




# **Personal Data Protection in Political Party Information Systems in the Organization of General Elections: Concept and Law Reform Recommendations**

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## **Abstract**

Exploiting citizens' personal data by political parties within the Political Party Information System (SIPOL) database during the 2024 General Election has adversely affected the public. This paper examines the exploitation of citizens' personal data by political parties via identity fraud from a legal standpoint, while also suggesting a framework for personal data protection and legal change. The primary aim is to offer conceptual proposals for safeguarding people's personal data inside SIPOL and to suggest legal revisions to the Election Law and Political Party Law, therefore integrating requirements for personal data protection into the Personal Data Protection Law. This study utilized normative legal research methodologies, including a statute, case, and conceptual approach, to address the legal issues under examination. The research findings indicated that the illicit utilization of citizens' personal data for political party membership adversely affects the individuals involved and constitutes a legal infraction. This article provides a framework for safeguarding people's personal data within the SIPOL, alongside legal revisions to the Election Law and Political Party Law, which policymakers can address.

## Keywords

*Protection, Personal Data, Election, Legal Reform.*

## Introduction

Soekanto mention that the advancement of information technology aligns with societal changes. One such change is the transformation of human life from traditional lifestyles to an internet-based lifestyle that is increasingly interlinked.<sup>1</sup> The internet is one of the most significant innovations of the 21st century. It allows people to access information, communicate instantly, and conduct transactions globally.<sup>2</sup> Nonetheless, this technological progress significantly affects individual privacy concerning personal data. Personal data has become a significant concern in the past two decades due to swift technology advancements, particularly in data storage and information management.<sup>3</sup>

The swift progress of information and communication technology has raised security concerns,<sup>4</sup> particularly regarding personal data protection. In the current era of the Fourth Industrial Revolution, the matter of safeguarding personal data has grown increasingly severe, as the widespread use of technology and information fosters circumstances in

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<sup>1</sup> Teguh Cahya Yudiana, Sinta Dewi Rosadi, and Enni Soerjati Priowirjanto, "The Urgency of Doxing on Social Media Regulation and the Implementation of Right to Be Forgotten on Related Content for the Optimization of Data Privacy Protection in Indonesia," *Padjajaran Jurnal Ilmu Hukum (Journal of Law)* 9, no. 1 (2022): 24–45, <https://doi.org/10.22304/pjih.v9n1.a2>.

<sup>2</sup> Muhammad Faqih Adhiwisaksana and Tiurma M. Pitta Allagan, "The Competent Forum and the Applicable Law in Personal Data Protection With Foreign Element," *Indonesian Journal of International Law* 20, no. 3 (2023): 349–78, <https://doi.org/10.17304/ijil.vol20.3.2>.

<sup>3</sup> Rizaldy Anggriawan et al., "Passenger Name Record Data Protection under European Union and United States Agreement: Security over Privacy?," *Hasanuddin Law Review* 8, no. 2 (2022): 95–110, <https://doi.org/10.20956/halrev.v8i2.2844>.

<sup>4</sup> Sihabudin, "Expanding the Limitations of the Protection and Processing of Children's Personal Data: An Overview of Current Regulations, Challenges, and Recommendations," *Brawijaya Law Journal* 10, no. 1 (2023): 59–71, <https://doi.org/10.21776/ub.blj.2023.010.01.04>.

which personal data can be readily exposed to the public.<sup>5</sup> Misusing personal data has emerged as a significant concern in contemporary society. Information technology's swift advancement has prompted individuals to partake in unlawful activities for personal gain, negatively impacting individuals whose personal data has been exploited. Consequently, securing personal data has become imperative to uphold individual privacy and avert data exploitation. In recent years, numerous notable occurrences of data misuse have transpired, encompassing personal data breaches through the Internet, unlawful retailing of personal data, and exploitation of personal data for nefarious reasons.<sup>6</sup>

The misuse of personal data can be observed in the recent General Elections. This misuse was carried out by political parties that were election candidates. Political parties, as organized groups with shared visions and missions to gain power<sup>7</sup>, have become increasingly aggressive in their efforts to achieve this power. This was accomplished by illicitly utilizing citizens' personal data as membership information for the political parties, which was entered into the SIPOL. SIPOL is a system and technology utilized to simplify the processes of registration, verification, and designation of political parties engaged in elections for the People's Representative Council (DPR) and Regional Representative Council (DPRD), along with the continuous updating of data for these political parties at the General Election Commission (KPU), provincial KPU, district/city KPU, and electoral participants.<sup>8</sup>

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<sup>5</sup> Fenty U. Puluhalawa, Jufriyanto Puluhalawa, and Moh. Gufran Katili, "Legal Weak Protection of Personal Data in the 4.0 Industrial Revolution Era," *Jambura Law Review* 2, no. 2 (2020): 182–200, <https://doi.org/10.33756/jlr.v2i2.6847>.

<sup>6</sup> Herol Hansen Samin, Dian Ekawaty Ismail, and Erman I. Rahim, "The Urgency of Legal Protection of Personal Data," *De Lega Lata: Jurnal Ilmu Hukum* 9, no. 2 (2024): 146–52, <https://doi.org/10.30596/dll.v9i2.19768>.

<sup>7</sup> Ana Fauzia and Fitria Esfandiari, "Political Party Deliberation: Mechanism for Safeguarding Constituent Rights against Vacancies in House of Representatives Affected by Political Party Dissolution," *Jambura Law Review* 6, no. 2 (2024): 452–81, <https://doi.org/10.33756/jlr.v6i2.24110>.

<sup>8</sup> General Elections Commission of the Republic of Indonesia, "Article 1 Point 24 of General Elections Commission Regulation Number 11 of 2022 concerning Amendments to General Elections Commission Regulation Number 4 of 2022 on the Registration, Verification, and Determination of Political Parties Contesting in the Election of Members of the House of Representatives and Regional House of Representatives," (*Pasal 1 Angka 24 Peraturan Komisi Pemilihan Umum Nomor 11*

The registration process utilizes SIPOL as the designated platform for political parties to submit all necessary documentation for candidacy in the elections. The Political Party membership data, including the Population Identification Number (NIK) and the member's full name, is input into the registration. In the verification process, Sipol is used by the KPU to verify the requirements that have been input by each political party to determine eligibility to become an election participant before being finally determined. Unlawfully utilizing individuals' personal information for political party membership fulfils the requisite criteria, thus enabling the respective political party to attain eligibility as a participant in electoral processes.

Examining the current literature reveals that the fraudulent utilization of citizens' data remains a longstanding challenge within the electoral framework. Comparable issues were noted during the 2019 General Elections, albeit they did not garner major attention or media reporting. In Bulukumba Regency, numerous election organisers (ad hoc) were inaccurately incorporated into the membership data of political parties during the 2019 elections. Upon confirmation, it was disclosed that numerous potential members of the election organizing committee were not cognizant of the revelation that their information had been registered as members of a political party, as pointed out by Awaluddin (Member of the KPU in the Division of Socialization, Voter's Education, Public Participation, and Human Resources in Bulukumba Regency).<sup>9</sup>

Furthermore, various studies suggest that political parties illicitly exploit citizens' personal data during the registration and verification phases of election candidacy on a significant scale and across multiple regions. According to information from the General Election Supervisory Agency (Bawaslu), which is founded on public findings and

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*Tahun 2022 tentang Perubahan atas Peraturan Komisi Pemilihan Umum Nomor 4 Tahun 2022 tentang Pendaftaran, Verifikasi, dan Penetapan Partai Politik Peserta Pemilihan Umum Anggota Dewan Perwakilan Rakyat dan Dewan Perwakilan Rakyat Daerah*), December 13, 2022, <https://peraturan.bpk.go.id/Details/249167/peraturan-kpu-no-11-tahun-2022>.

<sup>9</sup> Wabil Fadli Sultan, Sukri Tamma, and Ariana Yunus, "Perbandingan Verifikasi Peserta Pemilu Tahun 2019 Dan 2024," *Palita: Journal of Social Religion Research* 7, no. 2 (2022): 151–66, <https://doi.org/10.24256/pal.v7i2.3080>.

complaints, a minimum of 20,565 individuals' personal data have been listed as associate of political parties in the SIPOL application. Membership registration is the exclusive right of each political party participating in the election.<sup>10</sup>

This fraudulent act by political parties, involving the improper use of personal data, also violates human rights, particularly the political rights of citizens. This is because Law No. 2 of 2011 of the Republic of Indonesia, which amends Law No. 2 of 2008 on Political Parties, Article 14, Paragraph (2), clearly states:

*“Political Party membership is voluntary, open and non-discriminatory for Indonesian citizens who agree to the Articles of Association and Bylaws.”*<sup>11</sup>

Based on these provisions, it is clear that becoming a political party member must be a voluntary action taken by individuals, meaning it should stem from their personal will and desire. However, when membership registrations are falsified, this status does not reflect their genuine consent. Still, the actions of political parties are carried out without the consent or knowledge of the affected individuals. These practices by political parties fail to represent the values and principles of human rights. These principles – including the promotion of human rights and fundamental freedoms.<sup>12</sup> Respect for human rights is demonstrated by valuing an individual's privacy, including personal data. Yet, such practices of these political parties do not align with these

<sup>10</sup> Mia Puteri Deviana, Poppy Hermaya, and Yusuf Abdul Rahman, “Kajian Yuridis Perlindungan Data Pribadi Masyarakat Yang Dicatut Calon Peserta Pemilu 2024,” *PALAR (Pakuan Law Review)* 9, no. 3 (2023): 11–23, <https://doi.org/10.33751/palar.v9i3>.

<sup>11</sup> Republic of Indonesia, “Article 14 Paragraph (2) of Law of the Republic of Indonesia Number 2 of 2011 concerning Amendment to Law Number 2 of 2008 on Political Parties,” (*Pasal 14 Ayat (2) Undang-Undang Nomor 2 Tahun 2011 tentang Perubahan atas Undang-Undang Nomor 2 Tahun 2008 Tentang Partai Politik*), January 18, 2011, <https://peraturan.bpk.go.id/Details/39131/uu-no-2-tahun-2011>.

<sup>12</sup> Nguyễn Thị Hà, “Teaching International Human Rights Law in Vietnam: How To Make This Subject Attractive To University Students,” *Indonesian Journal of International Law* 20, no. 1 (2022): 43–62, <https://doi.org/10.17304/ijil.vol20.1.749>.

principles. Such conduct systematically diminishes civic participation rights, compromising democratic institutions.<sup>13</sup>

A concise examination of the current literature reveals that prior research has investigated how the improper use of personal data has incited protests from diverse groups who uncovered that political parties had deceitfully registered their information as part of their membership. Citizens became informed of this situation by entering their National Identification Numbers on the [infopemilu.kpu.go.id](http://infopemilu.kpu.go.id). In reaction to these protests, the KPU, via the regional KPU offices at the regency/city level, commenced a public complaint clarification phase to aid individuals whose data had been misappropriated in confirming their membership status. Although this method rendered their membership ineligible, it did not automatically expunge their data from the political party's membership records.<sup>14</sup>

Regarding the conduct of political parties that illicitly registered personal data, causing harm to the affected individuals, most citizens did not seek justice for misusing their personal information. A resident of Banyumas, Central Java, initiated legal proceedings against the implicated political party. A 29-year-old man, Gema Etika Muhammad, from Banyumas, initiated legal action against the Gerakan Perubahan Indonesia (Garuda) Party for IDR 2.5 billion upon discovering his name had been illicitly enrolled as a party member. Consequently, Gema initiated legal action against the Garuda Party and attended his initial court hearing at the Purwokerto District Court. As the plaintiff in the complaint, Gema sought IDR 500 million in material damages and IDR 2 billion in non-material damages from the Garuda Party.<sup>15</sup>

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<sup>13</sup> Fajar Prima Julian and Ratna Herawati, "Juridical Overview on the Inconsistency of Prohibition to Be the Member of Political Parties for the Members of Public Institutions," *Law Reform: Jurnal Pembaharuan Hukum* 17, no. 2 (2021): 201–13, <https://doi.org/10.14710/lr.v17i2.41747>.

<sup>14</sup> Mohamad Afriyansyah Dukalang, Erman I. Rahim, and Julius T. Mandjo, "Formulasi Pengaturan Kewenangan Penghapusan Data Masyarakat Yang Dicatut Sebagai Keanggotaan Partai Politik Calon Peserta Pemilihan Umum," *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan* 11, no. 1 (2024): 13–46, <https://doi.org/10.32493/SKD.v11i1.y2024.41907>.

<sup>15</sup> RCTI+, "Warga Banyumas Gugat Partai Garuda Rp2,5 Miliar Setelah Namanya Dicatut                      Jadi                      Anggota                      Parpol," 2022,

From a legal standpoint, the citizen's actions in Banyumas are warranted, as he advocates for justice regarding misappropriating his personal data. If not rectified by the party, fraudulent registration of persons as political party members may result in legal repercussions for such individuals. Consequently, individuals who perceive themselves wronged must pursue justice for their rights infringed upon by negligent entities.

The false registration of personal data for political party membership contradicts the fundamental aim of political parties, which is to champion the rights of the populace. This misuse highlights the necessity of safeguarding personal data, a duty that all stakeholders must fulfill, as personal data includes human rights, necessitating robust safeguards against exploitation, manipulation, and other forms of abuse.<sup>16</sup> Therefore, it is imperative to safeguard personal data in SIPOL during every election. This protection is essential to realize the provisions of Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that: "Everyone has the right to the protection of himself, his family, honor, dignity, and property under his control, as well as the right to security and protection from the threat of fear to do or not to do something that is a human right".<sup>17</sup> This constitutional article delineates the state's duty into three fundamental duties: to respect, preserve, and fulfil human rights and people's freedoms. Personal data protection constitutes an aspect of personal protection as delineated in Article 28G paragraph (1); hence, the state must provide it as part of its commitment to safeguarding human rights. A state is accountable for enacting fundamental policies allowing citizens to exercise their rights without unnecessary constraints.<sup>18</sup>

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<https://www.rctiplus.com/news/detail/nasional/3205170/warga-banyumas-gugat-partai-garuda-rp25-miliar-setelah-namanya-dicatat-jadi-anggota-parpol>.

<sup>16</sup> Martin Luther Manao, "Urgensi Perlindungan Data Pribadi Dalam Pendaftaran Partai Politik Sebagai Peserta Pemilihan Umum," *Seminar Nasional Mewujudkan Sistem Hukum Nasional Berbasis Pancasila*, 2022, 289–302, <https://conference.untag-sby.ac.id/index.php/shnbc/article/view/3652>.

<sup>17</sup> Republic of Indonesia, "Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia," (*Pasal 28G Ayat (1) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*), 1945, <https://peraturan.bpk.go.id/Details/101646/uud-no->.

<sup>18</sup> Huong Thi Lan Phan and Kien Trung Doan, "Examining Human Rights Derogation in State Emergencies: Insight from Vietnam's COVID-19 Control Policies," *Journal of*

Additionally, Indonesia has enacted Law No. 27 of 2022 on Personal Data Protection, establishing the legal framework for safeguarding personal data. serve as a catalyst for comprehensive legal reforms spanning multiple regulatory frameworks, particularly the Election and Political Party Law, which have become outdated because of their failure to include personal data protection fundamentals. The authors aim to create a framework for personal data protection within SIPOL to avert the misuse of citizens' personal information. The authors also advocate for legal revisions to the Election Law and Political Party Law to secure the inclusion of personal data protection and its integration into the SIPOL.

This research utilized normative legal analysis through a legislative, case, and conceptual method. The authors intend to examine political parties' misuse of personal data through these three methodologies, grounded in pertinent laws and regulations, thereby highlighting the imperative for advocating personal data protection and legal change. Research materials were collected via literature reviews and processed prescriptively, culminating in a comprehensive concept addressing the researched legal difficulties.

### **A. The Actions of Political Parties in Misusing Citizens' Personal Data as Membership: A Legal Perspective**

Modern principles such as democracy have become the guiding political values in Indonesia post-reform.<sup>19</sup> For a country to claim to be a democracy, direct elections serve as a key symbol and benchmark.<sup>20</sup> Democracy and elections are inseparable components. Joseph Schumpeter conceptualizes democracy primarily as an electoral process,

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*Southeast Asian Human Rights* 8, no. 1 (2024): 37–56, <https://doi.org/10.19184/jseahr.v8i1.37763>.

<sup>19</sup> Otto Gusti Madung and Winibaldus Stefanus Mere, "Constructing Modern Indonesia Based on Pancasila in Dialogue with the Political Concepts Underlying the Idea of Human Rights," *Journal of Southeast Asian Human Rights* 5, no. 1 (2021): 1–24, <https://doi.org/10.19184/jseahr.v5i1.20258>.

<sup>20</sup> Ahsan Yunus, "Multilayered Democracy in Papua: A Comparison of 'Noken' System and Electoral College System in the United States," *Hasanuddin Law Review* 6, no. 3 (2020): 232–39, <https://doi.org/10.20956/halrev.v6i3.2892>.



focusing on procedural frameworks and institutional structures to ensure free and fair elections.<sup>21</sup> Elections are the democratic process for selecting the country's leaders. Hans Kelsen views democracy as the manifestation of the people's will within the state's legal order, grounded in the collective will of its citizens.<sup>22</sup>

Abraham Lincoln defined democracy as a system of governance where supreme authority and political power are vested in the citizen. Popular sovereignty means citizens have the right to design their government's workings and decide what it should accomplish.<sup>23</sup> "The legitimacy and legal authority of the state derive solely from the consent and collective will of the governed."<sup>24</sup> The embodiment of democracy can be observed in elections, as elections align with the concept of democracy.<sup>25</sup> serve as a key pillar in the electoral process, competing to be elected as participants. Political parties are viewed as alliances of like-minded individuals working together to win elections and control government affairs.<sup>26</sup> Thus, democracy cannot function effectively without the integral role of political parties.<sup>27</sup>

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<sup>21</sup> Ketut Sukewati Lanang Putra Perbawa, Willy Naresta Hanum, and Almaz Karimovich Atabekov, "Industrialization of Election Infringement in Simultaneous Elections: Lessons from Sweden," *Journal of Human Rights, Culture and Legal System* 4, no. 2 (2024): 477–509, <https://doi.org/10.53955/jhcls.v4i2.170>.

<sup>22</sup> Erman I. Rahim and Nuvazria Achir, "The Problem of Fulfilling Voter Rights in Village Head Elections Is Based On E-Voting," *Jambura Law Review* 5, no. 1 (2023): 156–78, <https://doi.org/10.33756/jlr.v5i1.16779>.

<sup>23</sup> Febrian et al., "Phenomenon of the Increasing Single Candidates and Backsliding Democratic Values in Indonesia," *Hasanuddin Law Review* 8, no. 3 (2022): 248–57, <https://doi.org/10.20956/halrev.v8i3.2880>.

<sup>24</sup> Ratih Lestari, "Choosing Not To Choose Is a Choice: A Noble Lesson of the Baduy People in Interpreting Neutral Choices in Voting in General Elections," *Indonesia Law Review* 13, no. 1 (2023): 36–69, <https://doi.org/10.15742/ilrev.v13n1.2>.

<sup>25</sup> Fence M. Wantu and Abdul Hamid Tome, "Dynamics of Village Head Election Arrangements," *Jambura Law Review* 3 (2021): 96–116, <https://doi.org/10.33756/jlr.v3i0.8783>.

<sup>26</sup> Khalid Idris Nuhu, "The Legal Implication of Political Defection on Nigeria's Democracy," *Sriwijaya Law Review* 5, no. 2 (2021): 247–61, <https://doi.org/10.28946/slrev.Vol5.Iss2.1060.pp247-261>.

<sup>27</sup> Muhammad Mutawalli Mukhlis et al., "Democratization or Extra-Constitutionalism: Ideas for Limiting the Term of Office for Chairmen of Political Parties in Indonesia," *Jambura Law Review* 6, no. 2 (2024): 367–402, <https://doi.org/10.33756/jlr.v6i2.24116>.

The existing nomination process for political parties as election participants fails to embody principles of justice. Nearly all political parties have used personal data by illegally registering individuals as party members to fulfill membership criteria and ensure electoral participation. Personal data denotes distinct individual information that is saved, preserved, and safeguarded for precision and confidentiality.<sup>28</sup> Additionally, personal data is considered an asset or a high-value economic commodity.<sup>29</sup> It contains characteristics, traits, and identity attributes that can identify a person,<sup>30</sup> making personal data something crucial for individuals.

The fraudulent registration of citizens' personal data as members of political parties by the respective political parties is a clear violation of individuals' privacy rights. This misuse certainly causes harm to the affected individuals and could lead to legal consequences if such registration is not rectified and the individual remains listed as a party member. The legal consequences experienced by people accused of being members of a political party are that if they have a profession that is prohibited by law from becoming a political party member, they are indirectly violating these provisions. These professions include the TNI, Polri, and ASN. Meanwhile, for those who do not yet have a job and are still looking for a job, especially young people who have aspirations to have a profession that is prohibited by law from becoming a member of a political party, they will have difficulty registering. They are not eligible administratively because they are registered as political party members. This concern was expressed by Gema Etika Muhammad, a 29-year-old resident of Banyumas, Central Java, who claimed to have never been involved in politics or any political party. Gema discovered that his name was registered as a member of the Garuda Party when Banyumas' KPU

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<sup>28</sup> Hendrawan Agusta, "Perlindungan Data Pribadi Penerima Pinjaman Dalam Transaksi Pinjam Meminjam Uang Berbasis Teknologi Informasi (Peer To Peer Lending)," *Jurnal Hukum & Pembangunan* 50, no. 4 (2020): 789–809, <https://doi.org/10.21143/jhp.vol50.no4.2852>.

<sup>29</sup> Upik Mutiara and Romi Maulana, "Perlindungan Data Pribadi Sebagai Bagian Dari Hak Asasi Manusia Atas Perlindungan Diri Pribadi," *Indonesian Journal of Law and Policy Studies* 1, no. 1 (2020): 43–55, <https://doi.org/10.31000/ijlp.v1i1.2648>.

<sup>30</sup> Vasishtan P., "The Passport to Regulate Foreign Jurisdiction: The Personal Data Protection Bill, 2019 on Its Extraterritorial Application," *Brawijaya Law Journal* 9, no. 1 (2022): 47–59, <https://doi.org/10.21776/ub.blj.2022.009.01.04>.

officials conducted a verification visit to his home in Ledug Village, Kembaran Subdistrict, in mid-November 2022.<sup>31</sup> According to this report, Gema became cognizant of exploiting his data during the factual verification process, wherein verification teams from the local KPU conducted home visits to persons identified as members of political parties.

The KPU authorities did not engage directly with Gema; instead, they communicated with his mother. Gema stated that the name and address inquired by the KPU were accurate; nonetheless, he maintained that he had never enrolled as a member of the Garuda Party. The KPU officials requested that Gema elucidate the matter in the Banyumas KPU office the following day. He visited the KPU, but representatives from the Garuda Party were absent; they merely dispatched an apology letter asserting that he was not a member. Nonetheless, Gema was dissatisfied with this reply. He perceived the unauthorized use of his name as a form of data theft, and he was particularly apprehensive about the potential risk of disqualification from registering as a civil servant due to his designation as a political party member.<sup>32</sup>

Gema's apprehensions embody the trepidations of several persons whose data has been exploited by political parties, perhaps endangering their prospects of becoming civil servants or engaging in other professions where affiliation with a political party is legally restricted. Indonesian legislation prohibits civil servants from joining political parties, as specified in Article 52, paragraph (3), letter j of Law No. 20 of 2023 on Civil Servants, and Article 2 of Government Regulation No. 37 of 2004 regarding the Prohibition of Civil Servants from Membership in Political Parties. Under these laws, a federal official identified as a political party member will be dishonorably dismissed. This prohibition extends to individuals aspiring to become civil servants as well.

In response to these concerns, Gema initiated a lawsuit for IDR 2.5 billion, as the illicit use of his data had inflicted considerable damage upon him. The initial hearing for case number 88/Pdt.G/2022/PN Pwt

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<sup>31</sup> Fadlan Mukhtar Zain, "Kisah Gema Gugat Partai Garuda Rp 2,5 M Karena Namanya Dicatut Jadi Anggota: Sangat Dirugikan," *Kompas*, 2022, <https://regional.kompas.com/read/2022/12/16/194528978/kisah-gema-gugat-partai-garuda-rp-25-m-karena-namanya-dicatut-jadi-anggota>.

<sup>32</sup> *Ibid.*

took place at the Purwokerto District Court, Banyumas Regency, Central Java, on Friday, December 16, 2022. The plaintiff sought IDR 500 million in substantial damages and IDR 2 billion in immaterial damages in his complaint.<sup>33</sup> Under these conditions, Gema's legal action against the Garuda Party for exploiting his personal data is a warranted and suitable response. Failure to maintain proper personal data records represents institutional negligence that harms citizens while flouting legal obligations. Indonesia possesses a distinct legal framework regarding the misuse of personal data, as delineated in the Republic of Indonesia Law No. 27 of 2022 on Personal Data Protection.

The Personal Data Protection Law stipulates that the unauthorized use of personal data by political parties, including registering individuals as party members without their knowledge, constitutes an offence subject to criminal penalties. To fulfill membership quotas, political parties frequently employ several methods to gather and utilize individuals' personal data without adequate authorization. This conduct is executed for the party's advantage, yet it inflicts harm on the individuals whose info is illicitly utilized. By engaging in such practices, the political party in question violates the provisions outlined in Article 65, Paragraph (1) of the Republic of Indonesia Law No. 27 of 2022 on Personal Data Protection, which states the following:<sup>34</sup>

*“Any person is prohibited from unlawfully obtaining or collecting personal Data that does not belong to them to benefit themselves or others, which may result in the loss of the subject of personal Data.”*

In the provisions of the article, the phrase “Every Person” encompasses both individuals and corporations.<sup>35</sup> In this context, “corporation” refers to an organized group of individuals and/or assets, whether or not they are legally constituted entities.<sup>36</sup> A political party

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<sup>33</sup> *Ibid.*

<sup>34</sup> Republic of Indonesia, “Article 65 Paragraph (1) of Law Number 27 of 2022 concerning Personal Data Protection,” (*Pasal 65 Ayat (1) Undang-Undang Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi*), October 17, 2022, <https://peraturan.bpk.go.id/Details/229798/uu-no-27-tahun-2022>.

<sup>35</sup> *Ibid.*, Article 1 Point 7, (*Pasal 1 Angka 7*).

<sup>36</sup> *Ibid.*, Article 1 Point 8, (*Pasal 1 Angka 8*).

constitutes a national institution constituted by the free will of Indonesian nationals united by shared aspirations and ideological foundations, with the purpose of advancing and protecting the political interests of its constituents, society, and the unitary state. Political parties are established to uphold the unity and sovereignty of the Republic of Indonesia, align with the principles of Pancasila and the 1945 Constitution.<sup>37</sup> To gain legal recognition, political parties must register with the Ministry.<sup>38</sup> Thus, a political party can be considered a corporation because it is a body established by a collective of individuals. In this case, it is established as a legal entity. Therefore, political parties fulfill the “Every Person” criterion stipulated in Article 65, paragraph (1) of the Indonesian Law No. 27 of 2022 on Personal Data Protection.

Based on the violations committed by political parties against the provisions outlined in Article 65, paragraph (1) of the law as mentioned earlier, political parties involved in the unauthorized use of personal data can be subject to criminal penalties as specified in Article 67, paragraph (1) of the law, which stipulates that:<sup>39</sup>

*“Any person who intentionally and unlawfully obtains or collects personal Data that does not belong to him to benefit himself or others that may result in the loss of the subject of personal Data as referred to in Article 65 paragraph (1) shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp5,000,000,000.00 (five billion rupiah).”*

According to Indonesian Law No. 27 of 2022 on Personal Data Protection, the actions of political parties in misappropriating personal data for party membership purposes constitute a breach of this legislation. Unfortunately, this law became effective on October 17, 2022, although

<sup>37</sup> Republic of Indonesia, “Article 1 Point 1 of Law of the Republic of Indonesia Number 2 of 2011 concerning Amendment to Law Number 2 of 2008 on Political Parties,” (*Pasal 1 Angka 1 Undang-Undang Nomor 2 Tahun 2011 tentang Perubahan atas Undang-Undang Nomor 2 Tahun 2008 Tentang Partai Politik*), January 18, 2011, <https://peraturan.bpk.go.id/Details/39131/uu-no-2-tahun-2011>.

<sup>38</sup> *Ibid*, Article 3 Paragraph (1), (*Pasal 3 Ayat (1)*).

<sup>39</sup> Republic of Indonesia, “Article 67 Paragraph (1) of Law Number 27 of 2022 concerning Personal Data Protection,” (*Pasal 67 Ayat (1) Undang-Undang Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi*), October 17, 2022, <https://peraturan.bpk.go.id/Details/229798/uu-no-27-tahun-2022>

the registration period for political parties as candidates for the election occurred from August 1 to August 14, 2022. Therefore, actions involving the illicit utilization of personal data by political parties for candidate registration before the implementation of the Personal Data Protection Law are not subject to penalties under this law due to the concept of non-retroactivity. This event underscores a crucial admonition and acts as a cautionary reminder to all political parties to avoid the misappropriation of personal data during the registration of election candidates. The Personal Data Protection Law categorically forbids such practices.

While the Personal Data Protection Law stipulations have not yet provided a legal basis for political parties' misappropriation of data, alternative rules may serve as a legal foundation for such conduct. One regulation is Indonesian Law No. 19 of 2016, which amends Law No. 11 of 2008 on Information and Electronic Transactions. The unauthorized use of personal data by political parties as election candidates represents an electronic abuse of personal information, as the data, including names and National Identity Numbers, was uploaded into the SIPOL using computers or laptops. Therefore, the actions of the political parties violate the provisions of Article 26, which states:<sup>40</sup>

- (1) *Unless otherwise provided by laws and regulations, the use of any information through electronic media concerning a person's personal data must be carried out with the consent of the person concerned.*
- (2) *Any person whose rights are violated as meant in Paragraph (1) may file a claim for damages incurred under this law.*

The stipulations of the Article indicate that utilising personal information via electronic media necessitates the authorisation or assent of the individual involved. The unauthorised appropriation of data by political parties occurred without the consent of the impacted individuals, thereby unequivocally contravening this clause. Individuals whose data were improperly utilized as political party members and who

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<sup>40</sup> Republic of Indonesia, "Article 26 of Law Number 19 of 2016 concerning Amendment to Law Number 11 of 2008 on Electronic Information and Transactions," (*Pasal 26 Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik*), November 25, 2016, <https://peraturan.bpk.go.id/Details/37582/uu-no-19-tahun-2016>.

experienced damages from such unlawful conduct can initiate lawsuits to seek compensation for the incurred losses. Therefore, political parties that breach this rule must indemnify individuals for the harm resulting from improperly utilizing their data. Compensation should must uphold and reflect human rights dimensions of the case, encompassing the rights to justice and privacy.<sup>41</sup> Human rights are inherent to all individuals<sup>42</sup>, and any violation resulting in harm must be held accountable.

It can be concluded from the explanation, as mentioned earlier, that Article 26 of Indonesian Law No. 19 of 2016, which amends Law No. 11 of 2008 on Electronic Information and Transactions, provides a legal foundation for asserting claims against political parties for the unauthorised use of personal data. These assertions may manifest as legal actions for damages inflicted by political parties on individuals whose personal data was improperly appropriated by party members. Consequently, the decision of a Banyumas resident to initiate legal proceedings for IDR 2.5 billion against the Garuda Party is justified, as the relevant legal stipulations in the Electronic Information and Transactions Law underpin it.

Additionally, Isnaeni, the Chairman of the Banyumas Branch Leadership Council (DPC) of the Garuda Party, indicated that the Banyumas KPU had previously enabled clarification during the party verification procedure. Isnaeni stated that the KPU convened them in response to public grievances. In response, they promptly released a letter stating that the individual in question was not affiliated with the Garuda Party. Isnaeni asserted that they had never registered the man as a member of the Garuda Party.<sup>43</sup>

The Chairman of the Banyumas Branch of the Garuda Party appears to be refuting allegations of misappropriating data from a public member who has initiated legal action against them. He asserted that they

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<sup>41</sup> Suwito et al., "Human Rights Perspectives on Resolving Medical Malpractice Cases through Penal Mediation in Indonesia," *Jambura Law Review* 5, no. 2 (2023): 278–95, <https://doi.org/10.33756/jlr.v5i2.19169>.

<sup>42</sup> Juanrico Alfaromona Sumarezs Titahelu, "Legal Liability for Crimes against Humanity as A Form of Human Rights Violation (Criminal Law Perspective)," *Law Reform: Jurnal Pembaharuan Hukum* 18, no. 1 (2022): 28–42, <https://doi.org/10.14710/lr.v18i1.44154>.

<sup>43</sup> Zain, "Kisah Gema Gugat Partai Garuda Rp 2,5 M Karena Namanya Dicatut Jadi Anggota: Sangat Dirugikan."

did not register the man as a member of the Garuda Party. This assertion is inconsistent with the facts, as Gema was officially registered as a party member and personally confirmed by the Banyumas Regency KPU at his residence. This signifies that Gema was registered as a party member and was incorporated in the sample membership validated during the factual verification phase. The Garuda Party DPC Chairman's assertion that the individual was never registered as a member seems to be an unsubstantiated denial lacking corroborative evidence. Article 13, paragraphs (1) and (2) of the Regulation of the General Election Commission of the Republic of Indonesia Number 11 of 2022, which amends Regulation Number 4 of 2022 regarding the Registration, Verification, and Determination of Political Parties Contesting Elections for Members of the House of Representatives and Regional Representative Council, stipulates the following provisions.<sup>44</sup>

- (1) *Political Parties of candidates for election to fill in the data and upload documents requirements into the Sipol.*
- (2) *data and documents requirements as meant in Paragraph (1), including:*
  - a. *data and documents about the Liaison Officer and Sipol Admin; and*
  - b. *data and documents regarding the requirements of political parties for election candidates.*

Based on these provisions, it is stipulated that all matters related to the administrative registration and conditions for political parties to engage in elections, including the party's membership, must be completed and uploaded by the respective political party into the SIPOL. This is

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<sup>44</sup> General Elections Commission of the Republic of Indonesia, "Article 13 Paragraph (1) and (2) of General Elections Commission Regulation Number 11 of 2022 concerning Amendments to General Elections Commission Regulation Number 4 of 2022 on the Registration, Verification, and Determination of Political Parties Contesting in the Election of Members of the House of Representatives and Regional House of Representatives," (*Pasal 13 Ayat (1) dan (2) Peraturan Komisi Pemilihan Umum Nomor 11 Tahun 2022 tentang Perubahan atas Peraturan Komisi Pemilihan Umum Nomor 4 Tahun 2022 tentang Pendaftaran, Verifikasi, dan Penetapan Partai Politik Peserta Pemilihan Umum Anggota Dewan Perwakilan Rakyat dan Dewan Perwakilan Rakyat Daerah*), December 13, (2022), <https://peraturan.bpk.go.id/Details/249167/peraturan-kpu-no-11-tahun-2022>.



outlined in Article 13, paragraph (5), letter i of the General Election Commission Regulation.<sup>45</sup>

- (5) *the data on the requirements of political parties for candidates for election, as meant in Paragraph (2) letter b, include:*
- i. membership of political parties at least 1,000 (one thousand) or 1/1, 000 (one thousand) of the total population in the management of political parties that have been determined by the KPU as referred to in Article 9 paragraph (5); and*

The regulation stipulates that political parties seeking to participate in elections must submit several mandatory requirements through SIPOL, including the party's membership data. The membership in question, as stipulated in Article 9, paragraph (5), states that:<sup>46</sup>

- (5) *The KPU determines the requirements for the number of political party membership candidates for election participants at the Regency/city level based on the KPU decision.*

This rule stipulates that the KPU has established the requisite number of members for a political party to qualify as a participant in elections at the district or city level. The political party is required to input and upload its membership data into the SIPOL in compliance with specific KPU requirements.

Moreover, the Garuda Party in Banyumas Regency, as a political entity seeking to engage in the election, must adhere to the stipulations established by the KPU. Consequently, they must complete and submit all files and documents pertinent to the criteria, including membership information. It may be concluded that the Garuda Party incorporated Gema's data into their membership records, given that he was included in the sample list during the factual verification phase. Gema has explicitly declared that he has never registered as a political party member, as he intends to pursue a public service position. This suggests that his involvement was involuntary, as he comprehends the ramifications of joining a political party, which would preclude him from realizing his ambition of becoming a civil servant.

<sup>45</sup> *Ibid*, Article 13 Paragraph (5), (*Pasal 13 Ayat (5)*).

<sup>46</sup> *Ibid*, Article 9 Paragraph (5), (*Pasal 9 Ayat (5)*).

A lawsuit was brought against the Garuda Party for data theft, related to the losses incurred by Gema, a community member who was erroneously registered as a member of the Garuda Party. The case was filed in the Purwokerto District Court under case number 88/Pdt.G/2022/PN Pwt, with Gema Etika Muhammad, S.H. as the Plaintiff, and the Central Executive Board of the Garuda Party, represented by the Regional Executive Board of Central Java and the District Executive Board of Banyumas, along with the Central Election Commission (KPU), represented by the Regional KPU of Central Java and the District KPU of Banyumas, and Bawaslu, represented by the Regional Bawaslu of Central Java and the District Bawaslu of Banyumas, as the Defendants. In Decision No. 88/Pdt.G/2022/PN Pwt, it was noted that during the hearing on January 19, 2023, the Plaintiff's legal representative submitted a withdrawal of the lawsuit via a peace agreement letter dated January 12, 2023, which was presented to the Panel of Judges, indicating that the Plaintiff and the Defendants had achieved an amicable resolution of the dispute. Furthermore, since the withdrawal request was made during the initial hearing and the Defendants had not yet replied to the lawsuit, the lawsuit might be unilaterally retracted. Consequently, the Panel of Judges overseeing the case approved the motion for withdrawal.<sup>47</sup>

The authors express profound regret for the Plaintiff's action, which initially perceived harm due to the unauthorised use of their data as party membership. They initiated litigation, ultimately resolving the matter by a settlement. Although settlement is unequivocally the optimal method for resolving a lawsuit or issue to prevent confrontation between the parties, the authors contend that a peaceful resolution is not the appropriate option in this instance. A settlement fails to offer a deterrence impact. It does not ensure that the political party would refrain from misusing personal data for party membership in the future, perhaps allowing them to qualify as an election participant. Moreover, numerous individuals remain reticent regarding the behaviour of this political party,

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<sup>47</sup> Purwokerto District Court, Purwokerto District Court Decision Number 88/Pdt.G/2022/PN Pwt, (*Putusan Pengadilan Negeri Purwokerto Nomor 88/Pdt.G/2022/PN Pwt*), January 19, 2023, <https://putusan3.mahkamahagung.go.id/direktori/putusan/zaed9b7e91e2de1c80a8303733323233.html>.

despite the detrimental effects of such misconduct on their well-being. Following a victim's courageous legal action against exploiting their personal data, it was anticipated that this would inspire the public to advocate for their infringed rights. The dispute was ultimately resolved via a settlement. Had the case persisted, it is conceivable that the Plaintiff would have prevailed, substantiated by evidence of their data being documented as Garuda Party membership, which would require verification by the Banyumas District KPU. Consequently, claims for damages against the Defendants could have been sought through judicial proceedings.

The enormous legal consequences caused by the misappropriation of public data, such as political party membership, need to be a shared concern to take preventive measures so that such things do not happen again. As the data subject and a victim, I know that this misappropriation significantly harms the public. For this reason, we believe that to prevent this misappropriation from happening again, every member of the public needs to be given the right to access every process of their personal data, including in Sipol. Regarding access to personal data, Law Number 27 of 2022 on Protection of Personal Data has regulated it. This can be seen in Article 7, which stipulates that: "Personal Data Subjects have the right to obtain access and obtain copies of Personal Data about themselves by the provisions of laws and regulations".<sup>48</sup> Then Article 32 paragraph (1) stipulates that: "The Personal Data Controller is obliged to provide access to Personal Data Subjects to the Personal Data that is processed along with a track record of the processing of Personal Data under the storage period for Personal Data".<sup>49</sup>

Granting access to personal data belonging to the public as personal data subjects is necessary to provide transparency over the processing of personal data. Nevertheless, it would be better if the regulation regarding

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<sup>48</sup> Republic of Indonesia, "Article 7 of Law Number 27 of 2022 concerning Personal Data Protection," (*Pasal 7 Undang-Undang Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi*), October 17, 2022, <https://peraturan.bpk.go.id/Details/229798/uu-no-27-tahun-2022>

<sup>49</sup> Republic of Indonesia, "Article 32 Paragraph (1) of Law Number 27 of 2022 concerning Personal Data Protection," (*Pasal 32 Ayat (1) Undang-Undang Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi*), October 17, 2022, <https://peraturan.bpk.go.id/Details/229798/uu-no-27-tahun-2022>

access to personal data were regulated more specifically in a special article that entirely regulates the right of access by personal data subjects. For example, we can see in Article 15 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons concerning the handling of personal data and its unrestricted transfer, while annulling Directive 95/46/EC (General Data Protection Regulation), which regulates as follows.<sup>50</sup>

Right of access by the data subject

1. The individual has the right to ask the data controller for confirmation regarding whether their personal data is being processed. If processing occurs, they are entitled to access their personal data, along with the following details:
  - (a) The objectives for which the data is being processed;
  - (b) The types of personal data involved;
  - (c) The recipients (or categories of recipients) who have received or will receive the data, especially those in third-country entities and intergovernmental organizations;
  - (d) Where feasible, the anticipated duration of data retention; otherwise, the factors used to establish such a period;
  - (e) The data subject shall have the right to request from the controller rectification, erasure, or restriction of processing concerning their personal data, along with the right to object to such processing;
  - (f) The right to file a complaint with a relevant supervisory authority;
  - (g) When personal data is not gathered straight from the person, any accessible information regarding where it came from;
  - (h) Disclosure of any automated decision-making (like profiling under Article 22(1) and (4)), with clear insights

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<sup>50</sup> The European Parliament and of the Council, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (2016), <https://gdpr-info.eu/>.

into the logic used, its significance, and how it may affect the data subject.

2. In cases where personal data is shared with a third country or an international organization, the data subject must be informed of the protective measures in place, as outlined in Article 46.
3. The controller is required to furnish a copy of the personal data undergoing processing. If the data subject asks for additional copies, the controller can apply a fair fee covering administrative expenses. When the request is submitted electronically, the response must be in a standard electronic form, unless the data subject asks for an alternative format.
4. The entitlement to obtain a copy, as mentioned in paragraph 3, shall not be exercised in a manner that negatively impacts others' rights and freedoms.

The outlined provisions demonstrate that the data subject's right of access encompasses personal data is specifically and completely regulated in one article of the GDPR. This can be applied in the Personal Data Protection Act. In addition to providing access to the public's personal data, detailed regulations regarding this right of access are also needed. The Personal Data Protection Act only regulates the right of personal data subjects review and receive a copy of their personal information, and personal data controllers must facilitate to provide such access along with a tracking process with a storage period. However, Article 15 of the GDPR specifically and entirely regulates what these access rights include. Even Article 15 letter e regulates the right to ask the supervisor to correct, delete, limit, or refuse the processing of personal data. In our opinion, this also needs to be regulated in the Personal Data Protection Act and implemented in the stages of the Election Implementation, especially in the processes of registration, confirmation, and evaluation of Election Participants. This implementation must be carried out to prevent acts of fraud, often carried out by political parties. By granting full access rights to the public, they can monitor every development of SIPO. If they find any misuse or fraud in the system, they have the right to demand the erasure of their data regarding this matter.

## B. Personal Data Protection in Political Party Information Systems in The Organization of General Elections: Concept and Law Reform Recommendations

The modern digital economy makes high-speed data transmission an unavoidable necessity. Irresponsible individuals often exploit this high-speed data to harm individuals or companies.<sup>51</sup> Therefore, in the context of globalisation and the Fourth Industrial Revolution, personal data protection has become crucial and serves as the foundation for safeguarding personal and private rights. Indonesia has enacted a new law specifically regulating personal data protection.<sup>52</sup> Law No. 27 of 2022 on Personal Data Protection represents a significant development for Indonesian society. National legislation regarding personal data protection can govern compliance with privacy and data protection laws.<sup>53</sup> This law emphasizes that personal data in Indonesia is mandatory to protect, as it is frequently misused by irresponsible parties, ultimately harming the data subjects.

Political parties are crucial instruments in a democracy<sup>54</sup>, but misusing personal data by falsely registering individuals as members can cause significant harm to those affected. Therefore, there is a pressing require for personal data protection within SIPOL during elections as a preventative measure to ensure that such misuse does not occur in future elections. Personal data is inherently private and must be protected to

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<sup>51</sup> Rahmi Ayunda, "Personal Data Protection to E-Commerce Consumer: What Are the Legal Challenges and Certainties?," *Law Reform: Jurnal Pembaharuan Hukum* 18, no. 2 (2022): 144–63, <https://doi.org/10.14710/lr.v18i2.43307>.

<sup>52</sup> Rina Shahriyani Shahrullah, Jihyun Park, and Irwansyah, "Examining Personal Data Protection Law of Indonesia and South Korea: The Privacy Rights Fulfilment," *Hasanuddin Law Review* 10, no. 1 (2024): 1–20, <https://doi.org/10.20956/halrev.v10i1.5016>.

<sup>53</sup> Daniar Supriyadi, "The Regulation of Personal and Non-Personal Data in the Context of Big Data," *Journal of Human Rights, Culture and Legal System* 3, no. 1 (2023): 33–69, <https://doi.org/10.53955/jhcls.v3i1.71>.

<sup>54</sup> Fahri Bachmid and Diani Indah Rachmitasari, "The Supreme Court's Authority: Judicial Review of Statutes and By-Laws of Political Parties against Laws," *Law Reform: Jurnal Pembaharuan Hukum* 18, no. 2 (2022): 184–204, <https://doi.org/10.14710/lr.v18i2.46275>.

prevent its misuse by unauthorized individuals. Consequently, personal data protection is essential, and it is the state's responsibility to safeguard it.<sup>55</sup> Protecting personal data plays a vital role in securing citizens' well-being in the digital era. Individuals can retain control over their privacy by preventing the misuse of personal information.<sup>56</sup> Protective measures should extend beyond legal rules to encompass a range of preventive initiatives. The swift technological progress of the Fourth Industrial Revolution has resulted in the digitalization of all governmental and commercial sector operations, requiring a balance between rigorous rules and comprehensive data management systems to avert data breaches.<sup>57</sup>

Prevention is necessary due to the numerous cases of personal data misuse occurring in Indonesia today, which indicates that society needs more than just regulations for personal data protection, such as robust security measures.<sup>58</sup> Growing cases of data breaches and misuse underscore how robust security measures are now essential to safeguard individuals' personal data. This highlights the crucial role of the state in safeguarding both individual and national interests regarding the use of personal data, as well as ensuring the security of data held by government institutions. Effective measures can help minimize privacy violations caused by cybercrime, including the exploit of personal data.<sup>59</sup>

Regarding the unlawful appropriation of public data as a Political party member, prospective election participants need to be eradicated. In

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<sup>55</sup> Abd. Rahman Saleh, "Perlindungan Data Pribadi Dalam Perspektif Kebijakan Hukum Pidana," *HUKMY: Jurnal Hukum* 1, no. 1 (2021): 91–108, <https://doi.org/10.35316/hukmy.2021.v1i1.91-108>.

<sup>56</sup> Moody Rizqy Syailendra, Gunardi Lie, and Amad Sudiro, "Personal Data Protection Law in Indonesia: Challenges and Opportunities," *Indonesia Law Review* 14, no. 2 (2024): 56–72, <https://doi.org/10.15742/ilrev.v14n2.1>.

<sup>57</sup> Rina Arum Prastyanti and Ridhima Sharma, "Establishing Consumer Trust Through Data Protection Law as a Competitive Advantage in Indonesia and India," *Journal of Human Rights, Culture and Legal System* 4, no. 2 (2024): 354–90, <https://doi.org/10.53955/jhcls.v4i2.200>.

<sup>58</sup> Jufriyanto Puluhulawa et al., "The Concept of Cyber Insurance as a Loss Guarantee on Data Protection Hacking in Indonesia," *Law, State and Telecommunications Review* 15, no. 2 (2023): 132–45, <https://doi.org/10.26512/lstr.v15i2.44206>.

<sup>59</sup> Suryani Intan Pratiwi Puwa, Fenty U. Puluhulawa, and Erman I. Rahim, "Gagasan Ideal Pengaturan Perlindungan Data Pribadi Sebagai Bentuk Hak Privasi Di Indonesia," *PALAR (Pakuan Law Review)* 9, no. 2 (2023): 25–37, <https://doi.org/10.33751/palar.v9i2>.

the future, such things must be prevented so they do not happen again. The abuse of public personal data by political parties, as their membership, will affect public trust in the election system implemented by the KPU as the election organiser. Sipol is one of the systems created by the KPU to facilitate the registration, verification, and determination of election participants. SIPOL was launched to the public on June 24, 2022. As the election organiser, the KPU at all levels must understand SIPOL regarding technology and its purpose as an aid. As conveyed by KPU RI Member Idham Holik, one of the new technologies used by SIPOL, according to Idham, is the use of cloud (cloud computing), which is believed to improve SIPOL's access. He also explained that the Cyber Security Task Force supports SIPOL security. Even so, joint support is also needed to secure this security.<sup>60</sup>

Based on the explanation, it is known that SIPOL, held by the KPU, is a new technology that is accompanied by cybersecurity support. This means that the presence of this system is carried out with complete preparation and prevention of cybercrime. This system will input personal data, including political party membership data, in the form of names and NIK, which are vulnerable to cybercrime and can be misused. However, the problem related to the existence of SIPOL is not the occurrence of hacked data leaks or the like, which results in data misuse. However, the problem is the misuse of personal data by internal SIPOL users, in this case, the political party itself. As SIPOL users input Political Party membership data to fulfill their membership requirements, many Political Parties commit fraud by entering the community's identity as their members, even though they are not affiliated with the political party. This will undoubtedly reduce public trust, especially in the community that is misused as political party members, regarding the information system at the KPU. This system is only made to maintain data security from cybercrime caused by external parties, such as hackers. However, it is not accompanied by data security from data misuse originating from internal users. This is proven by SIPOL, which cannot

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<sup>60</sup> General Elections Commission of the Republic of Indonesia, "Pahami Sipol Secara Utuh," July 5, 2022, <https://www.kpu.go.id/berita/baca/10680/pahami-sipol-secara-utuh>.



detect every data input by political parties, whether it is truly political party membership data or not.

The actions taken by these political parties can certainly be categorized as fraud and manipulation in the election. Because the membership data that they input and upload to SIPOL is not all the original data of Political Party members, but some are not members of political parties, which comes from the fraud they commit. This will benefit them because if the data is not detected, then in terms of the number of their membership, they meet the requirements to become election participants. Although the KPU will still carry out further verification. So, personal data protection is needed in SIPOL, which protects externally from cybercrime and misuse of personal data. but also protect against the misuse of personal data by internal SIPOL users.

The authors present ideas and recommendations for protecting personal data within SIPOL. As the election organizer, SIPOL is one of the KPU's efforts to ensure elections are conducted with integrity through effective election management.<sup>61</sup> Essentially, the SIPOL encompasses four categories of data: Profile, Management, Office, and Membership. During registration, documents in these four categories can be easily entered according to their respective categories.<sup>62</sup>

Using the SIPOL has rendered political parties more organized and methodical in data entry. Political parties must complete administrative and factual verification phases during the electoral candidacy process. These steps encompass actions to validate the precision and comprehensiveness of requirements, including administrative and factual conditions, as executed by the KPU. The SIPOL has demonstrated efficacy in facilitating political parties. Furthermore, parties can perpetually assess and rectify their data via this application to guarantee

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<sup>61</sup> Aditya Susmono Tyas Wisanggeni, "Sistem Informasi Partai Politik (Sipol) Dalam Verifikasi Partai Politik Peserta Pemilu Tahun 2019," *Electoral Governance Jurnal Tata Kelola Pemilu Indonesia* 2, no. 2 (2021): 204–23, <https://doi.org/10.46874/tkp.v2i2.104>.

<sup>62</sup> Wisnu Nugraha, "Efektivitas Sistem Informasi Partai Politik (SIPOL) Dalam Proses Pendaftaran Calon Peserta Pemilu Tahun 2024 Berdasarkan Putusan Badan Pengawas Pemilihan Umum (Bawaslu) Nomor: 003/PS.REG/BAWASLU/X/2022," *Unes Law Review* 5, no. 4 (2023): 3897–3916, <https://doi.org/10.31933/unesrev.v5i4.711>.

adherence to management and membership stipulations for electoral participation.<sup>63</sup>

The description indicates that SIPOL significantly enhances election management by streamlining participants' registration and verification processes. Nonetheless, protecting personal data within the SIPOL remains inadequate to safeguard people's information appropriately. It is crucial to clarify that "not secure enough to protect personal data" in this sense does not pertain to data breaches within the system. It underscores the system's incapacity to ascertain whether the data submitted by political parties accurately reflects their membership or if it entails the improper utilization of individuals' information. As a result, when data is entered, it is accepted by the SIPOL without any refusal. This constraint is a considerable disadvantage of this system.

The authors assert that the system should incorporate a comprehensive data protection mechanism to avoid using personal data within the SIPOL by obstructing unlawful input of party membership. This technology must detect and verify the information sent by political parties. Therefore, if the data fails to meet the specified criteria or includes individuals ineligible for membership, the SIPOL should automatically reject the data. To realize this capacity, the SIPOL must be interconnected with all systems or platforms that contain personal data. These systems or platforms include all repositories of personal data, encompassing information from the Indonesian Military (TNI), Indonesian National Police (Polri), civil servants, election organizers, and other professionals who are legally barred from being members of political parties while in office. This integration guarantees that when political parties enter membership data into the SIPOL, the system automatically rejects any data submissions from unverified or restricted users in real-time. This technique would avert the misapply of personal data and guarantee adherence to legal rules.

Additionally, to safeguard personal information from exploitation by those barred by legislation from joining political parties, we might employ the Voter Data Information System (SIDALIH) program.

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<sup>63</sup> Fatih Khairul Ulwan and Kahar Haerah, "Efektivitas Sipol Dalam Verifikasi Partai Politik Pada Pemilu 2024 Di KPU Kabupaten Bondowoso," *Triwikrama: Jurnal Ilmu Sosial* 4, no. 7 (2024): 1–6, <https://doi.org/10.6578/triwikrama.v4i7.4888>.

SIDALIH is a web-based system that supports election organizers in collecting, organizing, sharing, and maintaining voter records and providing voter-related information services.<sup>64</sup> Regarding the use of the SIDALIH, Article 177 of the General Election Commission Regulation Number 7 of 2023 on Amendments to Regulation Number 7 of 2022 on the Compilation of Voter Lists in the Implementation of General Elections and the Voter Data Information System provides the following provisions.<sup>65</sup>

- (1) KPU, provincial KPU, Regency/City KPU use the voter data information system in preparing the voter list.*
- (2) Voter data Information System, as meant in Paragraph (1), is integrated with the Population Administration Information System and/or other information systems used in the KPU environment.*

According to the stipulations in paragraph (2) of the article, it is established that the SIDALIH is interconnected with population administration data and/or other information systems utilized inside the KPU. This indicates that SIDALIH is integrated with the Political Party Information System, one of the information systems employed by KPU. Therefore, to avert the exploitation of personal data inside the SIPOL, which is interconnected with the SIDALIH, it is essential to incorporate information regarding the job status and political party affiliation of voters (i.e., whether the voter is affiliated with a political party). This aims to identify party membership information submitted via the SIPOL by

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<sup>64</sup> Yendi Burdady, Faridah Faridah, and Ovita Charolina, "Kinerja Operator Dalam Penerapan Sidalih Di Komisi Pemilihan Umum (KPU) Kabupaten Bengkulu Tengah," *Jurnal Administrasi Bisnis Nusantara* 1, no. 2 (2022): 49–58, <https://doi.org/10.56135/jabnus.v1i2.41>.

<sup>65</sup> General Elections Commission of the Republic of Indonesia, "Article 177 of General Elections Commission Regulation Number 7 of 2023 concerning the Amendment to General Elections Commission Regulation Number 7 of 2022 on the Compilation of the Voter List in the Organization of General Elections and the Voter Information System," (*Pasal 177 Peraturan Komisi Pemilihan Umum Nomor 7 Tahun 2023 Tentang Perubahan Atas Peraturan Komisi Pemilihan Umum Nomor 7 Tahun 2022 Tentang Penyusunan Daftar Pemilih Dalam Penyelenggaraan Pemilihan Umum dan Sistem Informasi Data Pemilih*), February 6, 2023, <https://peraturan.bpk.go.id/Details/249176/peraturan-kpu-no-7-tahun-2023>.

the corresponding political party. Incorporating job status and party membership status in the SIDALIH aims to function as a data protection mechanism for those restricted by legislation from joining political parties. Consequently, although regulations do not formally preclude someone from joining a political party, the data protection system will obstruct data entry if it identifies that the individual is not a political party member. Their data is incorporated into the SIDALIH, signifying that they are not affiliated with any political party. Furthermore, as the SIDALIH includes job information, if the data entry concerns persons legally barred from membership, the data protection system in the SIPOL will immediately refuse the inclusion of such membership data.

During the data revision procedure, the KPU can update employment information and political party membership status from voter data. Voter Data Updating involves modifying voter details in the Final Voter List (DPT) based on the most recent election records and additional overseas voter data, which is cross-referenced with the Population Election Potential Data (DP4). This procedure entails matching and verification conducted by the District/City KPU, with support from the District Election Committee (PPK), Overseas Election Committee (PPLN), Village Election Committee (PPS), and Voter Data Update Officers (Pantarlih).<sup>66</sup> Reflecting on the 2024 election schedule, voter data updating and voter list preparation process took place in stages, beginning on October 14, 2022, to June 21, 2023. Meanwhile, the election participants' registration, verification, and determination stages were carried out from July 29, 2022, to December 14, 2022.<sup>67</sup> This means that the voter data updating and list preparation stages were implemented while the registration, verification, and determination of election participants were ongoing. The registration phase for political parties

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<sup>66</sup> *Ibid*, Article 1 Point 24, (*Pasal 1 Angka 24*).

<sup>67</sup> General Elections Commission of the Republic of Indonesia, "Stages and Schedule of the 2024 General Election as Enclosed in the Appendix to General Elections Commission Regulation Number 3 of 2022 concerning the Stages and Schedule of the 2024 General Election," (*Tabapan dan Jadwal Penyelenggaraan Pemilihan Umum Tahun 2024 pada Lampiran Peraturan Komisi Pemilihan Umum Nomor 3 Tahun 2022 tentang Tabapan dan Jadwal Penyelenggaraan Pemilihan Umum Tahun 2024*) June 9, (2022), <https://peraturan.bpk.go.id/Details/216617/peraturan-kpu-no-3-tahun-2022>.

intending to participate in the election had already concluded, as registration was conducted from August 1, 2022, to August 14, 2022.<sup>68</sup>

The proposed SIPOL system, coupled with SIDALIH, necessitates the ability to safeguard personal data and requires the voter data to be updated to include employment and political party affiliation information. Moreover, we assert that, for upcoming elections, the processes of updating voter data and preparing the voter list should occur before registering, verifying, and identifying election participants. This approach aims to ensure that voter information in SIPOL is accurately and thoroughly updated, enabling the personal data protection system within SIPOL to operate effectively once the registration period for political parties wishing to partake in the election commences. If registration, verification, and determination processes are executed before updating voter data and preparing lists, the personal data protection system will be rendered useless. The registration process for political parties occurs before the voter data is updated, resulting in the system's inability to safeguard the personal information of individuals whose data has been exploited by political parties in their membership lists.

In the realm of updating voter data within the Voter Information System, which necessitates information regarding voters' employment status and political party affiliation, the KPU at the district or city level can partner with each village or urban ward under their authority to gather this data from local communities. This would guarantee that in future elections, during the voter data updating process, district/city-level KPU offices will not only revise information on deceased voters and new voters but also update records on employment status and political party affiliation for each individual. Upon completion of data collection concerning employment and political party affiliation by the villages/subdistricts, the information is forwarded to the district/city-level KPU. Upon receipt, the KPU updates the voter data in the Voter Information System by integrating employment and political party membership details from the prior voter list. The revised voter data will guarantee that, when the political party registration phase commences,

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<sup>68</sup> General Elections Commission of the Republic of Indonesia, "Alur Pendaftaran Partai Politik Calon Peserta Pemilu 2024," July 31, 2022, <https://www.kpu.go.id/berita/baca/10769/alur-pendaftaran-partai-politik-calon-peserta-Pemilu-2024>.

the personal data protection system within SIPOL operates well, owing to the recent enhancements in the SIDALIH program.

According to the suggested framework for safeguarding personal data, legal reform is necessary to prevent political parties' exploitation in the SIPOL. This reform should concentrate on Indonesia's Law No. 7 of 2017 regarding General Elections and Law No. 2 of 2011, which modifies Law No. 2 of 2008 on Political Parties.

Legal reform is one of the most crucial tasks for a country to ensure that its legal system is effective and comprehensive.<sup>69</sup> This reform involves revising both laws to incorporate personal data protection provisions, as outlined in Indonesia's Law No. 27 of 2022 on Personal Data Protection. This includes integrating the proposed data protection concepts to hinder exploit of personal data by political parties. This is necessary because Indonesia is a rule-of-law state, and Abdul Maukhie Fadjar defines a rule-of-law state as one where the components are regulated by law.<sup>70</sup> Therefore, as a rule-of-law state, personal data protection components should be incorporated in the legislation, not only in specific laws but also in related regulations.

Indonesia's Law No. 7 of 2017 on General Elections, issued in 2017, necessitates modification due to its absence of measures for personal data security. The problem of data misuse has persisted since the 2019 elections and has reemerged in the 2024 elections. This illustrates that the legal deficiency in personal data protection and penalties for political parties engaged in data misuse, which this bill fails to address, permits such practices to carry on. Political parties might continue these efforts to meet the required membership thresholds for electoral participation.

The stipulations of Article 65(1) of the Republic of Indonesia Law No. 27 of 2022 on Personal Data Protection, which forbids individuals from acquiring or collecting others' personal data for personal benefit and

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<sup>69</sup> Nguyen Thi Hong Yen, "Legal System Reform and Challenges on Assurance of Human Rights Standards in Vietnam," *Journal of Southeast Asian Human Rights* 4, no. 2 (2020): 427–48, <https://doi.org/10.19184/jseahr.v4i2.13699>.

<sup>70</sup> Oksidelfa Yanto, Imam Fitri Rahmadi, and Nani Widya Sari, "Can Judges Ignore Justifying and Forgiveness Reasons for Justice and Human Rights?," *Sriwijaya Law Review* 6, no. 1 (2022): 122–42, <https://doi.org/10.28946/slrev.Vol6.Iss1.1054>, pp122-142.

inflicting harm on the data owner, alongside Article 67(1), which prescribes criminal sanctions for breaches of Article 65(1), ought to be integrated into the General Elections Law. This integration should emphasize the prohibition of political parties from exploiting personal data throughout the registration process as election participants and while meeting administrative obligations, particularly when inputting membership information. A political party ought to incur criminal sanctions for contravening these regulations.

The identical methodology should be implemented with the Republic of Indonesia Law No. 2 of 2011, which amends Law No. 2 of 2008 about Political Parties. Last amended in 2011, this law seems to lack adequate regulatory substance. Article 14(2) stipulates that participation in a political party must be voluntary and contingent upon the individual's consent. Nonetheless, the political parties' onset of personal data abuse incidents in 2019, which contravenes this rule, clearly indicates that the membership data is derived via unlawful use rather than authentic voluntary consent. This incident underscores the ambitious disposition of political parties attempting to qualify as electoral players by incorporating personal data without appropriate consent.

The Political Party Law currently lacks provisions for penalizing party members who misuse and improperly use the personal data of individuals who are not genuine voluntary members during the candidacy process. The legal void is substantial, permitting political parties to partake in such actions without legal repercussions, adversely affecting the individuals concerned. Consequently, amending the Political Party Law to incorporate specific prohibitions against using personal data for party membership during electoral candidacies is essential. The amended legislation must delineate suitable penalties for political parties that contravene these stipulations. This strategy would mitigate future occurrences of data misuse and safeguard individual rights.

Following the implementation of legal revisions on the Election Law and the Political Party Law, then in the implementation of the Election, specifically during the phases of registration, verification, and final approval of political parties eligible for the election, the implementation of which is accompanied by the Regulation of the General Election Commission, it is also necessary to carry out reforms. The Regulation of the General Election Commission reforms that

regulate the stages of registration, verification, and determination of election participants must align with the Election Law and the Law on Political Parties, which have been reformed and accompanied by regulations on personal data protection. These provisions must equally apply to the General Election Commission Regulation regulating these stages.

The contents of the General Election Commission Regulation containing personal data protection are essential, especially in preventing the misuse of public data by the political party concerned. Therefore, the General Election Commission Regulation must contain procedures for collecting, storing, and processing personal data of political party members that will be input by the political party concerned in SIPOL as its members at the registration stage to nominate as election participants. When collecting, storing, and processing personal data, political parties must do so transparently and with the personal data subject's consent. This aims to prevent illegal actions by political parties, such as previously entering public data as their membership without their permission and knowledge. In addition, the entire community also required to be provided access to SIPOL to monitor the processing of personal data by political parties in terms of inputting their party members. This aims to ensure that no data from people who are not members of the political party is input as members of the political party in SIPOL.

The General Election Commission Regulation and the Election Supervisory Body Regulation, which is the Bawaslu regulation as a supervisory institution to oversee each phase of the election implementation carried out by the KPU, also need to be reformed. The Election Supervisory Body Regulation reform certainly includes supervision in gathering, storing, and processing personal data from political parties on SIPOL when the election participant registration stage begins. The execution of these supervisory measures must be handled by Bawaslu to ensure that the collection, storage, and processing of personal data by political parties is carried out under the procedures stipulated in the Law and the General Election Commission Regulation. So that undesirable things such as using community data for political party membership no longer occur.

Thus, reforming related regulations, especially those governing the mechanism for collecting, storing, and processing personal data by



political parties at registering, verifying, and determining election participants, can encourage political parties to carry out transparent and ethical data practices. This system validates that political parties submit only their legitimate membership data, preventing unauthorized use of information. Thereby preventing future instances of misappropriation and their detrimental impacts on the public. Even if this action still occurs, it can be categorized as an unlawful act subject to criminal sanctions and the criminal sanctions imposed on perpetrators of misuse of personal data. In addition, these regulations need to be socialized to the community that is victims of this misuse of personal data. The community needs to be educated to protect their personal data by not giving it to just anyone for unclear and baseless purposes. The cases of misappropriation that have befallen most of the community can be used as an example of the losses that the community will experience if they carelessly provide their personal data, especially if it is misused as a political party membership.

## Conclusion

This documented pattern of political parties weaponizing SIPOL data to fabricate party memberships not only subverts electoral integrity but inflicts concrete damages on citizens whose identities were unlawfully co-opted. Actions undertaken by political parties contravene legal stipulations, particularly Article 65(1) of Law No. 27 of 2022 on Personal Data Protection, potentially incurring criminal sanctions as specified in Article 67(1) of the same legislation. This misuse also violates Article 26 of Law No. 19 of 2016, which amends Law No. 11 of 2008 on Information and Electronic Transactions. The improper utilization of personal data in the SIPOL is detrimental to people and advantageous to the participating political parties. Consequently, it is imperative to enforce personal data protection protocols within the SIPOL for every election. The proposed personal data protection framework entails incorporating a data protection system into SIPOL, alongside platforms housing personal data and the Voter Information System, which must encompass voters' employment details and party affiliation. This will guarantee that when political parties enter data about individuals improperly claimed as their members into the SIPOL, the system will

automatically reject such data if it fails to match the established criteria. In light of the principle of personal data privacy and the establishment of the Personal Data Privacy Law, legal change is imperative for both the Election Law and the Political Party Law. This reform should entail amending both statutes to integrate personal data protection requirements under the Personal Data Protection Law and the suggested personal data protection measures outlined in the SIPOL. In addition, we also suggest that in the future, the government and authorities need to the authors also careful in providing complete protection for personal data and handling cases of data breaches, especially in elections, and conducting legal reforms to improve data safeguarding in the context of elections. Regarding the direction of future research, we suggest that prospective researchers conduct research in the form of examining case studies of data breaches in elections, exploring the impact of political strategies based on community data protection, or conducting assessments and studies of the effectiveness of specific legal reforms in supplying data protection in the context of elections.

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