

The New Criminal Code And Personal Data Protection In The Digital Era A Critical Analysis Of The Concept Of The Application Of The New Criminal Code

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Abstract

The purpose of this study is to explain and describe that storing personal data in digital form is considered practical and makes everyone's activities easier, but it has a negative impact in the form of increased crime that follows technological developments, protecting electronic information such as personal data is an important action to protect personal data that is very vulnerable to criminal acts. This journal examines the concept of implementing the 2023 Criminal Code in protecting personal data in the digital era. This study uses a normative legal method with an analysis of statutory regulations. The results of the study show that protecting personal data is the responsibility of the government so that the 2023 Criminal Code has regulated the protection of personal data stored in digital form in criminal acts against informatics and electronics, the implementation of the 2023 Criminal Code will be the basis for regulations that strengthen positive law in protecting personal data that is electronic and stored digitally, law enforcement and written regulations can minimize criminal acts against personal data. In addition to the rules written in the 2023 Criminal Code, real actions are also needed to implement these rules, so that all parties providing justice need to pay attention to the law and provide justice, the public is also expected to be careful in using personal data so that it is not misused by irresponsible parties.

Key Words: Criminal Code 2023, Protection of personal data.

A. Introduction

Technology is an inseparable part of human life to help in daily activities. The use of technology can be seen in the way we communicate, work, study, play, and live our daily lives. In certain cases, the use of technology requires the personal data of its users to be used according to the needs of the user. Personal data is a series of important information that includes names, addresses, phone numbers, and even credit card numbers.

Technological developments not only have a positive impact on human life that makes human activities easier, but also have a negative impact by giving rise to various forms of criminality. In the digital era, the forms of crime that are rampant are fraud, theft, and other crimes using personal data stored in digital form. Digital services that are supposed to help a person's daily activities can also be a place that is vulnerable to crime. Personal data stored in digital services to be used based on user needs can be used by several individuals to commit crimes for personal gain or other people.

Misuse of personal data can cause damage to the person, family, honor, dignity, and property of the owner of the personal data which is a violation of Article 28G Paragraph 1 of the 1945 Constitution. Based on this, personal data is part of human rights that must be protected by other people and the government. Law Number 1 of 1946 concerning Regulations on Criminal Law has not regulated criminal acts in the field of information technology, so the existence of Law Number 1 of 2023 concerning the Criminal Code known as the Criminal Code 2023 is the government's action in realizing a law that protects human rights based on technological developments that have changed human life patterns.

Crime by using digital personal data is a criminal act in the field of electronic information technology. Article 4 letter c of the 2023 Criminal Code stipulates that the criminal provisions in the law apply to every person who commits a criminal act in the field of information technology. However, how does the 2023 Criminal Code apply in the protection of personal data in the digital era?

B. Research Methods

The research method used in this journal is normative legal research that involves literature study and analysis of laws and regulations related to the concept of applying the 2023 Criminal Code in personal data protection in the digital era. This research began by collecting secondary data from various sources such as the 1945 Constitution and Law Number 1 of 2023 concerning the Criminal Code. The analysis of legal documents is carried out to understand the provisions that regulate the protection of personal data in the digital era. The data collected is then analyzed descriptively to identify and evaluate the effectiveness of the existing legal framework and provide recommendations for improvement in efforts to protect personal data in the digital era.

C. Results and Discussion

a. Personal data protection

Technology is a means and infrastructure in the provision of goods necessary for the survival and comfort of human life.¹ The development of computers and modern communication tools provides an understanding of information and communication technology as a tool to process, present, and manage data and information based on communication tools.² Technological developments require humans to learn and

¹ Aditya Ardana, *Folklore and Paradigm Shift: The Impact of the Industrial Revolution 4.0*, (Jakarta: PT Elex Media Komputindo, 2018), Page. 39.

² Headrick Daniel, *Technology A World History*, (New York: Oxford University Press, 2009), Page. 98.

maximize technological developments so as not to be left behind.³ Technology is a human creation that aims to provide convenience in human activities, but in reality technology has more functions than this purpose.⁴ The development of information and communication technology has changed lifestyle patterns of every person in society.⁵

Personal data according to the Great Dictionary of Indonesian is "data related to a person's characteristics, such as name, age, gender, education, occupation, address, and position in the family". Meanwhile, based on Article 1 Number 1 of Law Number 27 of 2022 concerning Personal Data Protection (hereinafter referred to as the PDP Law), the definition of "Personal Data is data about an individual person that is identified or can be identified separately or combined with other information either directly or indirectly through electronic or non-electronic systems". Personal data is personal data that is stored, maintained, and maintained as true and protected confidentially.⁶ In the digital era, personal data is important and sensitive because it includes information such as names, addresses, identity numbers, financial information, health history and other sensitive information that has a relationship with individuals who are the owners of personal data.⁷

Article 1 Number 2 of the PDP Law reads "Personal Data Protection is the entire effort to protect Personal Data in the series of Personal Data processing to ensure the constitutional rights of Personal Data subjects". Personal data protection is the right of every person to make decisions regarding the use and management of their personal data that prioritizes privacy.⁸ The right to privacy can be used to protect personal data.⁹

The right to privacy is an important right to protect human dignity with the aim of being the basis for other human rights.¹⁰ Basically, the right to privacy is a universal concept that is known to most individuals through legal provisions or unwritten moral provisions.¹¹ The value of personal data as a privacy right can be seen from several

³ Widodo, *Criminal Law in the Field of Information Technology Cybercrime Law: Theoretical Analysis and Case Analysis*, (Yogyakarta: Aswaja, 2013), Page. 9.

⁴ Rendra Wijaya, *Development of Artificial Intelligence Technology*, (Jakarta: PT Elex Media Komputindo, 2022), Page. 129.

⁵ Ahmad M. Ramli, *Cyber law and IPR in the Indonesian Legal System*, (Bandung: PT. Refika Aditama, 2004), 1.

⁶ Kaharuddin and Zul Amirul Haq, *Artificial Intelligence: Aspects of Legal Protection in the Era of Digitalization*, (Jakarta: Prenada Media, 2024), Page. 108.

⁷ Kadek Rima Anggen Suari and I Made Sarjana, "Maintaining Privacy in the Digital Era: Personal Data Protection in Indonesia", *Journal of Legal Analysis*, Vol. 6, No. 1 (2023), 133, DOI: <https://doi.org/10.38043/jah.v6i1.4484>

⁸ Erna Priliastari, "The Importance of Personal Data Protection in Online Loan Transactions", *National Law Magazine*, Vol. 3, No. 2 (2019), Page. 21.

⁹ Wahyudi Djafar and Asep Komarudin, *Protection of the Right to Privacy on the Internet-Some Key Explanations*, (Jakarta: Elsam, 2014), Page. 2.

¹⁰ Teddy Lesmana, Eva Elis, and Siti Hamimah, "The Urgency of the Personal Data Protection Law in Ensuring the Security of Personal Data as a Fulfillment of the Right to Privacy of the Indonesian People", *Rechten Journal: Research on Law and Human Rights*, Vol. 3, No. 2 (2021), 3, DOI: <https://doi.org/10.52005/rechten.v3i2>

¹¹ Hanifan Niffari, "Personal Data Protection as Part of the Human Right to Personal Protection (A Comparative Review with Legislation in Other Countries)," *Jurnal Juridical*, Vol. 7, no. 1 (2020), 107, DOI: <https://doi.org/10.35814/selisik.v6i1.1699>

things such as the right to enjoy life and freedom; the right to socialize with other individuals without any observation; the right to supervise access to information.¹²

The law acts to ensure that the interests of the community are protected, overcome problems that have a wide impact, and regulate behavior so as not to cause harm to the public interest.¹³ Legal protection comes from provisions and rules made by the community with the aim of regulating relations in society and government relations with individuals who represent the interests of society at large.¹⁴ The PDP Law is a legal rule formed to realize the protection of personal data in the digital era as a form of government action to protect the interests of the public at large.

Personal data can be divided into 2 types of data, namely specific personal data and general personal data, which based on article 24 of the PDP law explains that specific personal data from a person can be data of health, biometric data, genetic data, data about children, data of personal finances, and other data regulated by laws and regulations. Meanwhile, general personal data is the combined of other personal data to identify a person which refers to the full name, gender, nationality, religion, marital status of a person

The processing of personal data must be based on the principles of personal data protection as stated in Article 16 Paragraph 2 of the PDP Law which explains that the Personal Data Processing is based on the principle of personal data protection, including:

- a. Personal data is collected transparently and legally according to applicable laws and regulations
- b. Personal Data Processing is based on the purpose
- c. Personal data that is processed must have a guarantee of the rights of the personal data subject
- d. Personal Data Processing must be carried out accurately, completely, not misleading, up-to-date, and accountable
- e. The security of personal data in the processing of personal data must be protected from unauthorized access, unauthorized disclosure, unauthorized changes, and deletion of personal data
- f. Before personal data is processed, there must be a notification regarding the purpose and activities of processing and the failure of personal data protection
- g. Personal data that has expired will be deleted and/or destroyed, this can also be done based on the request of the personal data subject, unless otherwise specified by laws and regulations
- h. Personal Data Processing must be carried out with full responsibility and can also be proven in real terms

¹² Muhammad Jefri Maruli Tacino, "Legal Protection of Personal Rights on Social Media According to Law Number 19 of 2016 Concerning Information and Electronic Transactions," *Dinamika: Scientific Journal of Legal Science*, Vol. 26, No. 2 (2020), Page. 174–184.

¹³ Philipus M. Hadjon, *Legal Protection for the People in Indonesia: A Study on Its Principles, Handling by Courts in the General Judicial Environment and the Establishment of Administrative Courts*, (Surabaya: Bina Ilmu, 1987), Page. 43.

¹⁴ Satjipto Raharjo, *Law Studies*, (Bandung: PT. Citra Aditya Bakti, 2014), Page. 53.

The management of personal data has basically been regulated in the PDP Law, but the Criminal Code as the basis of criminal law has not regulated the protection of electronic information. The government in this case updates the Criminal Code to keep up with the development of people's lifestyles that have changed in line with technological developments to strengthen the basis of legal rules regarding the protection of personal data electronically.

b. Protection of personal data in human right

The development of technology has made people aware of the right to enjoy life. This is stated in the right to privacy which means a right that everyone has to enjoy life and demand protection for their privacy.¹⁵ The concept of personal data protection emphasizes that everyone has the right to determine their own fate, related to personal data, so this is used to determine the act of sharing data and the conditions to be met.¹⁶ This protection is an important foundation in digital transactions because it is an effort to build online trust.¹⁷

Laws and regulations related to personal data protection basically existed before the passage of the PDP Law. This is based on the need to protect personal data in several ways so that it is not misused by individuals. The rules are specifically regulated for certain activities that require personal data such as banking, telecommunications, human rights, public information disclosure, and population administration.¹⁸

The protection of personal data in banking is contained in Article 1 Paragraph 28 of Law Number 10 of 1998 concerning Banking (hereinafter referred to as the Banking Law) which explains that "Bank secrets are everything related to the customer's storage and deposit". In this case, what is related to personal data is the information about the customer's storage and storage. The protection of personal data in banking activity is the responsibility of the bank. This is stated in Article 40 paragraph 1 of the Banking Law which explains that Banks are required to keep confidential information regarding depositors and savings customers, except for tax purposes, settlement of bank receivables, judicial interests in criminal cases, civil cases between banks and customers, and in the exchange of information between banks.¹⁹

¹⁵ Rosadi, *Cyber Law on Data Privacy Aspects According to International, Regional and National Law*, (Jakarta: Refika Aditama, 2015), Page. 23.

¹⁶ Fanny Priscyllia, "Privacy Protection of Personal Data from a Comparative Legal Perspective", *Jatiswara*, Vol.34 No. 3, (2019), 241, DOI: <https://doi.org/10.29303/jtsw.v34i3.218>

¹⁷ Clifford Deannova Saputra, Gilang Septiawan Saputra, Fitri Aprilliani, Imelda Martinelli, "Legal Perspectives on Privacy and Personal Data Protection in the Digital Era", Vol. 5, No. 1, (2024), *Journal of Law, Humanities, and Politics*, 800, 799-810 DOI: <https://doi.org/10.38035/jihhp.v5i1.3372>

¹⁸ Syailendra, Moody Rizqy, Gunardi Lie, dan Ahmad Sudiro. "Personal Data Protection Law in Indonesia: Challenges and Opportunities," *Indonesia Law Review* 14, no. 2 (2024). <https://scholarhub.ui.ac.id/ilrev/vol14/iss2/4/>. Artikel ini membahas tantangan dan peluang implementasi UU No. 27 Tahun 2022 tentang Perlindungan Data Pribadi di Indonesia.

¹⁹ Lestari, Endang, dan Rasji. "Legal Study on Personal Data Protection Based on Indonesian Legislation," *Awang Long Law Review* 6, no. 2 (2024). <https://doi.org/10.56301/awl.v6i2.1206>. Studi ini menganalisis perlindungan data pribadi berdasarkan peraturan perundang-undangan di Indonesia.

In the field of telecommunications, the protection of personal data can be seen from Article 42 Paragraph 1 of Law Number 36 of 1999 concerning Telecommunications (hereinafter referred to as the Telecommunications Law) which stated "Telecommunication service providers are obliged to keep confidential the information sent and/or received, by telecommunication service customers through the telecommunication network and/or telecommunication services it provides".²⁰ Personal data that relate to telecommunications is the information that has been sent or received by telecommunication service customers and the obligation to protect such personal data lies with the telecommunication service provider. However, for the concerns of the criminal justice process, there is an exception regulated in Article 42 Paragraph 2 of the Telecommunications Law which explains that telecommunication service providers have the right to record information sent and/or received by telecommunication service providers and can provide information needed for the purposes of criminal justice processes to:²¹

- a. the attorney general and/or the head of the Indonesian national police upon written request in the context of certain criminal acts
- b. investigators upon request in the context of certain criminal acts based on statutory regulations

Article 29 Paragraph 1 of Law Number 39 of 1999 on Human Rights (hereinafter referred to as the Human Rights Law) states: "Every person has the right to the protection of their personal self, family, honor, dignity, and property rights." Protection of personal data is a form of safeguarding property rights. The harm experienced by data owners due to the misuse of personal data also impacts their personal selves, families, and property rights. Furthermore, the misuse of personal data can adversely affect the honor and dignity of the data owner.²²

This impact becomes evident when personal data is used as a threat to gain benefits, such as the threat of disseminating personal data publicly through electronic systems if the data owner does not comply with the perpetrator's demands. Such actions fundamentally violate human rights as regulated in Article 30 of the Human Rights Law, which states: "Every person has the right to feel secure, peaceful, and protected from fear or threats of doing or not doing something." This is also regulated in Article 157 of the 2023 Criminal Code, which states: "Threat of violence is any act in the form of

²⁰ Sukerta, Putu Aryan Darma, dan Andri Sutrisno. "Personal Data Protection in ASEAN: A Critical Comparison between Indonesia's and Malaysia's Legal Frameworks," *Constitutional Law Review* 3, no. 2 (2024). <https://doi.org/10.30863/clr.v3i2.5605>. Artikel ini membandingkan kerangka hukum perlindungan data pribadi antara Indonesia dan Malaysia.

²¹ Cholil, Abdul, dan Rahmi Rahmi. "Law Requirements on Personal Data Protection and its Impact in Records Management," *Anuva: Jurnal Kajian Budaya, Perpustakaan, dan Informasi* 8, no. 1 (2024). <https://doi.org/10.14710/anuva.8.1.1-10>. Penelitian ini mengeksplorasi dampak regulasi perlindungan data pribadi terhadap manajemen arsip di Indonesia.

²² Ayu, Silvi Ferina Widyawati, dan Anom Wahyu Asmorojati. "The Urgency of Establishing a Special Agency of Personal Data Protection and Supervision to Ensure the Indonesian Citizens' Privacy Rights," *Borobudur Law Review* 4, no. 2 (2024). <https://doi.org/10.31603/burrev.7184>. Artikel ini menyoroti urgensi pembentukan lembaga khusus untuk perlindungan dan pengawasan data pribadi di Indonesia.

speech, writing, images, symbols, or body movements, either with or without the use of electronic or non-electronic means, that can cause fear, anxiety, or concern over the occurrence of violence."²³

Personal data is also regulated under Law Number 14 of 2008 on Public Information Disclosure (hereinafter referred to as the Public Information Law). Article 1 Number 1 of the Public Information Law states Information is statements, declarations, ideas, and signs containing value, meaning, and messages in the form of data, facts, or explanations that can be seen, heard, and read to be presented in the various packages and formats according to the development of information and communication technology, either electronically or non-electronically. Article 1 Number 2 defines "Public Information" as "information produced, stored, managed, sent, and/or received by a public body related to the organizers and management of the state and/or public bodies, as well as other information related to public interests."²⁴

In the Public Information Law, personal data is classified as electronic or non-electronic information produced, stored, managed, sent, and/or received by a public body. The obligation to protect personal data as public information is the responsibility of public bodies. Article 1 Number 3 of the Public Information Law defines a "Public Body" as "executive, legislative, judicial bodies, and other bodies whose main functions and duties are related to state administration, funded partially or wholly by the State Budget and/or Regional Budget, or non-governmental organizations funded partially or wholly by public contributions and/or foreign sources."²⁵

Protection of personal data as public information is regulated under Article 6 Paragraph 3 of the Public Information Law, which states: "Public Information that cannot be disclosed by a Public Body, as referred to in paragraph (1), includes:

- a. Information that could harm the state;
- b. Information related to the protection of business interests from unfair competition;
- c. Information related to individual rights;
- d. Information related to official secrets; and/or
- e. Public Information that has not been controlled or documented."

Article 7 Paragraph 1 of the Public Information Law regulates the obligation of public bodies, stating: "Public Bodies are obliged to provide, deliver, and/or publish

²³ Anand, Ghansham, Agus Yudha Hernoko, dan Antonius Gunawan Dharmadji. "The Urgency of Enacting Personal Data Protection Law as a Patronage from the Development of Communication and Information Technology in Indonesia," *Perspektif* 25, no. 1 (2024). <https://doi.org/10.30742/perspektif.v25i1.750>. Studi ini membahas urgensi pengesahan undang-undang perlindungan data pribadi dalam konteks perkembangan teknologi informasi di Indonesia.

²⁴ Badriah, Lailatul, Dwiyanto Indiahono, dan Sukarso. "Accountability in Personal Data Protection Policy in Indonesia: Learning from South Korea and Singapore," *Matra Pembaruan: Jurnal Inovasi Kebijakan* 8, no. 2 (2024). <https://doi.org/10.21787/mp.8.2.2024.89-102>. Artikel ini membandingkan kebijakan perlindungan data pribadi Indonesia dengan Korea Selatan dan Singapura, menekankan pentingnya akuntabilitas.

²⁵ Setiawati, Diana, Hary Abdul Hakim, dan Fahmi Adam Hasby Yoga. "Optimizing Personal Data Protection in Indonesia: Lesson Learned from China, South Korea, and Singapore," *Indonesian Comparative Law Review* 5, no. 1 (2024). <https://doi.org/10.22219/iclr.v5i1.7012>. Penelitian ini mengeksplorasi pelajaran dari Tiongkok, Korea Selatan, dan Singapura dalam mengoptimalkan perlindungan data pribadi di Indonesia.

Public Information under their authority to Public Information Applicants, except for information excluded by regulations." Excluded information is detailed in Article 17, including public information that could impede law enforcement, disrupt the protection of intellectual property rights, endanger state defense and security, reveal Indonesia's natural wealth, harm national economic stability, damage foreign relations, disclose private authentic acts, and private wills, as well as inter-public body communications or internal public documents.²⁶

Concerning private personal data, protection is regulated under Article 17 Letter h, which states: "Public Information that, if disclosed to Public Information Applicants, could reveal private secrets, including:

- a. The history and condition of family members;
- b. The history, condition, and treatment of physical and mental health;
- c. Financial conditions, assets, income, and bank accounts;
- d. Results of evaluations related to someone's capability, intellectual capacity, and recommendations; and/or
- e. Records relating to an individual in connection with formal and non-formal educational units."

Personal data in civil administration is defined as "specific personal data stored, maintained, and protected for its accuracy and confidentiality" under Article 1 Number 22 of Law Number 23 of 2006 on Civil Administration, as amended by Law Number 24 of 2023 on Amendments to Law Number 23 of 2006 on Civil Administration (hereinafter referred to as the Civil Administration Law). Protection of personal data in this context is guaranteed by the state under Article 79 Paragraph 1 of the Civil Administration Law, which states: "Personal data and civil documents must be stored and kept confidential by the State."²⁷ Specifically, personal data protected by the Civil Administration Law is detailed in Article 84 Paragraph 1, which states: "Personal Data of Residents that must be protected includes:

- a. Information about physical and/or mental disabilities;
- b. Fingerprints;
- c. Iris scans;
- d. Signatures; and
- e. Other data elements that are considered a person's disgrace."

Various laws and regulations that protect personal data in specific activities demonstrate the importance of protecting sensitive, confidential personal information from being misused for personal or others' interests. The realization of personal data protection is evident through the Personal Data Protection Law, which regulates general data protection. However, to strengthen this legal foundation, the 2023 Criminal Code

²⁶ Ngompat, Yohanes Leonardus, dan Mary Grace Megumi Maran. "Legal Development and Urgency of Personal Data Protection in Indonesia," *JILPR Journal Indonesia Law and Policy Review* 5, no. 3 (2024). <https://doi.org/10.56371/jirpl.v5i3.284>. Artikel ini menganalisis perkembangan hukum dan urgensi perlindungan data pribadi di Indonesia.

²⁷ Nawawi, Jumriani. "Legal Protection of Personal Data Based on Regulation in Indonesia," *Jurnal Al-Dustur* 5, no. 1 (2024). <https://doi.org/10.30863/jad.v5i1.2581>. Studi ini membahas perlindungan hukum terhadap data pribadi berdasarkan regulasi di Indonesia.

specifically governs it based on Article 28G Paragraph 1 of the 1945 Constitution. Based on this, violations of personal data protection essentially involve violations of other human rights.

c. Concept Of Implementing The 2023 Criminal Code In Protecting Personal Data In The Digital Era

In the digital era, storing personal data electronically facilitates everyone to store personal information without needing to carry physical documents. This simplifies daily activities and is considered practical by many. However, such convenience must be accompanied by caution, considering the increasing sophistication of technology-based crimes.

Personal data is vital and confidential information, intended for specific purposes only. Protecting personal data is a critical concern in the digital age, as digital crimes can lead to significant losses for the data owner.

The protection of personal data is fundamentally stated in Article 28G Paragraph 1 of the 1945 Constitution, which reads, "Every person has the right to protection of themselves, their family, honor, dignity, and property under their control, as well as the right to security and protection from fear of threats to perform or not perform an act that constitutes a human right." Personal data is information related to the identity, family, honor, dignity, and property of the data owner. Every individual has the right to protection of their personal data. Misuse of personal data can cause harm to the owner and others connected to the data owner.

Personal data is a human right that must be protected, as misuse can result in material and immaterial losses. The protection of personal data as a human right is the state's responsibility, particularly the government, as stipulated in Article 28I Paragraph 4 of the 1945 Constitution. Thus, personal data is a human right that must be safeguarded.

The previous Criminal Code (KUHP) did not regulate crimes related to technology, as technology had not yet developed as rapidly as it has today. The evolution of technology has led to increased forms of crime that adapt to societal developments, including crimes in the digital era. Therefore, the government established the 2023 Criminal Code, which reflects current societal developments. The 2023 Criminal Code specifically addresses crimes related to electronic information, detailed in Chapter VIII, Section Five on crimes against informatics and electronics.

The 2023 Criminal Code, which includes provisions for the protection of electronic information, is one of the government's efforts to safeguard the use and storage of personal data electronically in the digital era. It serves as an update to the previous Criminal Code and can act as a foundation for future legal regulations. Furthermore, the 2023 Criminal Code complements the Personal Data Protection Law (UU PDP) enacted in 2022 to safeguard personal data, providing a robust foundation in positive law for electronic personal data protection.

Article 332 Paragraph 2 of the 2023 Criminal Code states, "Any person who intentionally and unlawfully accesses a computer and/or electronic system by any

means to obtain electronic information and/or electronic documents shall be punished with imprisonment for a maximum of seven (7) years or a fine not exceeding Category V." Based on this provision, the targeted criminal act concerning personal data is the act of obtaining someone's personal data by accessing computers or electronic systems unlawfully. The Category V fine, as stipulated in Article 79 Paragraph 1(e), amounts to IDR 500,000,000 (five hundred million rupiahs).

Unlawful acts to obtain personal data can involve fraud or theft from the data owner. They can also include hacking and damaging computers or electronic systems to forcibly acquire personal data without authorization. Such crimes can result in material and immaterial losses, including threats to the data owner, the public dissemination of personal data, or harm to the data owner's honor and dignity, as well as their family's. These crimes are committed to gain specific advantages from the stolen personal data. Implementing the 2023 Criminal Code is essential to address such crimes, given the widespread electronic storage of personal data for ease of use in digital services.

Article 334(b) states, "Anyone who unlawfully uses or accesses another person's credit card or payment card in electronic transactions for personal gain shall be punished with imprisonment for a maximum of ten (10) years or a fine not exceeding Category VI." Regarding personal data, this provision pertains to the misuse of someone else's personal data to gain financial benefits through electronic transactions. The Category VI fine, as defined in Article 79 Paragraph 1(f), amounts to IDR 2,000,000,000 (two billion rupiahs).

This crime involves the misuse of personal data in electronic transactions. A person's personal data may be exploited to conduct transactions that benefit the perpetrator or others involved in the crime. Such offenses can cause both material and immaterial losses. However, in electronic transactions, material losses are typically more apparent. These crimes involve the reduction of a person's electronically stored assets by the perpetrator for their benefit. The application of the 2023 Criminal Code to these crimes represents a measure to protect electronically stored assets under the control of the data owner.

Both articles impose imprisonment and fines as consequences for crimes related to personal data as electronic information. These penalties are based on the crimes committed by perpetrators and the losses experienced by victims, i.e., the personal data owners. These provisions can also serve as a foundation for future regulations on personal data protection, ensuring that personal data becomes a greater priority for those involved in its use and protection in digital services.

The 2023 Criminal Code regulations related to the protection of personal data in digital form will not produce anything without action from law enforcement. The real implementation will make the 2023 Criminal Code be a strong protector of the right to privacy over personal data. However, in reality, the existing regulations also cannot provide maximum results in protecting personal data, especially data in digital form. The increasing number of cases of data leaks and data dissemination on social media

has caused a crisis of confidence in the implementation of digital personal data protection.²⁸

Based on this, law enforcement officials need to take action on data protection failures and provide justice to victims, including by finding digital crime perpetrators and closing access to digital personal data trading. Although it is not an easy thing considering that technology is developing very rapidly, the rules in the 2023 Criminal Code will be the basis for criminal law that must be applied later. Law enforcement officials are required to be able to follow technological developments in protecting people's personal data so that regulations related to personal data protection can be applied.

The implementation of the 2023 Criminal Code aims not only to deter and penalize offenders but also to restore the situation, compensating for the losses suffered by data owners. In the digital era, electronically stored personal data is considered practical and simplifies activities but is highly vulnerable to digital crimes. The enforcement of the 2023 Criminal Code is expected to minimize technological crimes and protect electronically stored personal data.

D. Conclusions and Suggestions

Personal Data is important and sensitive information related to the individual who owns the data. In the digital era, personal data is stored online to make it easier for data owners to use it on a daily basis. However, increasingly sophisticated technological developments do not only have benefits in human life because they increase various forms of criminality in the field of information technology, one of which is the misuse of personal data which can cause material and immaterial losses for data owners. As a form of responsibility to protect personal data in the digital era, the government established the 2023 Criminal Code which specifically regulates criminal acts against informatics and electronics to replace the Criminal Code and follow the development of people's lifestyles and increasingly diverse forms of criminal acts. The government is expected to be able to prepare for the implementation of the 2023 Criminal Code, especially in the protection of personal data in the digital era so that technological developments do not become a problem that is detrimental to the community and the community is also expected to increase caution regarding the use of personal data in digital services.

²⁸ Maleno, Muhammad, dan Andriana Kusumawati. "Comparative Analysis of Indonesia's Personal Data Protection Law with the European Union and California Regulations to Identify Best Practices," *Journal of Digital Law and Policy* 4, no. 1 (2024).

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