some of the classifications of privacy rights above are elements that must be considered in daily activities, including the use of the Peduli Protect application, How application Peduli Protect? This surveillance application will record patient movement data for the last 14 days, the application is connected to a cellular phone to produce a visualization of movement, the application system will provide alerts via cellphones of people around the detected patient to run the ODP protocol (people under monitoring) ([Kittipanya-Ngam, Guat, & Lung, 2012](#)).

In more detail explained how it works PeduliLindungi in (Ministry of Communication and Information Technology ([Kijisanayotin, Pannarunothai, & Speedie, 2009](#))) is explained as follows:

- a. Start by downloading the Care to Protect. When downloading this system, it will ask for user approval to activate location data to provide

information regarding zoning and self-quarantine areas.

- b. With active location conditions, the application will identify the user's location and provide information regarding crowds and zoning.

The results of this tracing will make it easier for the government to identify anyone who needs to receive further treatment in order to stop the spread of COVID-19. If many people use this application, it will further assist the government in tracing and tracking.

METHODS

In a study, it is necessary to have a method to get the results of the analysis from the measurable. In this case, Sugiono is of the view that the research method is a scientific way of obtaining data with a specific purpose and use. So it can be concluded that the core of the research method is how researchers can obtain data which can then solve the problems in the research in question.

The type of research that will be used in this research is normative legal research. In this study, the approach used is a juridical approach to conduct analysis related to existing rules. Data was collected through literature study to find secondary data using primary, secondary and tertiary legal materials.

In this study, a description of the research results will be carried out by obtaining complete data and relating to the Public Health Surveillance Application to overcome the spread of the COVID-19 virus in Indonesia, namely through the Care

Protect Application.

RESULTS AND DISCUSSION

A. Legal Politics and Legal Basis for Peduli Protect

Legal politics according to (Tyler, Boeckmann, Smith, & Huo, 2019) is an official policy line regarding the law that will be applied to new laws and replacements of old laws in order to achieve state goals. In replacing and making laws, it is necessary to pay attention to the sense of justice in society, not merely the goals of the state. According to Irman Jaya, legal politics is public participation in determining the direction of legal policy in the perspective of achieving government goals to achieve state goals.

In this case, the aim of the state is to protect the entire Indonesian nation and the entire homeland of Indonesia, promote public welfare, educate the nation's life, but of course it is not always in line with humans who carry out the signs of the Constitution who have personal, group and class interests.

Legal politics that guarantees that every step is carried out by the government in regulating laws and regulations and applying them for the purpose of the state, namely protecting the entire nation and the entire homeland of Indonesia.

By using the politics of state law to form a plan and at the same time a draft for the development of national law. The results of the achievement of this

development process can help the realization of legal goals that lead to the goals of a country. Thus, it should be noted that the realization of legal goals automatically leads to plans for the goals of a country itself (Fukuda-Parr, Yamin, & Greenstein, 2014)

The welfare of society by implementing the concepts of democracy and the rule of law in harmony with the welfare of the people will be achieved because these two concepts will provide legal certainty to seek prosperity for all Indonesian people.

Responding to the COVID-19 pandemic, which cannot be predicted when it will end, the government of the Republic of Indonesia through the Ministry of Communication and Information has launched the Cares Protect which aims to stop the spread of the COVID-19 virus. What about the Legal Basis of the Peduli Protect?

The handling of the COVID-19 virus in Indonesia is based on the Decree of the Minister of Communication and Information No.159 of 2020 concerning Efforts to Handle COVID-19 through the support of the Post and Information Technology Sector which states that telecommunications operators, Broadcasting Institutions, Online Media Providers and other Media and Posts must contribute, facilitate and take steps to help the government accelerate the handling of COVID-19, namely by providing information and data, providing applications, utilizing *Mobile Subscriber Integrated Services Digital Network Number (MSISDN)*,

Short Message service to many destinations (*SMS Blast*), the application of high standards of health, security and safety.

In addition, there is also the Decree of the Minister of Communication and Information No. 171 of 2020 concerning the Determination of the Care to Protect Application in the Context of Implementing Health Surveillance for Handling COVID-19 states that the use of the Care to Protect Application is only

during the COVID-19 emergency in accordance with the applicable laws and regulations.

In order to strengthen the legality of using the Care Protect Application in an emergency, the application is supported by the Minister of Health Regulation No. 45 of 2014 concerning Health Surveillance, 2014) Article 5 and Article 6 and an appendix which explains that the implementation of health surveillance is carried out in an integrated manner through data collection, data processing, data analysis, and information dissemination by utilizing easily accessible information technology facilities.

In addition, there are also Law No. 6 of 2018 concerning Health Quarantine in question here is an exit prevention effort or the entry of diseases that have the potential to cause public health emergency, Article 11 (1) mention the implementation of Quarantine Health is implemented by the Central Government quickly, precisely, effectively with the support of sources resources, operational

techniques and consider state sovereignty, security, economy, social and culture. It is further stated that for reduce risk in areas under quarantine Home, Territory Quarantine, Hospital Quarantine, or Large-Scale Social restrictions by

Health Quarantine officials. Practically speaking, we can understand that Peduli Protect application users will be asked for personal data such as name, address, and mobile number to register an account. After the account is registered, Peduli Protect will ask the user to turn on the active Bluetooth to record the required information from the data produced by the user's device. Then if there are other devices in the *Bluetooth* that are also registered in Care Protect, an anonymous id exchange will occur which is recorded by each device to find out and provide warnings if there are individuals who are exposed to the COVID-19 virus around application users.

However, one of the drawbacks of implementing the Cares Protect Application and the risk of criminal action is that it has not been specifically regulated regarding imprisonment and/or fines for parties who violate the protection of personal data such as the act of collecting, using, or disclosing personal data in the context of implementing the application. Care Protect itself.

In this case, legal politics must be controlled by social impacts in the community, social control without shackled freedom of expression

through the media, the attitude of the government and its officials.

Regulations regarding the legality of the Cares for Protecting Application that are made must refer to broader interests, the vision of the country in the future, the ideals of the nation's predecessors and moral responsibility to the nation and religion to God Almighty.

B. Legal Politics in the Application of Surveillance Care Protect

Indonesia is an attractive market for smartphone manufacturers, based on (<https://databoks.katadata.co.id/>, 2020) 56.2% have used smartphones in 2018. In 2019 the number of people using smart phones increased to 63.3%. From a number of smartphone users. According to the Minister of Communication and Information of the Republic of Indonesia, Johnny G. Plate, the total users of the Care to Protect until 2020 have reached around 5 percent of the 25 percent target ([Hajah & Siahaya](#), 2017).

Currently, the Peduli Protect application has a rating of 4.4, which has a fairly good rating, which is included in the category liked by users. The Peduli Protect application is also integrated with the *ride-hailing* so Peduli Protect can be accessed through the Gojek application. This integration aims to encourage the use of Peduli Protect which is currently only downloaded 4.1 million times.

The basis for the formation of regulations relating to preventing the spread of the COVID-19 virus can also be seen from the highest legislation,

namely the 1945 Constitution or hereinafter referred to as the 1945 Constitution. Constitutionally, the right to privacy can be found implicitly in Article 28G paragraph (1) The 1945 Constitution. It reads as follows:

"Everyone 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 to do or not do something which is his right. human rights."

In Indonesia, the DPR-RI together with the Government ratified Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions as the legal umbrella for activities in the cyber world. Another philosophical objective of the establishment of this rule is to provide a sense of security, justice, and legal certainty for users and Electronic System Operators.¹⁹ Protection of personal data and privacy rights are regulated in Article 26 paragraph (1) of Law Number 19 of 2016 concerning Information and Transactions Electronic (or hereinafter referred to as UU ITE) is as follows:

"... the use of any information through electronic media concerning a person's personal data must be carried out with the consent of the person concerned."

The article above is a manifestation of the Principles of Consent (*consent*) the protection of personal data. In order to gain an extensive understanding of the meaning of the

article, in the explanation of the ITE Law, it is explained that in the use of information technology, the protection of personal data is part of *privacy rights*. Personal rights are:

- a. The right to enjoy a private life and be free from all kinds of disturbances.
- b. The right to be able to communicate with others without spying.
- c. The right to monitor access to information about a person's personal life and data ([Djanggih & Qamar, 2018](#)).

Furthermore, related to the practical benefits of using public health surveillance applications, the process of data collection, tracking, and community tracking has the potential to intersect with the principle of protecting personal data which is part of the right to privacy ([Wu, 2014](#)); ([Choi, Lee, & Sohn, 2017](#)).

This is related to the regulation of personal data protection in Indonesia as stipulated in Article 15 and Article 16 of the ITE Law that electronic system providers are required to facilitate reliable and safe electronic systems and are responsible for system operations and of course set standards for implementation.

Then based on Article 1 of Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions, individual data must be stored, maintained, and kept true and kept confidential.

The Peduli Protect application is managed by PT Telekomunikasi Indonesia and integrated with domestic data centers so that it is safe for users. When the user registers with Peduli Protect, the data stored is the cellphone number and the location and time when the data exchange occurs. This data is confidential. The data taken and stored in the user's cell phone include:

- a. User's MAC address recorded by other Peduli Protect application users who both have bluetooth enabled.
- b. User ID user obtained during registration.
- c. User location at the time of data exchange
- d. The time at which the contact occurred
- e. The duration during which contact occurs.

The Peduli Protect application does not retrieve contact list data on the user's cellphone. The data is stored encrypted on the Peduli Protect application server which is secure and is not shared with the public, except to government agencies currently appointed to handle the COVID-19 pandemic, or due to legal provisions ([Raghavan, Middleton, & Mehdi, 2020](#)). User data will only be accessed if the user is at risk of contracting COVID-19 and needs to be immediately contacted by health workers ([Abolfotouh, Almutairi, BaniMustafa, & Hussein, 2020](#)); ([Belingheri, Paladino, & Riva, 2020](#)).

Users of the Peduli Protect Application are fully in control of the data and may at any time withdraw their consent to data recording by sending an email to PeduliLindungi@kominfo.go.id. The application cannot retrieve and share data without the user's consent of the Cares Protect Application.

When the COVID-19 pandemic ends, the Cares Protect Application will delete all user data. The bluetooth contact data stored in the user's mobile local storage will be periodically deleted after the data is sent to the server every day. If the user deletes the application, the data will also be deleted. Or deleting data on the server via email to PeduliProtect@kominfo.go.id.

In order to protect the personal data of Peduli Protect application users, the Minister of Communication and Information (Menkominfo) cooperates with the National Cyber and Crypto Agency (BSSN) to ensure that the COVID-19 Peduli Protect contact tracing application meets the principles of personal data protection and security. BSSN has checked the security of the application called *IT Security Assessment*, including the latest version of the Peduli Protect application, but must be monitored and *assessed* regularly ([Thaher](#), 2022).

At the beginning of the implementation of the Cares Protect Application, many parties doubted the protection of the personal data of users of this application. The Ministry of Communications and Informatics

conducted a Press Release on April 17, 2020 (No. 57/Hm/Kominfo/04/2020) which guarantees the security of the Peduli Protect Application from *Phishing* and *Malware*.

Although there is already a security guarantee from the Government, *Communication Researcher and The Information System Security Research Center* (CISSRec) believes that it is still necessary digital forensic audit. According to the security conditions Indonesia's cyberspace is still relatively worrying.

In 2019, there were 88 million attacks on security systems in Indonesia, therefore the Personal Data Protection Law must be passed immediately so that it can be used to force companies or service providers in Indonesia to take user data protection seriously. Before the enactment of the law, the most important thing is that all interested parties obey the existing regulations.

C. Personal Data Protection in Peduli Protect Applications

In Indonesia, the principle of personal data protection that can be found easily is the Consent Principle based on Article 26 paragraph (1) of the ITE Law. The application of this principle is in accordance with the implementation of the Peduli Protect application where the application requires user approval at the beginning so that personal data is collected (for later anonymous id exchange) in tracking the spread of the COVID-19 virus in Indonesia.

Users are asked for approval to read the Terms and Conditions before using the application. After this approval is obtained, then this application can work according to its purpose.

Another principle contained in the privacy law in Indonesia is the Principle of Reliability, Security and Responsibility as stated in Article 15 and Article 16 of the ITE Law that electronic system providers are required to facilitate reliable and safe electronic systems and are responsible for system operation and of course set standards. application.

The operation of the Care to Protect application has a clear legal basis, namely the Decree of the Minister of Communication and Information of the Republic of Indonesia Number 171 of 2020 concerning the Determination of the Care to Protect Application in the Framework of Implementing Health Surveillance for Handling Coronavirus Disease 2019 (COVID-19) so that the reliability, security and responsibility of implementing the application This is in the hands of the Government.

Then based on Article 1 of Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions, individual data must be stored, maintained, and kept true and kept confidential.

So far, the Peduli Protect application has not had any reports of violations related to this principle. However, there is always room and potential for data leakage so that all parties, especially the Government, are

obliged to ensure that personal data in the context of implementing surveillance applications is stored, maintained, and kept true.

CONCLUSIONS

Sophistication and rapid changes in times are a reality that must be followed by a high adaptation attitude, therefore using digital technology instruments has now become a necessity because it can facilitate various activities in various fields. Life. Especially with the COVID-19 pandemic, which require social distancing. The rapid and massive spread of COVID-19.

Requires the government to make various efforts to reduce the spread. One of the policies implemented by the government is the application of the care protect application to Assist relevant agencies in Tracking to stop the spread of COVID-19. Personal data protection has been prepared with a special scheme. However, up to now, peduli protect users' security guarantees are still far from Expectations.

Moreover, there are no clear rules regarding sanctions for misuse of the care protect application. Therefore, this research can be developed further to find out the lack of community involvement in public policies related to the use of the peduli protect application and a clearer abuse sanction scheme.

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