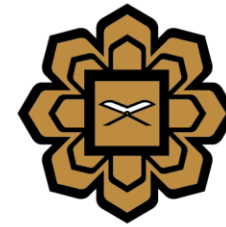


MENGELOLA ASET DIGITAL DARI PERSPEKTIF REGULASI PRIVASI DATA

SONNY ZULHUDA, PH.D.

*Associate Professor at the International Islamic
University Malaysia*

Kuliah Pakar at Universitas
Muhammadiyah Bengkulu, Indonesia
29th May 2023



الجامعة الإسلامية العالمية ماليزيا
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA
يُونَيْتِيسِي إِسْلَامِيَّةٌ اِبْتِهَادِيَّةٌ مِلِّيَّةٌ
Garden of Knowledge and Virtue





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Amanat G20: Transformasi menuju Ekonomi Digital

G20 Bali Declaration, 2022

Digital connectivity

is essential for digital inclusion and digital transformation



A resilient, safe and **secure online environment** is necessary to enhance confidence and trust in the digital economy.



Addressing the challenges of digital divides, privacy, data protection, IPR, and online safety.



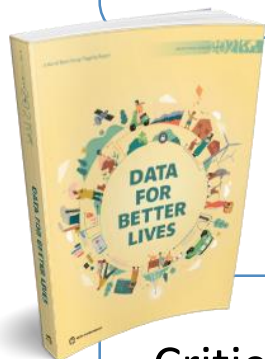
Need to **counter disinformation** campaigns, **cyber threats**, and **online abuse**.



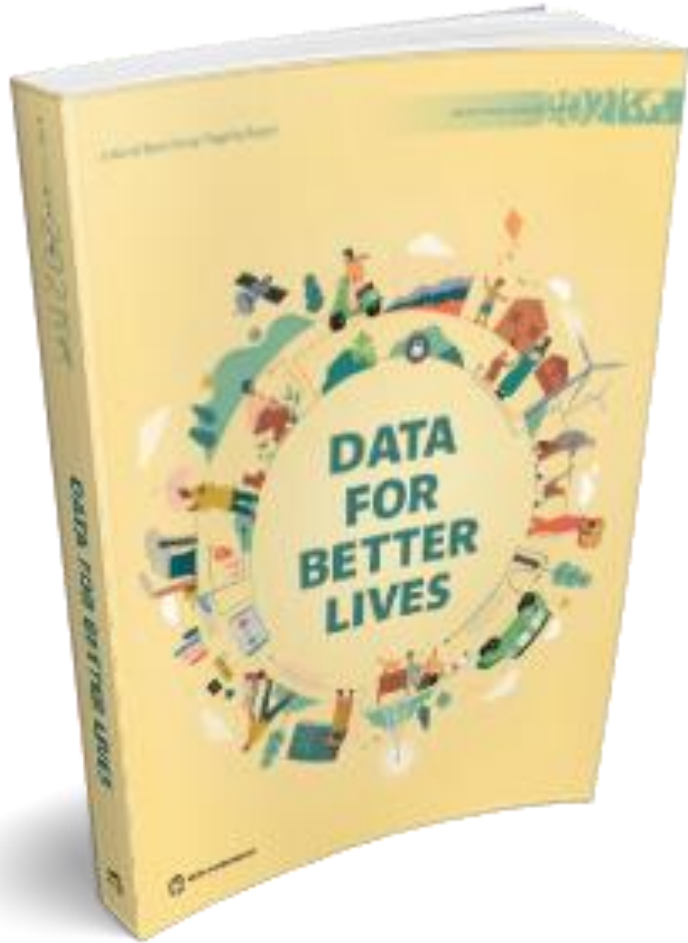
Enable data free flow with trust and promote **cross-border data flows**.



Critical role of **data for development**, economic growth and social well-being.



Data untuk Kemajuan (Bank Dunia, 2021)



The World Bank, 2021

Perlunya **kontrak sosial** baru terkait data – melalui konsensus nasional – UU terkait data.

Siklus data **yang dapat didaur ulang** untuk utilitas maksimal.

Memastikan **akses yang fair** terhadap penggunaan data antara industri dan individu

Perlu membangun **kepercayaan digital** menuju proses yang aman dan nyaman.

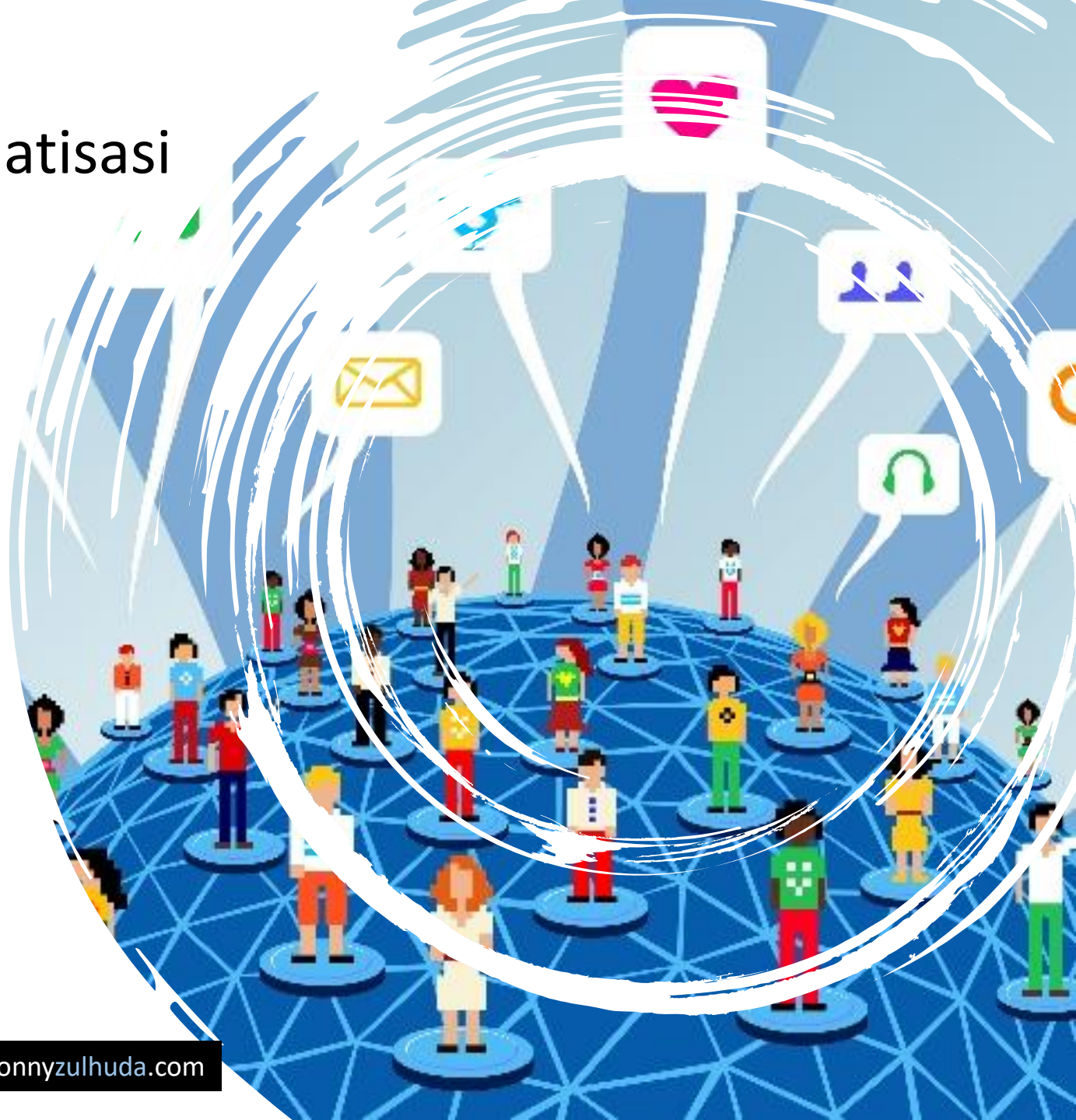
Negara perlu menjamin **sistem data nasional yang terintegrasi**.

Digitalisasi – Datafikasi - Automatisasi

1. Proliferasi of the **technology**:

- computers (data processing)
- cloud (storage)
- AI (automation, analytic, etc)
- mobile technology (connectivity)
- social media (interactions)
- blockchain (retention)
- digital money (transaction), etc.

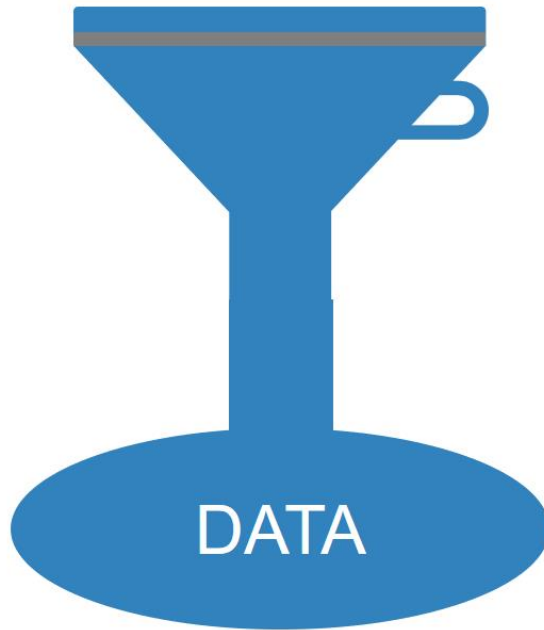
2. Data-driven **decision making**: both in private and public



Datafikasi di Sekeliling Kita

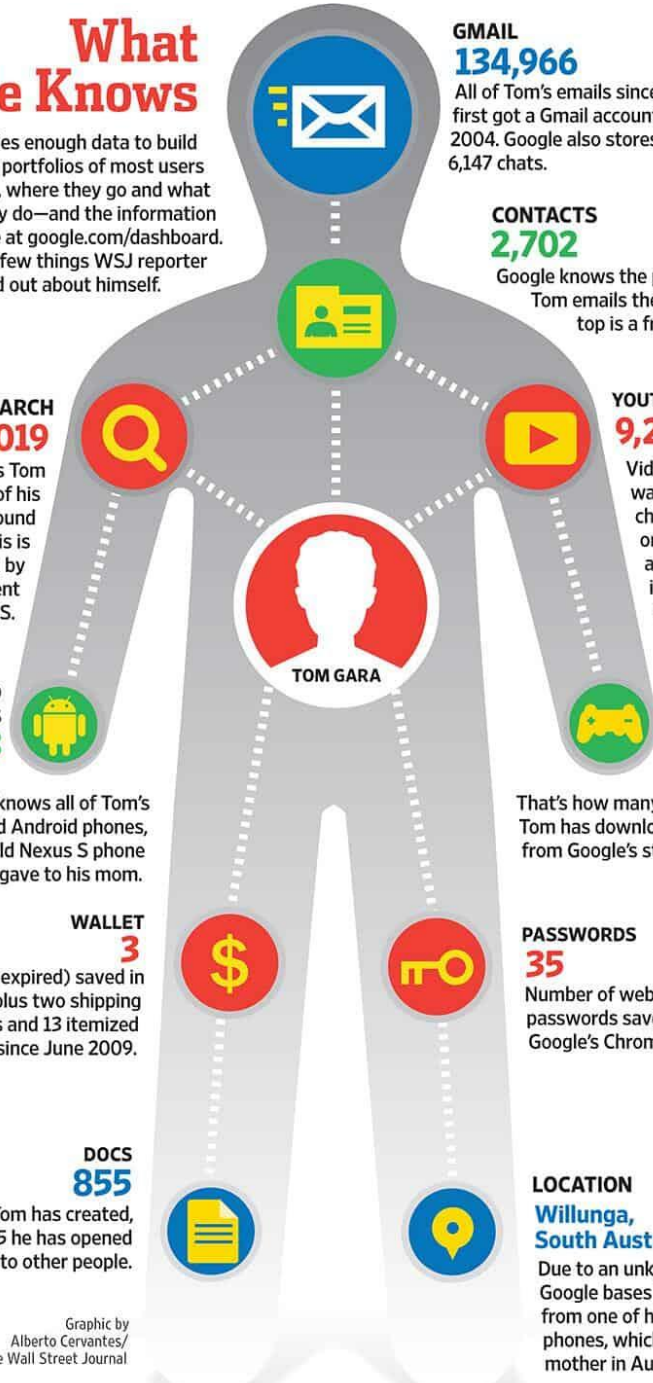


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What Google Knows

Google compiles enough data to build comprehensive portfolios of most users—who they are, where they go and what they do—and the information is all available at google.com/dashboard. Here are just a few things WSJ reporter Tom Gara found out about himself.



GMAIL
134,966

All of Tom's emails since he first got a Gmail account in 2004. Google also stores his 6,147 chats.

CONTACTS
2,702

Google knows the people that Tom emails the most. At the top is a friend in Egypt.

YOUTUBE
9,220

Videos Tom has watched, listed in chronological order, including a series viewed in June about canoes.

GOOGLE PLAY
117

That's how many apps Tom has downloaded from Google's store.

PASSWORDS
35

Number of website passwords saved in Google's Chrome browser.

LOCATION
Willunga, South Australia

Due to an unknown glitch, Google bases Tom's location from one of his old Android phones, which he gave to his mother in Australia.

GOOGLE SEARCH
64,019

Google thinks Tom performs most of his searches around 8 a.m. ET, but this is probably skewed by years spent outside the U.S.

ANDROID DEVICES
3

Google knows all of Tom's synched Android phones, including the old Nexus S phone that he gave to his mom.

WALLET
3

Credit cards (two expired) saved in Google Wallet, plus two shipping addresses and 13 itemized purchases since June 2009.

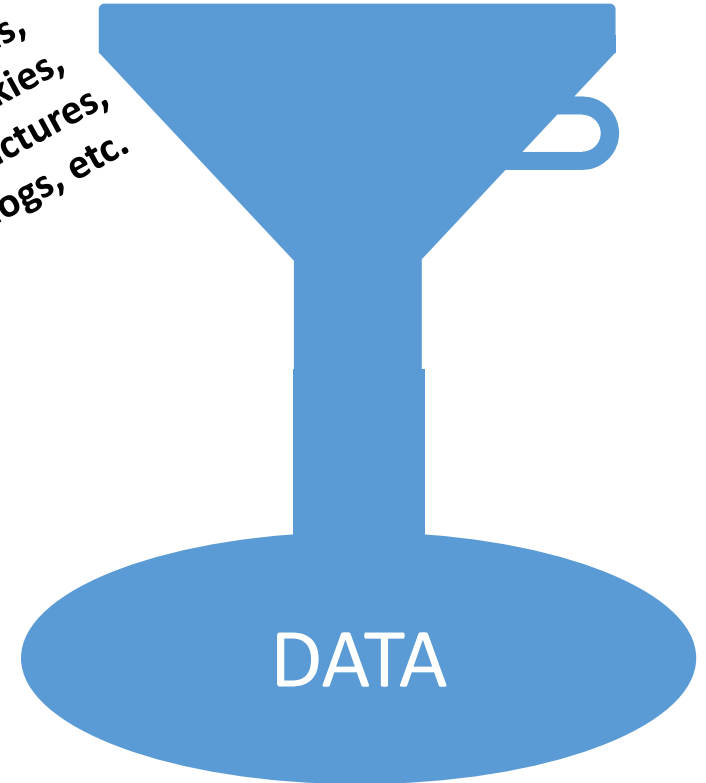
DOCS
855

Documents Tom has created, plus the 115 he has opened that belong to other people.

Social media posts, likes, loves, mentions, threads, shares, comments, follows, subscribes, emoticons, etc.

Travels, locations, wearables, cookies, transactions, pictures, blogs, vlogs, logs, etc.

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Graphic by Alberto Cervantes/
The Wall Street Journal

Data Protection >> Digital Trust >> Business Continuity



Mengganti *provider*

48% indicated they already switched companies or providers because of their data policies or data sharing practices.

48%

Cisco Consumer Privacy Survey 2019



Kekhawatiran meningkat

79% of respondents said they are very or somewhat concerned about how companies are using the data they collect about them.

79%

Pew Research Center



Aspek pelayanan publik

64% say they have the same level of concern about government data collection.

64%

Pew Research Center



Kehilangan kontrol

81% of respondents feel as if they have little or no control over the data collected.

81%

Pew Research Center



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Apa itu Privasi?



Right to Life, to Enjoy Life with Dignity 

"Leave me Alone" – Right to Solitude 

Right to be Anonymous, under no Scrutiny 

Informational Privacy: Identity, Communications, lifestyle, etc 

84%

of the global consumers care about privacy, care for their own data, care about the data of other members of society, and they want more control over how their data is being used.

[Cisco Consumer Privacy Survey 2019](#)

Privasi dan Pelindungan Data: Perspektif Qur'an



Big Data sebagai Aset/Sumber Daya

Q.S. Al-Baqarah: 31; Az-Zumar: 9

Komunikasi Privat

Q.S. Al-Hujurat: 11

Kewajiban Menyimpan Rahasia

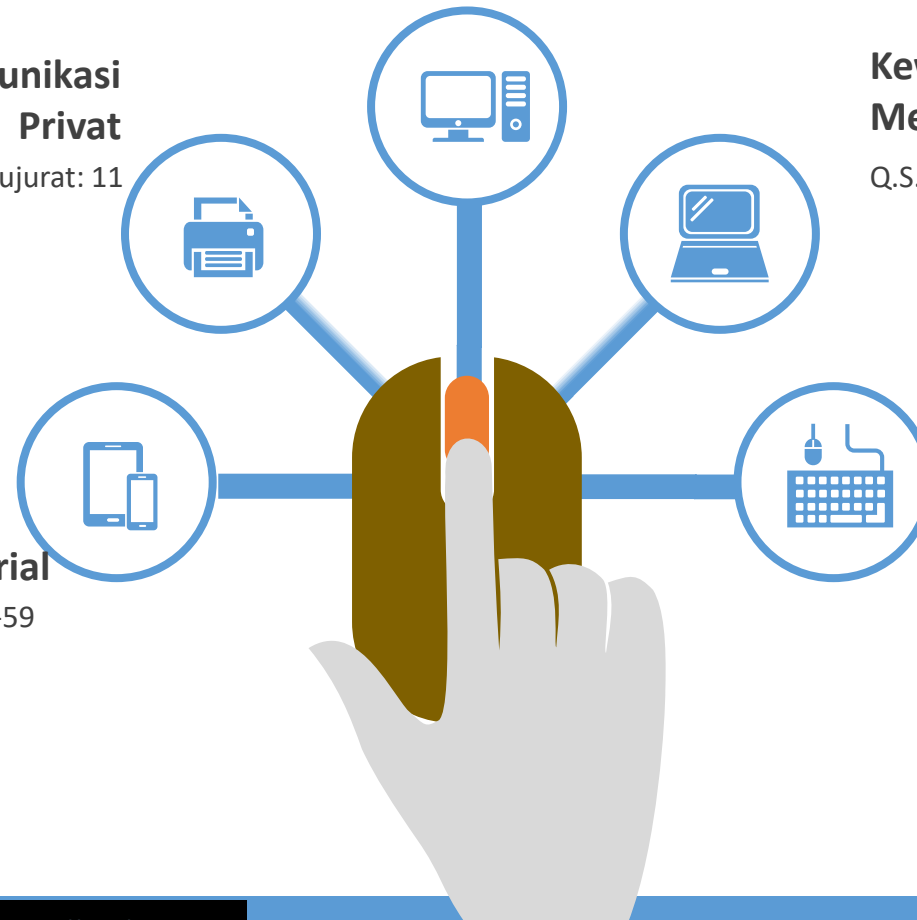
Q.S. An-Nisa: 58

Privasi Territorial

Q.S. An-Nur: 58-59

Larangan Mengintai

Q.S. Al-Hujurat: 12



WHEN PDP LAW IS ABSENT...



- ✓ **Uninterrupted exploitation:** Businesses continue monetize unfairly, leaving the gap of economy widens.
- ✓ **Threat to civil society:** Governments handle citizens' data without legal check and balance to the rights of individuals.
- ✓ **Individuals** subject to a lost privacy, exploited resources, threat to safety, harassment, constant surveillance and reduced quality of life.
- ✓ **Distrust over digital platforms,** hence the threat to national economy.
- ✓ **Country loses international credibility** – thus creates a reputation as a safe-heaven for data criminals and hostile trade country.

Data Breach Incidents – in the past two years*



BPJS Kesehatan
Badan Penyelenggara Jaminan Sosial



**komisi
pemilihan
umum**



eHAC Indonesia
Health Quarantine MoH Indonesia



Lazada

facebook
Indonesia

BRIlife



tokopedia



bukalapak

BHINNEKA



RedDoorz

kreditplus

PT. KB FINANSIA MULTI FINANCE

<https://nasional.kompas.com/read/2021/09/03/18445501/deretan-kasus-kebocoran-data-pribadi-dalam-dua-tahun-terakhir>

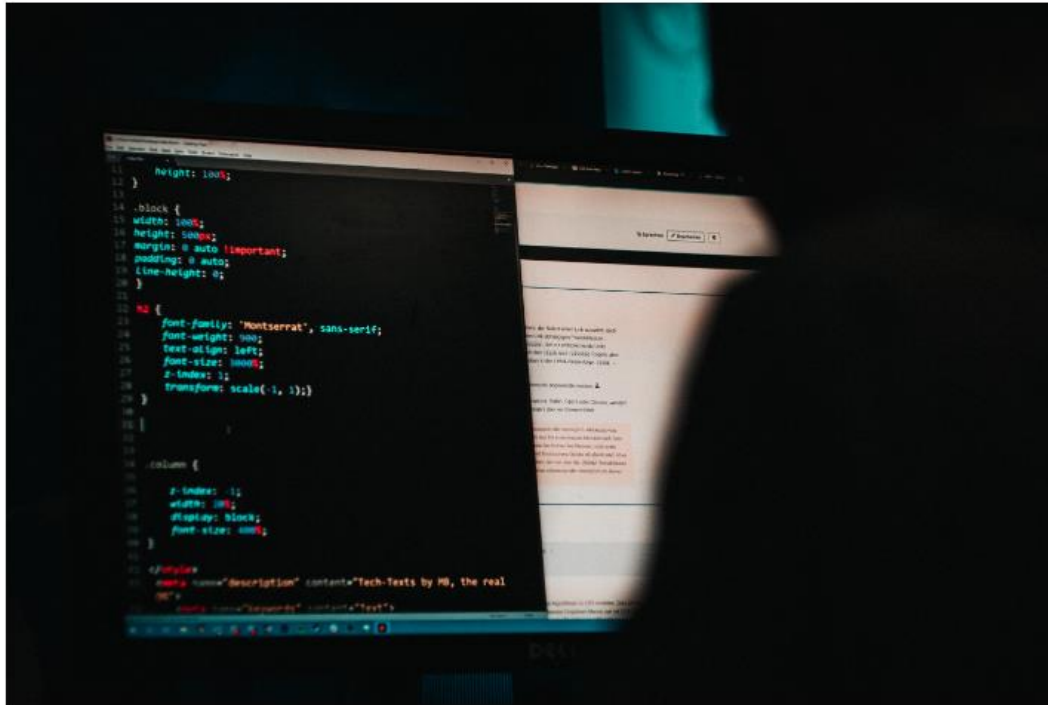


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BETA

PAPER EDITION • TODAY'S PAPER

Data breaches still haunt Indonesia as BSI becomes latest victim



Hackers, who talked to The Jakarta Post, say that the security quality of many official Indonesian websites makes it easy for them to hack. (Unsplash/Mika Baumeister)

ADS SUPPORT US. YOUR SUBSCRIPTION DOES TOO.

SECURITY

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TRENDING: LIVE Webinar | Hackers Don't Back Down, So You Need to Back Up: Data Security's Hardest Tr

Finance & Banking , Fraud Management & Cybercrime , Industry Specific

LockBit Leaks 1.5TB of Data Stolen From Indonesia's BSI Bank

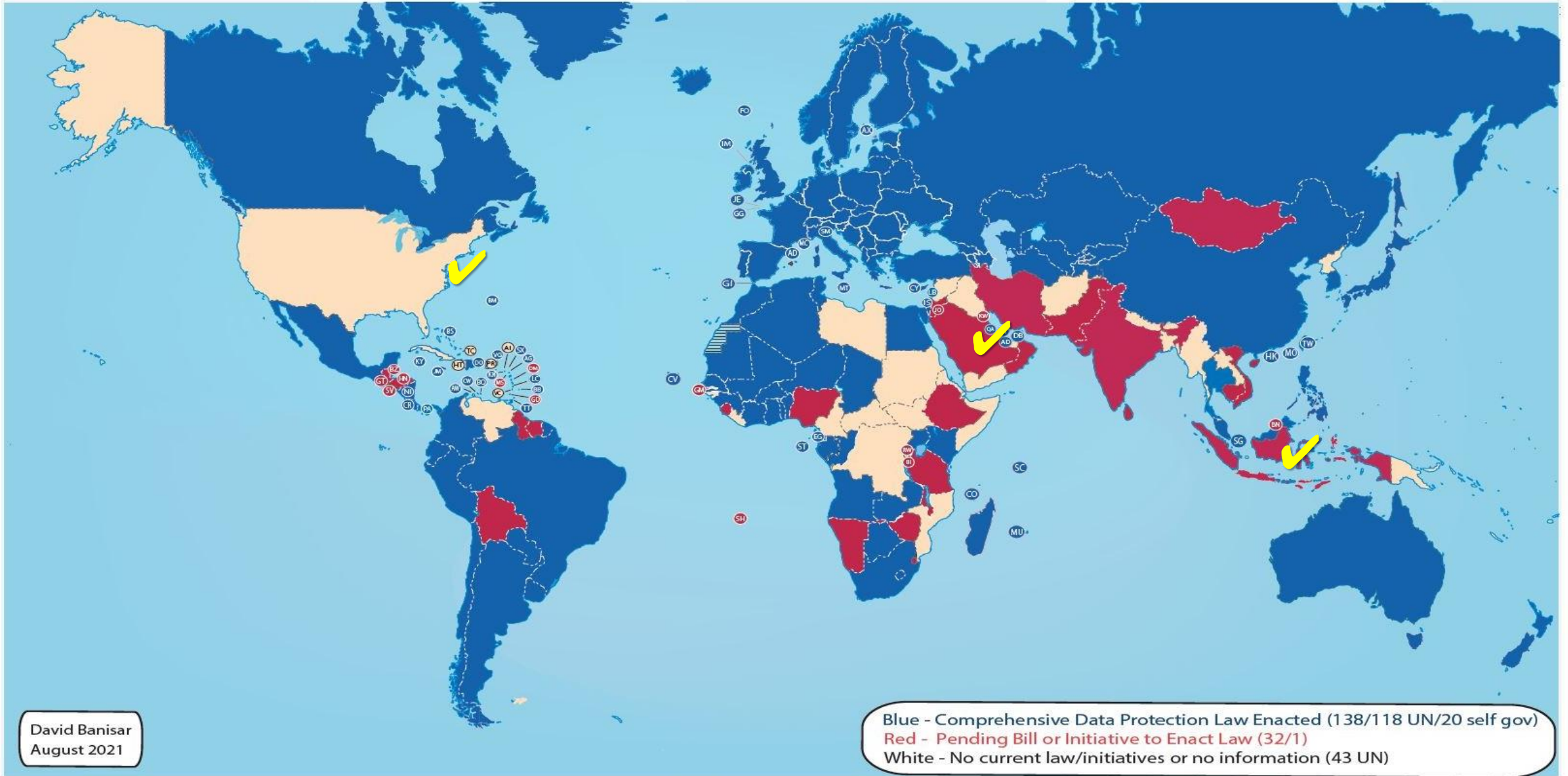
Gyariah Indonesia Says Service Interruptions Were Maintenance

Parti (@JayJay_Tech) • May 18, 2023

Most Viewed

- 01 Me-WOW: 3D billboard ad greets busy Jakarta commuters
- 02 Analysis: Indonesia today more

National Comprehensive Data Protection/Privacy Laws and Bills 2021



David Banisar
August 2021

Blue - Comprehensive Data Protection Law Enacted (138/118 UN/20 self gov)
Red - Pending Bill or Initiative to Enact Law (32/1)
White - No current law/initiatives or no information (43 UN)



Respon di Indonesia.. Better late than never!

Data Breach Incidents – in the past two years*

<https://nasional.kompas.com/read/2021/09/03/18445501/deretan-kasus-kebocoran-data-pribadi-dalam-dua-tahun-terakhir>



G-20 Summit 2022

"Ini adalah sebuah kepercayaan dan kehormatan bagi Indonesia menerima Presidensi G20."

INDONESIA

"Dan dalam Presidensi G20 Indonesia akan fokus untuk mengerjakan tiga hal: Pertama, penanganan kesehatan yang inklusif. Kedua, transformasi berbasis digital. Ketiga, transisi menuju energi berkelanjutan."



Past

Present

Future

Data Pribadi Dijual Bebas

Data pribadi dijual bebas untuk kepentingan perusahaan pribadi, dan bahkan... "Mengecewakan karena..."

KETUA KOMISI I DPR RI MEUTYA HAFID:

RUU PDP Segera Disahkan, Pembentukan Pengawas Independen Diserahkan ke Presiden

sonnyzulhuda.com



- ✓ Digital Sovereignty
- ✓ Transparency (Good Governance)
- ✓ Sustainable Business
- ✓ Sustainable Innovation



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Studi Kasus

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PRESIDEN
REPUBLIK INDONESIA

SALINAN

UNDANG-UNDANG REPUBLIK INDONESIA

NOMOR 27 TAHUN 2022

TENTANG

PELINDUNGAN DATA PRIBADI

Asas (Pasal 3)

Undang-Undang ini berasaskan:

- a. Pelindungan
- b. Kepastian hukum;
- c. Kepentingan umum;
- d. Kemanfaatan;
- e. Kehati-hatian;
- f. Keseimbangan;
- g. Pertanggungjawaban; dan
- h. Kerahasiaan.

- Menimbang :
- a. bahwa pelindungan data pribadi merupakan salah satu hak asasi manusia yang merupakan bagian dari pelindungan diri pribadi maka perlu diberikan landasan hukum untuk memberikan keamanan atas data pribadi, berdasarkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;
 - b. bahwa pelindungan data pribadi ditujukan untuk menjamin hak warga negara atas pelindungan diri pribadi dan menumbuhkan kesadaran masyarakat serta menjamin pengakuan dan penghormatan atas pentingnya pelindungan data pribadi;
 - c. bahwa pengaturan data pribadi saat ini terdapat di dalam beberapa peraturan perundang-undangan maka untuk meningkatkan efektivitas dalam pelaksanaan pelindungan data pribadi diperlukan pengaturan mengenai pelindungan data pribadi dalam suatu undang-undang;
 - d. bahwa berdasarkan pertimbangan sebagaimana dimaksud dalam huruf a, huruf b, dan huruf c, perlu membentuk Undang-Undang tentang Pelindungan Data Pribadi;

- Mengingat :
- Pasal 5 ayat (1), Pasal 20, Pasal 28G ayat (1), Pasal 28H ayat (4), dan Pasal 28J Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;

Privasi Data sebagai Amanat Konsitusi

Pasal 28G: hak perlindungan individu dan kelompok, hak bebas dari perbudakan, dan hak mencari suaka.

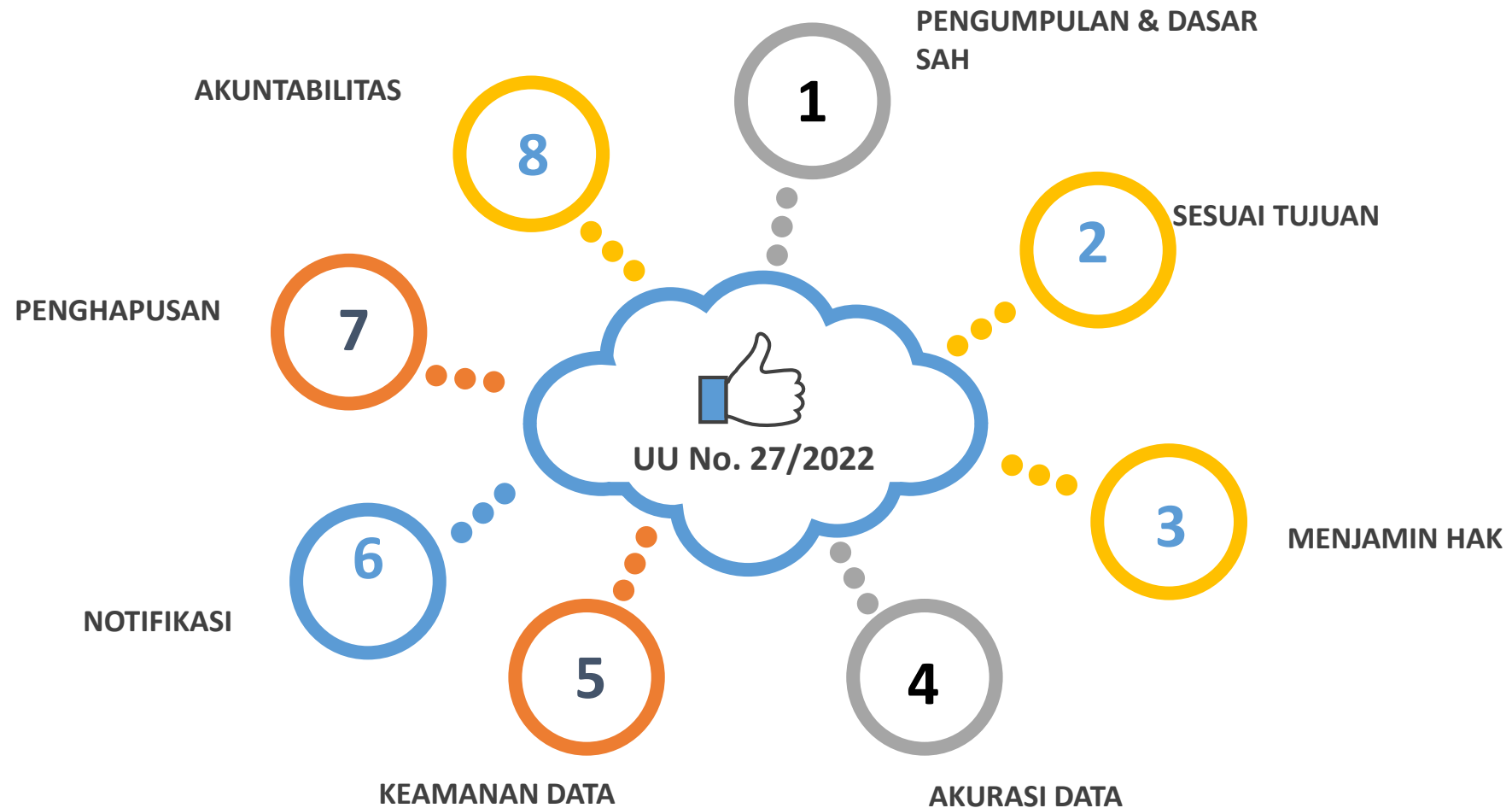
Pasal 28H: hak hidup sejahtera, hak mendapat keadilan dan persamaan hak, hak jaminan sosial, serta hak milik pribadi.

Pasal 28J: kewajiban menghormati HAM orang lain dan pembatasan HAM dalam kasus khusus oleh UU



Prinsip-prinsip Pelindungan Data

(Pasal 16(2) UU No. 27/2022)



Rights of Data Subjects

(UU No. 27/2022)

- tentang kejelasan identitas,
- Ttg dasar hukum
- tujuan penggunaan, dan
- akuntabilitas

HAK MENDAPATKAN INFORMASI

1

- Melengkapi
- memperbarui,
- memperbaiki kesalahan data

HAK THD AKURASI DATA

2

- mendapatkan akses
- memperoleh salinan

HAK AKSES

3

- Menghentikan proses
- menghapus,
- memusnahkan

HAK MENGHAPUS DATA

4

- menarik persetujuan yang telah diberikan

HAK MENARIK PERSETUJUAN

5

- Mengajukan keberatan thd keputusan
- Akibat pemrosesan otomatis
- yang berdampak hukum/ signifikan

HAK TERKAIT PROSES OTOMATIS

6

- menunda atau membatasi pemrosesan
- Secara proporsional sesuai tujuan

HAK MENUNDA PROSES

7

- menggugat
- Menerima ganti rugi atas pelanggaran pemrosesan

HAK GANTI RUGI

8

- Data dalam bentuk yang sesuai lazim
- Mengirimkan data ke sistem lain

HAK MENGALIHKAN DATA

9

Peran UU No. 27/2022 terhadap Ekonomi Digital

1

Mengatur (bukan MELARANG) penggunaan data pribadi

- Data controllers
- Data processors
- Trans-border third parties

2

Mengakui HAK INDIVIDU pemilik data

- Right to access
- Right to data accountability
- Right to remedies

3

Menyediakan mekanisme PENYELESAIAN SENGKETA

- Administrative
- Civil remedies
- Criminal sanctions

4

Mendorong INOVASI dalam pemrosesan data

- Data anonimisation
- Data portability
- Data encryption

5

Menciptakan KEPERCAYAAN PUBLIK terhadap proses komersialisasi data

- Data breach notification
- Data protection officer
- Privacy impact analysis



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Penutup

“Polisi Jerman didenda Rp 23 juta akibat menggunakan data pendaftaran kendaraan orang lain untuk kepentingan pribadi”



- In May 2019, a **German** police officer was fined by the country's Data Protection Authority EUR 1400 (Rp 23 million) for obtaining car license plate data via the official system and **using it for private contact**.
- The police officer has processed personal data **outside the scope of the law**.
- This infringement is because he does not have sufficient legal basis for data processing, contrary to Art. 6 GDPR (EU).

“Akibat penyebaran video dari CCTV ke publik, pemilik restoran di Spanyol didenda Rp 49 juta karena menyebarkan data pribadi pelanggannya”



- In September 2021, a restaurant owner in **Spain** was fined EUR 3,000 (Rp 49 million) for distributing a CCTV **images through WhatsApp and online media** which shows an accident that involved one customer of the restaurant.
- The CCTV was **meant for security purposes**, therefore the images/videos shall not be distributed publicly as it is not in line with the security purpose.
- As the publication of the images was not related to the purpose of the video surveillance, the restaurant owner as data controller violated the **Purpose Limitation principle** under the GDPR.

“Penyedia jasa pelatihan yang dikontrak oleh Angkatan Tentara Singapura didenda Rp 367 juta karena database mereka diserang Ransomware”



A third party training vendor to **Singapore** Armed Forces was fined SGD 35,000 (Rp 367 million) in June 2021 for their **failure to apply security measures** to the data of more than 110,000 people in total.

- The database was affected by ransomware which locks up the data
- The vendor only applies a single, simple password, which was shared between few employees.
- Insufficient authentication method to protect the account from unauthorised log-ins.

“Sebuah yayasan pendidikan di Polandia didenda Rp 49 juta karena gagal menginformasikan pihak berwenang tentang insiden data breach di tempatnya”



- In June 2021, the authority in **Poland** imposed a fine of EUR 3,000 (Rp 49 million) on a legal education foundation.
- The Foundation had earlier suffered from data breaches (i.e. data theft) and had **failed to notify the authority about the breach**.
- The failure to notify the authority amounts to a violation of a breach notification duty. The data file that was stolen included the names, addresses and telephone numbers, and also the national ID numbers of 96 individuals.

“Sebuah maskapai nasional di Malaysia dituntut karena stafnya menyebarkan data pribadi penumpang melalui Media Sosial Facebook”

In April 2014, a **Malaysian** actress sued Malaysia Airlines over the publication of her flight details on a Facebook account. The posting of their boarding passes caused them to suffer emotional stress.

In an out-of-court settlement, the couple received an undisclosed amount of compensation.

Legally, this would have potentially amounted to a violation of the purpose limitation principle (section 6) and disclosure principle (section 8) of the PDP Act (Malaysia).





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Tantangan Pelaksanaan UU Privasi Data



1. Kelembagaan pelaksana UU?
2. Menanti peraturan turunan
3. Harmonisasi dengan UU lain
4. Potensi dan tendensi kriminalisasi
5. Privasi vs Kepentingan publik

Penutup

01

Transformasi ekonomi digital mempersyaratkan perubahan mendasar dalam proses tatakelola aset

02

UU No. 27/2022 langkah tepat untuk mengkondisikan perubahan tatakelola ke arah lebih baik

03

UU No. 27/2022 minciptakan iklim transparan dan rasa aman bagi konsumen (Digital Trust)

04

Privasi Data masih perlu didukung oleh perangkat lain seperti edukasi dan iklim kolaborasi sektor public-private.

05

Dengan kesadaran tentang privasi data, terciptalah tekanan publik menuju manajemen digital yang lebih baik

THANK YOU

DR SONNY ZULHUDA



sonny@iium.edu.my



sonnyzulhuda.com



twitter.com/zulhuda

SCOPUS ID: 35782606500

ORCID ID: 0000-0003-0192-1971

GOOGLE SCHOLAR ID: [B99CpLkAAAAJ&hl](https://scholar.google.com/citations?user=B99CpLkAAAAJ&hl)

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