
Legal Certainty of Aggregate Data Utilization in The Design of Personal Data Protection Bill

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Abstract

The government has prepared Bill on Personal Data Protection (PDP Bill) that comprehensively regulates the personal data protection of society. One of the provisions in the PDP Bill, which is considered to be an obstacle in digital economy growth is an exclusion of the rights of Personal Data holders and the obligations of Personal Data processors for Aggregate Data, which are only intended for the purpose of state administration. As a result, the utilization of Aggregate Data for various purposes both research and business cannot be carried out by the community. In this study, a research method with normative juridical and analytical descriptive approach is used that focuses on laws and regulations, and library materials such as literature and journals. The regulation of Aggregate Data in the PDP Bill is contrary to the theory and Aggregate Data rules in other countries, which argues that Aggregate Data is not Personal Data. Therefore, Aggregate Data as a whole is excluded or removed from the regulation of Personal Data Protection, whether intended for the Government interest or other purposes.

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1. Introduction

Advances in science and technology change everything and bring the world to undergo industrialization now and then. The world currently stands facing the industrial revolution 4.0 that collaborates automation technology with cyber technology.¹ This revolution combines physical, digital and biological domains that affect all disciplines.² Several technologies become main pillars in developing digital industry, which are Internet of Things, Big Data, Artificial Intelligence, Cloud Computing, and Additive Manufacturing.

This change is very beneficial for all levels of society who can take the opportunities and benefits from it. But there are challenges not only for society, but also for industry and government. The biggest challenge for humans posed by the latest information technology is the aspect of privacy, such as the loss of control over Personal Data.³ The next challenge for the Government is to make policies that can protect and ensure the security of the public's Personal Data.

Personal Data is one part of privacy, which is Human Rights (HAM), is not a novelty found in the development of technology today. The international community has long recognized and agreed that privacy constitute a human right that every state must protect. Indonesia expressly recognizes the right to personal protection of every citizen as stated in the state constitution of Article 28 G paragraph (1) of the Second Amendment of the 1945 Constitution, which reads:

“Every person shall have the right to protection of his/herself, family, honour, dignity, and property, and shall have the right to feel secure against and receive protection from the threat of fear to do or not do something that is a human right.”⁴

¹ Kementerian Komunikasi dan Informatika Direktorat Jenderal Aplikasi Informatika, “Revolusi Industri 4.0,” last modified 2020, <https://aptika.kominfo.go.id/2020/01/revolusi-industri-4-0/>, diakses 23 September 2021 pukul 11.06 WIB.

² Danrivanto Budhijanto, *Kedaulatan Virtual Pelindungan Konten & Penyiaran 4.0 Di Indonesia* (Bandung: Logoz Publishing, 2020), hlm. 131.

³ Danrivanto Budhijanto, *Hukum Ekonomi Digital Di Indonesia* (Bandung: Logoz Publishing, 2019), hlm. 62.

⁴ Republik Indonesia, *Undang-Undang Dasar 1945* (Jakarta, 2000), Amandemen Kedua, Pasal 28G ayat (1).

In Indonesia, the regulation of Personal Data protection is still sectoral. In the electronic system administration, Personal Data protection is specifically regulated by Regulation of the Ministry of Communication and Information No. 20 of 2016 on Personal Data Protection in Electronic Systems (RM PDPES). RM PDPES was made in order to implement Government Regulation no. 71 of 2019 on the Implementation of Electronic Systems and Transactions (GR IEST). In GR IEST and RM PDPES, which data included in the category of Personal Data has not been clearly regulated. It is different with Law no. 23 of 2006 on Population Administration as amended by Law no. 24 of 2013 on Amendment to Law Number 23 of 2006 on Population Administration (Law of Population Administration), which clearly distinguishes individual data from Personal Data. Personal Data protection regulation in other countries are also clearly regulated on which data is included in Personal Data and those that are not Personal Data.

The sectoral regulation of Personal Data has the disadvantage that it is difficult to implement in cross-sectoral, hence we need regulations to regulate Personal Data protection comprehensively so that Indonesia has equality with other countries in the regulation of Personal Data protection. In various activities, President Jokowi stated that *Data is New Oil*, which is a new type of asset that is more valuable than oil.⁵ On January 24, 2020, President Jokowi has submitted the Bill draft on Personal Data Protection (PDP Bill) to the Chairperson of the Indonesian House of Representatives to be discussed with the Government in order to materialize a national regulation on the Personal Data protection, both Personal Data of citizens residing in Indonesia and the Personal Data of Indonesian citizens abroad.⁶ Furthermore, the Indonesian House of Representatives has included the PDP Bill into the list of Priority National Legislation Programs for 2020 and 2021 to be discussed with the Government. This

⁵ Tempo.Co, "Jokowo: Data Adalah New Oil, Bahkan Lebih Berharga Dari Minyak," last modified 2020, <https://www.google.co.id/amp/s/bisnis.tempo.co/amp/1299253/jokowi-data-adalah-new-oil-bahkan-lebih-berharga-dari-minyak>, diakses 24 September 2021 pukul 09.56 WIB.

⁶ Kementerian Komunikasi dan Informatika Republik Indonesia, "SIARAN PERS NO. 15/HM/KOMINFO/01/2020 Tentang Presiden Serahkan Naskah RUU PDP Ke DPR RI," last modified 2020, https://www.kominfo.go.id/content/detail/24039/siaran-pers-no-15hmkominfo012020-tentang-presiden-serahkan-naskah-ruu-pdp-ke-dpr-ri/0/siaran_pers, diakses 13 September 2021 pukul 09.00 WIB.

PDP Bill will complement the Personal Data protection regulation that are currently in effect on a sectoral basis as long as they do not conflict.

The PDP Bill was drafted in order to provide protection to the holder of Personal Data for the processing of Personal Data carried out by anyone, whether by individuals, legal entities or non-legal entities, public bodies, and/or organizations/institutions. In its draft, the PDP Bill requires that the processing of Personal Data is carried out by obtaining prior consent from the holder of the Personal Data. The PDP Bill also gives certain rights to the holder of Personal Data, but one of them does not apply to Aggregate Data of which processing is intended for statistical purposes and scientific research in the context of state administration.

In general, Aggregated Data is data generated through the data aggregation process. Data aggregation is the process of collecting and displaying raw data in a summary form for statistical analysis purposes.⁷ Aggregate Data in the form of this statistic cannot re-identify a person's identity thus it cannot be called Personal Data. Meanwhile, the provisions on Aggregate Data in the PDP Bill direct that Aggregate Data is part of Personal Data that can only be implemented for state administration. This regulatory plan makes it difficult for the community to use Aggregate Data in various sectors, especially in supporting digital businesses. The understanding of Aggregate Data in the regulation of Personal Data protection needs to be straightened up between the regulators and the business practices that have occurred so far, so that the use of Aggregate Data can be carried out for various purposes, not only for research purposes in the context of state administration.

2. Problem Statement

Based on the explanation above, this journal will discuss the regulation of Personal Data both in Indonesia and other countries and how the regulation of Aggregate Data in the PDP Bill is compared to other laws in Indonesia and other countries.

3. Methods

In accordance with the title and formulation of the problem to be discussed, this research uses a normative juridical research method or normative law, which is

⁷ IBM Corporation, "Data Aggregation," <https://www.ibm.com/docs/en/tnpm/1.4.2?topic=data-aggregation>, diakses 29 September 2021 pukul 09.03 WIB.

literature law research conducted by examining secondary data or literature materials.⁸

The sources of data in normative legal research are primary legal materials consisting of laws and regulations relating to the adapted research topic, secondary legal materials consisting of scientific literature and journals, and tertiary legal materials consisting of law dictionaries, Indonesian dictionaries, and English dictionary.

Furthermore, this study also uses qualitative research methods that applies soft and descriptive data, rather than hard data to be processed with statistics.⁹ First of all, studying the laws and regulations, literature and journals related to Personal Data and Aggregate Data, both those applying in Indonesia and those applying in other countries.

4. Discussion

4.1. Protection of Personal Data as a Human Right

Personal freedom (privacy) is one of the Human Rights (HAM) that is protected by the state. The international community through the United Nations (UN) upheld human rights by ratifying the Universal Declaration of Human Rights (UDHR) on 10 December 1948. In the Preamble to the Universal Declaration of Human Rights, member states have pledged to make progress in general acknowledgement and respect for human rights and fundamental freedoms, in co-operation with the United Nations.¹⁰ Subsequently, the UDHR brought forth to the International Covenant on Civil and Political Rights (ICCPR) that the UN General Assembly had approved in 1966 and declared in force and full effect in 1976 after 35 countries (the minimum required number) ratified it into the law.¹¹ The ICCPR clearly stipulated the prohibition of unlawful interference in the privacy of an individual and his/her family.¹²

⁸ Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 1997), hlm. 27.

⁹ Muri Yusuf, *Metode Penelitian Kuantitatif, Kualitatif & Penelitian Gabungan* (Jakarta: Kencana, 2014), hlm 338.

¹⁰ (United Nations 1948)

¹¹ Scoot Davidson, *Hak Asasi Manusia (Sejarah, Teori, Dan Praktek Dalam Pergaulan Internasional)* (Jakarta: PT Pustaka Utama Grafiti, 1993), hlm. 106.

¹² United Nations, *International Covenant on Civil and Political Rights*, 1966, Psl. 17.

The Indonesian government also paid special attention to providing protection for private rights to citizens. Prior to ratifying the ICCPR in 2005 through Law no. 12 of 2005 on the Ratification of the International Covenant on Civil and Political Rights, but before that, the Indonesian government had first given the right to the protection of an individual's personal, family, and property that was affirmed in Article 28G as the second amendment to the 1945 Constitution in 2000.

In the Information Communication Technology (ICT), the protection of an individual's personal rights or privacy was emphasized on the protection of his personal data. Personal Data Protection is inseparable from the development of privacy.¹³ According to Thomas J. Imedinghaff, privacy does not merely imply about the individual's personal, but also includes information or data about a person that can be collected and used by others (privacy of data about person).¹⁴ Banisar and Davies revealed that personal rights generally consist of *information privacy* relating to the collection and use of personal data, *bodily privacy* relating to violence against the human body, *privacy of communication* relating to communication media such as letters, telephone, email, and *territorial privacy* related to living and working environment.¹⁵ An individual's personal right to information is the right to choose, determine whether, how, and to what extent information about a person is communicated to others, especially confidential and sensitive informations.¹⁶

Personal Data Protection is a part of personal rights that is regulated strictly in Article 26 paragraph (1) of Law no. 11 of 2008 on Information and Electronic Transactions and Law no. 19 of 2016 on Amendments to Law No. 11 of 2008 on Information and Electronic Transactions (IET Law). Article 26 paragraph (1) of the IET Law stipulates that unless stipulated otherwise by laws and regulations, the use of any information through electronic media concerning an individual's personal data must be taken

¹³ Dian Agung Wicaksono Faiz Rahman, "Examining The Reference Of Personal Data Interpretation in Indonesian Constitution" 21 No. 2 (2021), hlm. 187.

¹⁴ Ed. Thomas J. Imedinghaff, *Online Law – The SPA's Legal Guide to Oing Business on the Internet*, Addison-We. (Canada, 1996), hlm. 269; Edmon Makarim, *Hukum Telematika* (Jakarta: PT Raja Grafindo Persada, 2005), hlm. 160.

¹⁵ David Benisar and Simon Davies, "Global Trends in Privacy Protection: An International Survey of Privacy, Data Protection, and Surveillance Laws and Development" 18, no. 1 (1999), hlm. 6.

¹⁶ Bryan A. Garner and Henry Campbell Black, *Black's Law Dictionary*, 8th ed. (United States: Thomson/West, 2004)

with the consent of that person. In the elucidation provisions of Article 26 paragraph (1) of the IET Law, it is clarified that in the use of Information Technology, Personal Rights contain the following meanings:¹⁷

- 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 any spying act.
- c. The right to monitor access to information about an individual's personal life and data.

4.2. Personal Data Protection Regulations in Indonesia and Other Countries

In Indonesia, the regulation on Personal Data protection is currently spread across various sectors, including the law on information and electronic transactions, finance, health, population, and telecommunications. This sectoral regulation of Personal Data protection does not only occur in Indonesia. The United States of America also regulates Personal Data protection through sectoral approach. Unlike the comprehensive Personal Data protection regulations in Europe, the United States relies on a combination of federal and state level regulations, administrative regulations, and industry regulations.¹⁸ Personal Data protection regulations in the United States are regulated in several sectoral regulations including *The Fair Credit Reporting Act*, *Financial Services Modernization Act*, *Health Insurance Portability and Accountability Act*, *Controlling the Assault of Non-Solicited Pornography and Marketing Act*, *Electronic Communications Privacy Act*, dan *The Computer Fraud and Abuse Act*.¹⁹

This decentralized regulation results in the understanding and implementation of Personal Data protection being different from one sector to another. PP PSTE defines Personal Data as any data about a person that can identify such person either alone or in combination with other information through electronic and/or non-electronic Systems. While the Regulation of the Ministry of Communication and Information Technology No. 20 of 2016 on Personal Data Protection in Electronic Systems (RM

¹⁷ Undang-Undang No. 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik, 2008; Undang-Undang No. 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang No. 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik, 2016.

¹⁸ Shawn Boyne, "Data Protections in The United States," Oxford University Press on behalf of the American Society of Comparative Law (2018), hlm. 299.

¹⁹ Ibid, hlm. 302.

PD PES) defines Personal Data as individual data that is attached and identifiable to each individual that is stored, cared for, and kept valid and confidential. Personal Data as regulated in GR IEST and PM PD PES is not specifically specified in its type and category.

The type of Personal Data is regulated more specifically in the Law of Population Administration. Article 58 paragraph 2 of the Administrative Law determines individual data including Family Card number, National Identification Number, full name, gender, place of birth, date/month/year of birth, blood type, religion/belief, marital status, relationship status in the family, physical and/or or mental disability, latest education, type of occupation, biological mother's National Identification Number, biological mother's name, father's National Identification Number, father's name, previous address, current address, holder of birth certificate/birth identification certificate, birth certificate number/birth identification number; holder of marriage certificate/marriage book, marriage certificate/marriage book number, date of marriage, holder of divorce certificate, divorce certificate number, divorce date, fingerprint, iris, signature, and other data elements that constitute a person's disgrace.

Not all of the personal data are included in the category of Personal Data that must be protected by the Law of Population Administration. Prior to the amendments in 2013, the Administrative Law provided protection for resident's Personal Data related to family card numbers, NIK, date/month/year of birth, information on physical and/or mental disabilities, NIK of biological mother, father's NIK, and several important event records.²⁰ However, in its amendment, Article 84 paragraph (1) of the Adminduk Law regulates that Personal Data that must be protected includes information about physical and/or mental disabilities, fingerprints, irises, signatures, other data elements that constitute a person's disgrace.

Differences in the regulation of Personal Data in various laws and regulations in various sectors, create various obstacles in their implementation so that more comprehensive legal protection is required that is easy to apply by all sectors. In the

²⁰ Republik Indonesia, Undang-Undang No. 23 Tahun 2006 Tentang Administrasi Kependudukan (Jakarta, 2006), Pasal 84 ayat (1).

PDP Bill that has been submitted to the DPR for discussion with the Government, Personal Data consists of general Personal Data such as full name, gender, nationality, religion, and/or Personal Data combined to identify a person, and Personal Data such as health data and information, biometric data, genetic data, sexual life/orientation, political views, crime records, child data, personal financial data, and/or other data in accordance with the provisions of laws and regulations.²¹

Regarding the scope of Personal Data protection regulation in the PDP Bill, the PDP Bill has the same concept as the Personal Data protection regulation in the General Data Protection Regulation (GDPR). Similar to Indonesia, GDPR bases its regulation on the concept of privacy that is a human right that the state must protect with firm principles. GDPR was issued by the European Union (EU) in 2016 and became effective for the European community in 2018. Every country as a member of the EU is required to implement GDPR in its territory. In the GDPR, Personal Data includes, among other, name, identity number, location data, online identifier or information relating to an individual's physical, psychological, genetic, mental, economic, cultural, or social identity.²² The government requires a centralized regulation such as the GDPR, with the expectation that Indonesia has equality with other countries in protecting Personal Data.

Personal Data Processing

Personal Data Processing does not merely imply about the act of processing, shaping or changing data to generate a product for the party that processes Personal Data. Personal Data Processing is broader than those actions. In GR IEST and PM PDPEs, Personal Data processing includes the acquisition and collection, processing and analysis, storage, repair and updating, displaying, announcement, transfer, dissemination, or disclosure, and/or deletion or annihilation.²³

²¹ Republik Indonesia, Rancangan Undang-Undang Tentang Pelindungan Data Pribadi (Jakarta, 2019), dipublikasi pada 29 Januari 2021 melalui <https://aptika.kominfo.go.id/2020/01/presiden-telah-mengirim-ruu-pdp-ke-dpr/>.

²² General Data Protection Regulation (GDPR), 2016

²³ Republik Indonesia, Peraturan Pemerintah No. 71 Tahun 2019 Tentang Penyelenggaraan Sistem Dan Transaksi Elektronik (Jakarta, 2019), Pasal 14 ayat (2); Kementerian Komunikasi dan Informatika Republik Indonesia, Peraturan Menteri Komunikasi Dan Informatika No. 20 Tahun 2016 Tentang Perlindungan Data Pribadi Dalam Sistem Elektronik (Jakarta, 2016), Pasal 3.

Personal Data processing contained in the regulations in Indonesia is almost the same as that stipulated in the GDPR. The GDPR defines the Personal Data processing including collection, recording, organization, arrangement, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or provision, synchronization or combination, restriction, deletion or annihilation.²⁴

Several other Asian countries also apply a definition of Personal Data processing similar to GDPR. As in China, the processing of Personal Data regulated in Personal Information Protection Law consists of collection, storage, utilization, processing, transmission, alteration, dissemination, and deletion.²⁵ In Singapore, the Personal Data Protection Act (PDPA) 2012, Personal Data processing includes recording, storage, collection, alteration, restoration, combination, transfer, deletion or annihilation.²⁶ However, in PDPA the Personal Data processing is not included in the definition of Personal Data processing.

Consent in the Personal Data Processing

In order to provide protection to the holder of Personal Data for Personal Data processing carried out by business undertakers or organizations, the regulation of Personal Data protection in each country is strictly regulated regarding the obligations that business actors or organizations must fulfill before processing Personal Data. As regulated in GR IEST and PM PDPES, Personal Data processing must be based on the following basics and principles:²⁷

- taken in a limited and legal manner;
- carried out based on consent of the holder of Personal Data;
- conducted according to the appropriate purpose and notifying it to the holder of Personal Data;
- paying attention to feasibility of Electronic System;

²⁴ The European Union, General Data Protection Regulation (GDPR), Pasal 4 ayat (2).

²⁵ Republic of China, The Personal Information Protection Law, 2021, Pasal 4.

²⁶ Republic of Singapore, Personal Data Protection Act 2012 (No. 26 of 2012), 2012, Pasal 2.

²⁷ Indonesia, Peraturan Pemerintah No. 71 Tahun 2019 Tentang Penyelenggaraan Sistem Dan Transaksi Elektronik, Pasal 14 ayat (1); Republik Indonesia, Peraturan Menteri Komunikasi Dan Informatika No. 20 Tahun 2016 Tentang Perlindungan Data Pribadi Dalam Sistem Elektronik, Pasal 2 ayat (2).

- protecting security, maintaining confidentiality, accuracy, recency of Personal Data;
- notifying in case of failure of Personal Data protection;
- providing internal rules for management of Personal Data protection;

With regard to such consent, GR IEST stipulates in the event that every person, business entity, or state administrator as administrator of electronic system performs Personal Data processing starting from acquisition and collection, processing and analysis, storage, repair and updating, appearance, announcement, transfer, dissemination, or disclosure, and/or deletion or annihilation must obtain such consent of the holder of Personal Data for either one purpose or several purposes.²⁸ Such consent is a written statement both electronic and/or non-electronic that is given after the holder of Personal Data has received a complete explanation regarding the Data processing and confirms validity, confidentiality, and purpose of managing the Personal Data.²⁹

Not only in Indonesia and European countries, collection and acquisition of Personal Data is already part of Personal Data processing that must be carried out with prior consent from the holder of Personal Data. In the United States, the Cable Communications Policy Act of 1984 as amended by the Telecommunication Act of 1996 restricts cable operators from using their systems to collect personally identifiable information from subscribers without the subscriber's prior notice and consent.³⁰

In contrast to Personal Data protection for collection of Personal Data from online sites and services regulated in the California Online Privacy Protection Act (CalOPPA) that was amended in 2013. Amendments to this law require that any person or business entity operating commercial websites and online services that collect and manage Personal Data of visitors or users of commercial websites and online services must prominently display a privacy policy on their websites.³¹ In this regulation, the

²⁸ Indonesia, Peraturan Pemerintah No. 71 Tahun 2019 Tentang Penyelenggaraan Sistem Dan Transaksi Elektronik, Pasal 14 ayat (3).

²⁹ Republik Indonesia, Peraturan Menteri Komunikasi Dan Informatika No. 20 Tahun 2016 Tentang Perlindungan Data Pribadi Dalam Sistem Elektronik, Pasal 1 angka 4 dan Pasal 2 ayat (4).

³⁰ The Cable Communications Policy Act of 1984, 1984; The Telecommunications Act of 1996, 1996

³¹ The California Online Privacy Protection Act of 2003, 2013

Personal Data protection approach regulated in CalOPPA emphasizes the responsibility of business undertakers or individuals in operating commercial websites and online services, which is explaining what data is used for and data security provided to user data.

According to some legal scholars, although some of the Personal Data protection regulations in the United States appear to be less robust than those in Europe, the United States regulation concept supports greater protection than that in Europe.³² United States officials and industry maintain sector-specific approaches for more agile data regulation and business growth. The Federal Trade Commission (FTC), which is an independent institution that ensures the protection of consumers in the United States, believes that in addition to taking strict action against data collection, the FTC establishes principles for providing reasonable data security.³³

Several countries have realized that obtaining consent from the holderr of Personal Data is not convenient and is considered to obstruct the growth of digital business and innovation, especially in the current digital era, thus that regulations are required to balance consumer protection with business development and innovation. It raises the awareness of the United Kingdom (UK) that is currently conducting public consultations on reform plan to the UK GDPR to encourage innovation, economic growth, and continue to prioritize the responsible use of Personal Data.³⁴ Public consultations on reform plan to the UK GDPR will be held until 19 November 2021.³⁵

The UK government expects to have laws that can adapt to technological developments and support innovation so that data can be shared between agencies and/or organizations through artificial intelligence and open banking services, and used to increase productivity, create new businesses and employments, improve

³² Boyne, "Data Protections in The United States", hlm 299.

³³ Ibid, hlm. 310.

³⁴ United Kingdom Department for Digital, Culture, Media & Sport, "Press Release UK Launches Data Reform to Boost Innovation, Economic Growth and Protect the Public," last modified 2021, <https://www.gov.uk/government/news/uk-launches-data-reform-to-boost-innovation-economic-growth-and-protect-the-public>, diakses 19 September 2021 pukul 13.00 WIB.

³⁵ Ibid.

public services, and positioning the UK as the best country in developing digital business.³⁶

In 2020, PDPA Singapore also underwent changes in the regulations on obtaining consent from Personal Data holders for processing Personal Data carried out by organizations. Organization in PDPA Singapore means a person, company, association or business entity.³⁷ An individual is deemed to have consented to collection, use or disclosure of his/her Personal Data by an organization if the organization has previously met the assessment requirements to determine that the collection, use or disclosure of Personal Data have no adverse impact on the individual, and takes reasonable steps to convey to such individuals the intention and purpose of the organization to collect, use or disclose Personal Data.³⁸

In addition, under the Singapore PDPA an individual is deemed to have consented if the individual does not notify the organization within a reasonable time that such individual does not consent to the proposed collection, use or disclosure of his/her Personal Data.³⁹ Based on these provisions, the organization is not required to wait for the holder of Personal Data in processing Personal Data, as such holder of Personal Data is deemed to have given his/her consent to the collection, use and dissemination of such Personal Data.

4.3. Aggregate Data is Not Personal Data

Aggregate data is generally known as statistical data. It can be defined as macro data obtained by applying statistical analysis functions to raw data.⁴⁰ In the Great Dictionary of the Indonesian Language, statistics are defined as numbers that are collected, tabulated, classified so that they can provide meaningful information about a problem or symptom.⁴¹ Types of aggregation functions that are often used to produce Aggregate Data are such as counting, summing, and averaging, and in general the results of Aggregate Data are displayed in the form of tables, charts, graphs, or

³⁶ Department for Digital, Culture, Media & Sport, 2021

³⁷ Republic Of Singapore, Personal Data Protection Act 2012 (No. 26 of 2012), Pasal 2.

³⁸ Ibid, Amandemen 2020, Section 15A (2) & (4).

³⁹ Ibid.

⁴⁰ L.Tininini M. Rafanelli, A. Bezenchek, "The Aggregate Data Problem: A System for Their Definition and Management" (1996).

⁴¹ Republik Indonesia Kementerian Pendidikan Kebudayaan Riset dan Teknologi, "Kamus Besar Bahasa Indonesia," last modified 2016, <https://kbbi.kemdikbud.go.id/entri/statistik>.

maps.⁴² The raw data collected over a period of time is aggregated to provide statistics on the average, minimum, maximum, sum and count. Based on the explanation above, Aggregate Data can be exemplified, among others, as follows:

- Number of male and female population in Jakarta;
- Total unemployment rate in Indonesia.
- Number of people with undergraduate education in Indonesia.
- Number of children exposed to Covid 2019 every month.
- Location of the majority of Hindus community.

One of the regulations that define Aggregate Data strictly in Indonesia is the Population Administration Law. Article 58 paragraph (3) of the Population Administration Law and its elucidation states that Aggregate Data is a set or collection of data on population, gender, age, education, and other events in the form of quantitative data and qualitative data.⁴³ Furthermore, the elucidation stated the meaning of quantitative data, which is data in the form of numbers and qualitative data as data in the form of explanations.

In the elucidation of Article 16 of the PDP Bill, aggregate data is defined as a collection of data related to an individual personality that cannot and/or is not intended to identify a person either directly or indirectly. The definition of Aggregate Data that cannot and/or is intended to identify a person in this PDP Bill is in line with the definition of GDPR's view of Aggregate Data. In the GDPR it is explained that the purpose of statistics is the Personal Data processing to create statistical results that can be used, one of which is for scientific research purposes.⁴⁴ Furthermore, GDPR gave opinion that the result of Personal Data processing for statistical purposes is Aggregate Data, rather than Personal Data.⁴⁵

The same view is also found in the California Consumer Privacy Act of 2018 (CCPA), which states that aggregated consumer information is those relating to groups or categories of consumers, in which the identity of consumer has been removed and

⁴² M. Rafanelli, A. Bezenchek, "The Aggregate Data Problem: A System for Their Definition and Management."

⁴³ Undang-Undang No. 23 Tahun 2006 Tentang Administrasi Kependudukan, 2006

⁴⁴ Union, General Data Protection Regulation (GDPR), Resital 162.

⁴⁵ Ibid.

cannot be associated with such consumer.⁴⁶ Furthermore, in CCPA it is stated that Personal Data does not include non-identifiable data or aggregated consumer information.⁴⁷ Based on it, Aggregate Data is not Personal Data.

Aggregate Data Utilization

As having understood that the data generated through a statistical process is called Aggregate Data of which outcomes cannot refer to a particular individual.⁴⁸ This statistical data has great benefits for every sector of life. For the purpose of scientific research such as thesis, journals, and other scientific works using aggregated data as one of the research methods. In the health sector, the utilization of Aggregate Data has a very important role in handling the spread of disease, especially during a pandemic and improving health services. In the socio-political sector, the utilization of Aggregate Data produced by independent survey institutions can help prospective officials during the general election to conduct censuses, plan winning strategies, and figure out budget requirements. In the business sector, Aggregate Data that generates consumer behavior is very useful for companies to develop sales, marketing, and service quality improvement strategies to customers.

Aggregate Data in PDP Bill

In the PDP Bill, the holder of Personal Data has various rights, including:⁴⁹

1. the right to request clarity of information and the purpose of using Personal Data;
2. the right to access Personal Data in accordance with the provisions of laws and regulations;
3. the right to update and/or revise Personal Data;
4. the right to end processing, delete, destroy Personal Data;
5. the right to withdraw consent;
6. the right to object to the profiling action;
7. the right to choose or disagree to choose a pseudonymous mechanism in Personal Data processing;

⁴⁶ United States California, *The California Consumer Privacy Act of 2018*, 2018, Civil Code-CIV No. 1798.140.

⁴⁷ Ibid.

⁴⁸ Rossana Ducato, "Data Protection, Scientific Research, and the Role of Information," *Computer Law & Security Review* Vol. 37 (2020), hlm.3.

⁴⁹ Indonesia, Rancangan Undang-Undang Tentang Pelindungan Data Pribadi, Pasal 4-14.

8. the right to delay and limit the Personal Data processing;
9. the right to claim and receive compensation for violation of Personal Data; and
10. the right to obtain, use, and transmit his/her Personal Data to other parties.

In Article 16 paragraph (1) of the PDP Bill, some of the rights of the holders of Personal Data referred to above do not apply to the purpose of national defense and security, law enforcement process, the public interest in the context of state administration, the purpose of supervising financial services sector, monetary, payment system, and financial system stability, or aggregate data of which processing is intended for statistical purposes and scientific research in the context of state administration.⁵⁰ These rights directly create an obligation for the party in processing Personal Data to be responsible for carrying out the principles of Personal Data protection in processing Personal Data, including processing administered in a limited and legal manner, based on the consent of the holder of the Personal Data, as well as maintaining data confidentiality and security. Likewise by exception of the rights of the holder of Personal Data, Article 42 paragraph (1) of the PDP Bill stipulates that the obligation of processing Personal Data is excluded for the purpose of national defense and security, law enforcement processes, public interests in the context of state administration, the purpose of supervision of financial services sector, monetary, payment system, and financial system stability, or aggregate data of which processing is intended for statistical purposes and scientific research in the context of state administration.⁵¹

Regulation on the exclusion of Aggregate Data for state administration in Article 16 paragraph (1) and Article 41 paragraph (1) of the PDP Bill is contrary to Aggregate Data regulation in countries that have implemented Personal Data protection. As explained earlier that Aggregate Data cannot identify a person personally as it has been already in the form of a set of statistical data, therefore Aggregate Data does not include Personal Data. The statistical purpose is required for every activity, rather than only in the context of state administration.

As with Personal Data protection regulations in other countries, Aggregate Data is excluded or revoked in the regulations not only for Aggregate Data of which

⁵⁰ Ibid, Pasal 16 ayat (1).

⁵¹ Ibid, Pasal 42 ayat (1).

processing is intended for statistical and scientific research purposes in the context of state administration, but for all Personal Data. As provided for in the CCPA, Personal Data does not include non-identifiable or aggregated data.⁵² It is because Aggregated Data is not Personal Data so that any actions or obligations required by the Personal Data processor in processing Personal Data, do not apply to Aggregate Data processing. On the other hand, a person who holds Personal Data cannot claim their rights to be protected in the processing of an Aggregate Data as the person's identity in an Aggregate Data in the form of statistics cannot identify him/her.

5. Conclusion

In general, in the regulation of Personal Data in Indonesia, Singapore, China, Europe and America, the consent of the holder of Personal Data is required before the Personal Data processing is carried out. It is to protect the human rights of Personal Data Holder from misuse of the data that is detrimental to the Holder of Personal Data. In addition to the obligation to obtain consent, Personal Data Processors must pay attention to the feasibility of Electronic Systems, protect security, maintain confidentiality, accuracy, recency of Personal Data, notify in case of failure of Personal Data protection, provide internal rules for managing Personal Data protection, and other necessary actions.

The regulation of Aggregate Data in Article 16 paragraph (1) and Article 42 paragraph (1) of the PDP Bill can be interpreted that Aggregate Data processing is merely intended for the purpose of state administration. These provisions are not in line with the Aggregate Data settings in Europe and America, which hold the view that Aggregate Data is not Personal Data. Aggregate Data is statistical data that can be used for any purpose, either for the Government interest or for the benefit of private and public sectors. Due to the disclosure of Personal Data, the processing and utilization of Aggregate Data does not require the written consent of Personal Data holder.

⁵² The California Consumer Privacy Act of 2018, 2018

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