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Personal Data Protection in the Digital Age: An Analysis of Constitutionalism in E-Commerce Towards Harmonization of Regulations

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Abstract

The advancement of the digital era has brought significant changes to trade activities, particularly in the shift from conventional trading systems to faster and more precise electronic commerce (e-commerce). The study has revealed this new information regarding personal data protection information. As a result, the national legal system must control the growth of e-commerce while adhering to the strictest constitutional law requirements. adhere to the strictest requirements of constitutional law while being governed by the national legal system. Law is essential to ensure that consumer rights are upheld and that

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businesses operate transparently and ethically. This balance will foster trust in e-commerce platforms and encourage their growth in a secure environment. This study uses normative juridical and conducts descriptive-analytical data analysis. It also uses theories, concepts, and principles of digital constitutionalism. This study aims to ascertain and evaluate the degree to which existing legislation offers legal certainty for safeguarding personal information in the context of online transactions. This study will look at current legal frameworks and how well they handle the problems brought on by the quick advancement of e-commerce technology. The results demonstrate that e-commerce rules are still dispersed throughout many laws and regulations, which raises questions about legal ambiguity and the security of personal information in e-commerce transactions. In order to resolve this difficulty and construct a cohesive and legally sound regulatory framework based on constitutionalism, a special statute that fully regulates electronic commerce must be established.

KEYWORDS *E-Commerce; Harmonization; Digitization of Constitutionalism; Protection of Personal Data.*

Introduction

The world today has entered an era of disruption, even all human life interactions can be reached quickly and accurately. Human life has been profoundly impacted by the period of disruption; the transition from classical to digital technology is one illustration of how they have evolved. The digital age has significantly transformed many areas of life, including how people consume goods and services, with a growing reliance on electronic commerce (E-commerce).[1] State law must regulate the evolution of e-commerce within the bounds of logical reasoning. The Republic of Indonesia's 1945 Constitution already establishes a legal basis for controlling electronic transactions within the

[1] Ricky and Viola Damayanti Saputra, "Perlindungan Konsumen Dalam Transaksi E-Commerce Internasional," *Repertotium: Jurnal Ilmiah Hukum Kenotariatan* 12, no. 2 (2023): 240–51, https://doi.org/https://doi.org/http://dx.doi.org/10.28946/rpt.v12i2.3364.

scope of constitutionalism, as normatively outlined in Article 28C paragraph (1):

> "Everyone has the right to develop themselves through the fulfillment of their basic needs, the right to education and to benefit from science and technology, art and culture, in order to improve the quality of life and for the sake of human welfare".

Although electronic commerce is rapidly expanding, the legal protection of human rights and electronic transactions are still a necessity that cannot be ignored.

Over the past few decades, advancements in information and the global economy has benefited from communication technology, which has raised productivity, enhanced competition, and greater citizen participation. Nonetheless, as governments, businesses, and as communities grow more interconnected online, a number of issues pertaining to cyberthreats necessitate a greater emphasis on improving cybersecurity measures. According to ISO (International Organization for Standardization), ISO/IEC 27032 quoting from several sources, cybersecurity, also known as cyberspace security, refers to the protection of information within digital environments by ensuring its confidentiality, integrity, and availability. Cyberspace is a dynamic and intricate domain formed through the interaction of individuals, software, and online services, enabled by diverse technological tools and network infrastructures, and existing within an intangible digital realm.[2]

The rapidly growing E-Commerce activity utilizes consumer personal data as the main element to provide more personalized and efficient services. Applications like Instagram, Facebook, Shopee, Tokopedia, Lazada, Bukalapak, TikTok, and others that offer a range of goods via electronic media are examples of how electronic transactions have developed in Indonesia. This facilitates transactions between buyers and sellers without requiring face-to-face meetings.[3] Customers or buyers must thus register in the e-commerce application by providing personal data such as name, address, phone number,

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[2] Eko Budi, Dwi Wira, and Ardian Infantono, "Strategi Penguatan Cyber Security Guna Mewujudkan Keamanan Nasional Di Era Society 5.0," *Prosiding Seminar Nasional Sains Teknologi Dan Inovasi Indonesia (SENASTINDO)* 3, no. November (2021): 223–34, https://doi.org/10.54706/senastindo.v3.2021.141.

[3] Kholifatul Muna and Budi Santoso, "Regulasi Izin Perdagangan Tiktok Shop Sebagai Fitur Tambahan Tiktok Di Indonesia," *DEVELOPMENT: Journal of Community Engagement* 1, no. 2 (2022): 92–108, https://doi.org/10.46773/djce.v1i2.329.

and payment details required to confirm the user's identification, among other details. In addition to e-commerce, a number of electronic systems owned by other digital businesses also request that users register their personal information. Examples of these include friend-finding apps, car-booking apps, and electronic wallet systems. All of these digital enterprises and systems are entitled to access their consumers' personal data.[4] This is intended to facilitate the functioning of digital platforms. The entry of personal data into electronic systems leads to an increased use of various electronic systems, encompassing online shopping.[5] Therefore, as the usage of personal data increases, so does the possibility of privacy violations and data misuse, making internet security more susceptible to abuse.[6]

In 2014, the UN General Assembly requested in Resolution 68/167 that the Human Rights Commission (HRC) prepare a study on the right to privacy in the digital age (Waters, 2016). Prior to that, the HRC had broadly clarified that the right to privacy was guaranteed by Article 17 of General Comment No. 16. The most recent developments occurred in 2016, when the UN General Assembly adopted amendments to the right to privacy in the digital age, Article 17 of the International Covenant on Civil and Political Rights and Article 12 of the Charter of Human Rights addressing mass surveillance and discrimination. The necessity of strong legal frameworks to shield people from intrusive surveillance methods and to guarantee that technology developments do not compromise basic human rights was underlined by these modifications. As a result, countries were encouraged to implement policies that promote transparency and accountability in the use of technology by both public and private entities. Therefore, based on the contents of the article, to be considered a violation of Article 17, it has the following elements: (1) interference with

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4 Wahyudi Djafar, "Hukum Perlindungan Data Pribadi Di Indonesia: Lanskap, Urgensi Dan Kebutuhan Pembaruan," *In Seminar Hukum Dalam Era Analisis Big Data, Program Pasca Sarjana Fakultas Hukum UGM* 26 (2019).

5 Rais Agil Bahtiar, "Potensi, Peran Pemerintah, Dan Tantangan Dalam Pengembangan E-Commerce Di Indonesia [Potency, Government Role, and Challenges of E-Commerce Development in Indonesia]," *Jurnal Ekonomi Dan Kebijakan Publik* 11, no. 1 (2020): 13–25, https://doi.org/10.22212/jekp.v11i1.1485.

6 Deanne DF Putri and Muhammad Helmi Fahrozi, "UPAYA PENCEGAHAN KEBOCORAN DATA KONSUMEN MELALUI PENGESAHAN RUU PERLINDUNGAN DATA PRIBADI (STUDI KASUS E-COMMERCE BHINNEKA . COM) The Prevention of Consumer Data Leakage Through Legalization of The Personal Data Protection Bill," *National Conference On Law Studies*, 2020, 978–79, https://tirto.id/jumlah-pelanggan-e-commerce-tercatat-.

privacy, (2) arbitrary or unlawful, and (3) not protected by the national security provision in Article 4.[7]

Erna Priliasari's (2023) study, "Protection of Consumer Personal Data in E-Commerce Transactions According to Laws and Regulations in Indonesia," sets this study apart from previous studies.[8] This research examines legal and regulatory concerns from a constitutional viewpoint, with a focus on e-commerce, as opposed to the study, which exclusively looks at the protection of personal data from the standpoint of laws and regulations. Furthermore, the study "Legal Protection of Consumer Personal Data in Making Transactions in E-Commerce" by Sagdiyah Fitri and Muhammad Irwan (2023). It also covers the safeguarding of private information in e-commerce transactions.[9] However, this study is unique in that it tackles the problem from a constitutionalism standpoint. Then comes the study "Protection of Consumer Personal Data by Electronic System Organisers in Digital Transactions" by Rista Maharani and Andria Luhur Prakoso (2024).[10] The study solely examines Electronic System Organisers' responsibilities to safeguard consumer data when conducting online transactions in e-commerce, specifically on the Akulaku, Lazada, and Tokopedia applications. Due to the widespread use of big data and analysis from the standpoint of legal certainty, the importance of personal data in the context of digital economic transactions is increasing. With a greater emphasis on the e-commerce component, this study considers the matter from a constitutional standpoint in addition to the legal and regulatory issues. Additionally, the study "Indicators for Assessment of the Impact of Data Protection in Protecting Consumer Personal Data on E-commerce Platforms" by Tegar Islami Putra, Nurul Fibranti, and Mohammad Raziq Fakhrullah (2024).[11] While this research looks at the regulations and the issue from a constitutionalism perspective, the

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7 Muna and Santoso, "Regulasi Izin Perdagangan Tiktok Shop Sebagai Fitur Tambahan Tiktok Di Indonesia."

8 Erna Priliasari, "Perlindungan Data Pribadi Konsumen Dalam Transaksi E-Commerce Menurut Peraturan Perundang-Undangan Di Indonesia (Legal Protection of Consumer Personal Data in E-Commerce According To Laws Dan Regulations in Indonesia)," *Jurnal Rechts Vinding* 12, no. 2 (2023): 261–79.

9 Sagdiyah Fitri Andani Tambunan Agung and Muhammad Irwan Padli Nasution, "Perlindungan Hukum Terhadap Data Pribadi Konsumen Dalam Melakukan Transaksi Di E-Commerce," *Jurnal Ekonomi Manajemen Dan Bisnis* 2 (2023): 5–7, https://doi.org/https://doi.org/10.47233/jemb.v2i1.915.

10 Rista Maharani and Andria Luhur Prakoso, "Perlindungan Data Pribadi Konsumen Oleh Penyelenggara Sistem Elektronik Dalam Transaksi Digital," *Jurnal Usm Law Review* 7, no. 1 (2024): 333, https://doi.org/10.26623/julr.v7i1.8705.

11 Tegar Islami Putra and Nurul Fibrianti, "Data Protection Impact Assessment Indicators in Protecting Consumer Personal Data on E-Commerce Platforms," *Legal Challenges in Overcoming the Digital Divide (Article in Press)* 6, no. 1 (2024): 111–50.

other study looks at the indicators for implementing the Data Protection Impact Assessment with a focus on the rights of personal data subjects as stipulated in Law Number 27 of 2022. The last study by Fhauzan Ramon, H. Iriansyah, and Triana Baru (2025) entitled "Legal Protection of Privacy Rights and Personal Data Security in E-Commerce Through Online Applications".[12] In addition to reviewing laws and policies pertaining to the protection of personal data in electronic contracts made through online applications in Indonesia, the study examines how privacy rights and personal data security are regulated in e-commerce within online applications. However, because it looks at the issue from a constitutionalism standpoint, this study differs from the one before it. Therefore, we may conclude that this research offers a unique originality since it includes a constitutionalist perspective to improve the protection of customers' personal data in addition to addressing the protection of personal data within the framework of laws, regulations, and e-commerce.

Regulations such as Government Regulation Number 80 of 2019 concerning PMSE, Law Number 7 of 2014 concerning Trade, Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 in conjunction with Law Number 1 of 2024 concerning Electronic Information and Transactions, Law Number 8 of 1999 concerning Consumer Protection, Law Number 27 of 2022 concerning Personal Data Protection, and other regulations and other regulations play a crucial role in shaping the legal framework for digital commerce and consumer rights in the country. In the quickly changing world of online transactions, these rules seek to maintain openness, safeguard consumer interests, and encourage fair competition. These rules, however, have not yet adequately addressed the unique difficulties that e-commerce faces, such as data security requirements and business actors' obligations.[13] Therefore, a more comprehensive and integrated regulatory framework is needed to encourage the growth of e-commerce in Indonesia. Thus, the study intends to use a constitutionalism method to investigate and evaluate the protection of personal data in the digital era, with an emphasis on the setting of e-commerce. This study's objective is to offer recommendations for the development of more

[12] Fhauzan Ramon, H. Iriansyah, and Yeni Triana, "Perlindungan Hukum Terhadap Hak Privasi Dan Keamanan Data Pribadi Dalam E-Commerce Melalui Aplikasi Online," *Yustisi* 12, no. 2 (2025), https://doi.org/https://doi.org/10.32832/yustisi.v12i2.18865.

[13] Alifia Jasmine, Prita Amalia, and Helitha Novianty Muchtar, "Tanggung Jawab Platform Marketplace Terhadap Penjualan Ponsel (Mobile Phone) Ilegal Berdasarkan Hukum Nasional," *Masalah-Masalah Hukum* 51, no. 4 (2022): 378–89, https://doi.org/10.14710/mmh.51.4.2022.378-389.

uniform legislation that will enhance the protection of private data in Indonesia's e-commerce sector.

Method

This research uses a normative legal method by looking at secondary data that was gathered by reviewing the body of current literature. Primary legal sources, including laws and regulations, as well as secondary legal materials, like journals, academic publications, and relevant references, make up the secondary data used in this study. Additionally, tertiary legal materials are utilized, including Indonesian dictionaries, legal dictionaries, official news websites, and other similar sources. The data analysis method employed is descriptive qualitative analysis, which involves gathering data and organizing it into a systematic narrative that offers a logical explanation, progressing from general conclusions to more specific insights.[14]

Result & Discussion

The value of the digital economy has been significantly increased by widespread internet use, and Indonesian industries, especially e-commerce, are expected to continue to be major contributors to its expansion. Electronic system organizers are required to register themselves in accordance with the rules in Article 2, paragraph (1) of the Minister of Communication and Information Technology Regulation Number 5 of 2020 about Electronic System Organisers in the Private Sector. This requirement involves portals, sites, or applications on the internet that function to present, manage, and run trade in goods and services, as well as facilitate digital financial transactions.[15]

Trade is a crucial sector in the economy that drives economic growth and boosts the country's foreign exchange. This sector is increasingly shaped by advancements in information technology, particularly through E-commerce.[16] In Indonesia, e-commerce has seen substantial growth, with internet users reaching 171.17 million in 2018 and transactions totaling IDR 146.7 trillion in

[14] Muhammad Ramdhan, *Metode Penelitian* (Cipta Media Nusantara, 2021).

[15] Maharani and Prakoso, "Perlindungan Data Pribadi Konsumen Oleh Penyelenggara Sistem Elektronik Dalam Transaksi Digital."

[16] Irma Suryahani, Nurhayati, and E Ratna Setyawati Gunawan, *Buku Referensi Dinamika Global Perekonomian Indonesia* (PT. Sonpedia Publishing Indonesia, 2024).

2017.[17] The government prioritizes the use of e-commerce to enhance business efficiency and facilitate access to information and online transactions, while also creating opportunities to boost competitiveness in the global market, aligning with the growing involvement of Indonesian consumers in digital transactions.[18] Therefore, the government continues to encourage the development of digital infrastructure, personal data protection, and policies that support a safe and sustainable E-Commerce ecosystem.

In the digital e-commerce industry, Electronic System Organisers are tasked with duties that are in line with the rules and regulations set forth by the Ministry of Communication and Information Technology (Kominfo). Electronic System Organizers of private digital platforms are required to carry out a series of tasks. As mandated by laws and regulations, these duties include providing service instructions in Indonesian, making sure that services don't disseminate electronic documents or information that is prohibited, putting in place governance mechanisms and reporting systems for prohibited content, swiftly removing such content, and granting access rights to electronic systems and data.[19]

The significance of safeguarding personal information in e-commerce was highlighted by a data breach that affected Tokopedia, one of the largest e-commerce businesses in Indonesia. 'Why So Dank' was the hacker that successfully gained access to Tokopedia's system on April 17, 2020, taking information from 7 million merchant accounts and 91 million user accounts. The stolen information, which was initially made public via @underthebreach's Twitter account, contained identities, passwords, and emails. This case demonstrates the weakness of e-commerce data security solutions. The event highlights the urgent need for personal data protection and the increasing significance of enacting stronger legislation to secure user data across other digital platforms, even in spite of Tokopedia's efforts to improve its security

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17 Phatriakalista Intan Apsari, Arin Setiyowati, and Fatkhur Huda, "Online) HOW TO CITE: Phatriakalista Intan Apsari, Arin Setiyowati, Fatkhur Huda (2022) Implementasi Sinergitas Pengelolaan Dana Zis Pada Perbankan Syariah Dan Organisasi Pengelola Zakat (OPZ) Untuk Penguatan Ekosistem Zakat: Studi Literatur Bank Syariah I," *Issue 1 1 Perisai* 6, no. 1 (2022): 1–16, https://doi.org/10.21070/perisai.v6i1.

18 Iwan Ridwan Zaelani, "Peningkatan Daya Saing Umkm Indonesia: Tantangan Dan Peluang Pengembangan Iptek," *Jurnal Transborders* 3, no. 1 (2019): 15, https://doi.org/ttp://dx.doi.org/10.23969/transborders.v3i1.1746.

19 Emanuella Ridayati et al., "Pengenaan Pajak E-Commerce Pasca Diundangkannya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Jurnal Lex Specialis* 1, no. 2 (2020): 196–208.

procedures.[20] In addition to the Tokopedia case, in 2024 there was a ransomware attack by the Brain Chiper group that broke into the Temporary National Data Center (PDNS) and locked data in 282 ministries/institutions. According to Medcom.id. Personal data leaks are not a rare occurrence, but have occurred repeatedly, such as BPJS Kesehatan (2021), Bukalapak (2021), Bhineka (2021), KPU (2022), Bank Syariah Indonesia (2023), as well as platforms such as Carousell, MyPertamina, PeduliLindungi, Lazada, and Mobile Legends (2022).[21] This shows that personal data leakage is increasingly becoming a serious problem that needs to be dealt with immediately. Even though numerous platforms and organizations have taken significant steps to strengthen their security systems, vulnerabilities remain that can be exploited by malicious actors. Despite these efforts, gaps in protection still exist, leaving systems open to attacks from individuals or groups with harmful intentions. This emphasises how difficult it is to completely secure digital settings and how constant development and attention to detail are necessary to stop illegal access and data breaches. These occurrences highlight the need for stricter laws protecting personal information and more concerted measures to keep data secure to prevent abuse.[22]

In reaction to the numerous incidents that have taken place, Indonesia has demonstrated its commitment to protecting personal data by enacting Law Number 27 of 2022 regarding Personal Data Protection. This legislation reflects the government's growing awareness and concern over the serious issues surrounding personal data breaches that have occurred in recent years. By implementing this law, the government aims to address the increasing risks and challenges related to data privacy, signaling a proactive approach to strengthening data protection frameworks and ensuring better security for individuals' personal information.[23] Numerous incidents, including the theft of

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[20] Muhammad Raihan, "Perlindungan Data Diri Konsumen Dan Tanggungjawab Marketplace Terhadap Data Diri Konsumen (Studi Kasus: Kebocoran Data 91 Juta Akun Tokopedia)," *Jurnal Inovasi Penelitian* 3, no. 10 (2023): 7849–50.

[21] Achmad Firdaus, "'Kasus Kebocoran Data Pribadi Di Indonesia: 10 Kejadian Terbesar Yang Perlu Diketahui,'" Medcom.id, 2024, https://www.medcom.id/teknologi/news-teknologi/8koPDdWK-kasus-kebocoran-data-pribadi-di-indonesia-10-kejadian-terbesar-yang-perlu-diketahui#:~:text=Terbaru%2C data di Pusat Data Nasional Sementara %28PDNS%29, diakses pada tanggal 23 Desember 2024.

[22] Budi, Wira, and Infantono, "Strategi Penguatan Cyber Security Guna Mewujudkan Keamanan Nasional Di Era Society 5.0."

[23] Herol Hansen Samin, "Perlindungan Hukum Terhadap Kebocoran Data Pribadi Oleh Pengendali Data Melalui Pendekatan Hukum Progresif," *Jurnal Sains Student Research* 1, no. 2 (2023): 1–15, https://doi.org/10.61722/jssr.v1i3.386.

user data from digital platforms, unauthorized sales of personal information, and the exploitation of data by malicious actors, reveal significant vulnerabilities within the personal data protection system. These breaches highlight weaknesses that irresponsible parties can take advantage of, underscoring the need for stronger safeguards and more robust security measures to prevent such abuses. These instances' recurrent nature highlights weaknesses in current safeguards, underscoring the need for stronger legal frameworks and more effective enforcement to better protect private data in the digital sphere. However, implementing this protection in the digital era frequently encounters challenges, particularly in regulating how business actors in the e-commerce sector manage personal data.[24] As demonstrated in the earlier discussion, incidents of personal data breaches frequently happen on e-commerce digital platforms, highlighting vulnerabilities within the e-commerce sector. These platforms, which serve as intermediaries connecting sellers and buyers in electronic transactions, often face challenges in adequately protecting user information. The recurring data leaks expose weaknesses in the security measures and protocols of e-commerce providers, raising concerns about their ability to safeguard sensitive personal data effectively. In order to improve trust and security in the digital marketplace, this circumstance emphasises the necessity of tougher oversight and stronger data protection procedures.[25]

A Personal Data Owner refers to an individual whose specific personal data is associated with them. The Indonesian government has not yet established a precise and unambiguous definition of sensitive personal data in either the legislation or the technical regulations that apply it. Under the European Union's General Data Protection Regulations (GDPR), any information that might be used to directly or indirectly identify a person, also referred to as a "data subject," is deemed personal data. This includes a range of data that, either alone or in combination with other data, can be used to identify an individual. These specifics may pertain to an individual's physical, physiological, genetic, mental, economic, cultural, or social characteristics—all of which aid in recognizing or differentiating a person in a particular context. The data in

[24] Indriani Muin, "Perlindungan Data Pribadi Dalam Platform E-Commerce Guna Peningkatan Pembangunan Ekonomi Digital Indonesia," *MJP Journal Law and Justice (MJPJLJ)* 1, no. 2 (2023): 81–91, https://jurnalilmiah.co.id/index.php/MJPJLJ.

[25] Grahadi Purna Putra, Produk Digital, and Universitas Khairun, "Permasalahan Hukum Dalam Perlindungan Konsumen Terhadap Produk Digital : Tantangan Dan Solusi Di Era E- Commerce," no. November (2024): 1–10.

question may include an individual's name, photo, information, Internet Protocol (IP) address, and online identifiers in addition to physical, physiological, genetic, mental, economic, cultural, or social characteristics that can be used to identify an individual.[26]

"The right to personal autonomy" is how Black's Law Dictionary characterises the right to privacy. "An individual's right to control his or her personal activities or intimate personal decisions without outside interference, observation, or intrusion" is the definition of autonomy privacy. Autonomy is also known as autonomy in relation to privacy. Additionally, Black's Law Dictionary's statement makes it quite evident that the right to privacy entails having control over one's own private affairs. The definition given by Black's Law Dictionary is in line with Wang (2011) who defines the right to privacy as "control over something". A right is defined as something that is wholly owned by an individual, and how that individual uses it is up to him. According to the definition of the right, each person is free to do whatever that is solely his own. One of the independences that has been defined by Black's Law Dictionary and Wang is in managing all his personal activities and all decisions for himself without interference from others. Based on the definitions provided by How Wang and Black's Law Dictionary, it is clear that people have the freedom to control their personal activities without outside interference or awareness.[27]

Additionally, as an individual's fundamental right, the debate over the need of protecting an individual's right to privacy began with English court decisions before becoming well-known in the US. This debate highlighted the necessity of protecting individuals from unwarranted intrusion into their private lives, setting legal precedents that have influenced privacy laws in many countries. A fundamental component of legal systems around the world, the acknowledgement of privacy as an essential human right has grown over time, highlighting the need to strike a balance between social interests and individual liberties. Up to that point, the legal notion of the right to privacy was written by Warren and Brandeis (1890). When newspapers first started publishing images of people, their research became apparent. 'The right to be allowed alone' is the

[26] Muna and Santoso, "Regulasi Izin Perdagangan Tiktok Shop Sebagai Fitur Tambahan Tiktok Di Indonesia."

[27] Hansen Samin, "Perlindungan Hukum Terhadap Kebocoran Data Pribadi Oleh Pengendali Data Melalui Pendekatan Hukum Progresif."

simplest definition of the right to privacy provided by Warren and Brandeis in their article.[28]

On the other hand, Westin (1967) defined the right to privacy as "the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others." The fundamental tenet of Westin's theory is that as privacy is something that each person owns completely, each person has the power to decide when, how, and why information about them may be known by others. A second definition of privacy is provided by Westin, who defines it as the capacity of an individual to determine the extent, timing, and manner of sharing personal information with others. People can claim that others can access their personal information because they have the right to privacy, according to Westin's definition. Miller's (1971) idea, which concentrates the concept of privacy on the power of individuals to regulate the transmission of information connected to themselves, is comparable to this.[29]

E-Commerce in Indonesia began to develop since 1999, but its development was relatively slow due to low public trust in online transactions due to the issue of fraud and insecurity of online shopping in circulation. However, the development and increase in the number of online transactions has become a significant phenomenon in Indonesia in recent years. In addition to the numerous e-commerce sites that have emerged, Indonesian consumers are growing more used to the convenience of online shopping, which provides a wide range of goods and services at affordable costs and alluring discounts. The growing number of e-commerce platforms, along with the variety of flexible payment options they provide such as credit cards, bank transfers, e-money, and cash on delivery (COD) has greatly enhanced accessibility and convenience for consumers. These various payment options accommodate a range of tastes and requirements, increasing the usability and accessibility of online buying for a larger audience. Customers benefit from increased convenience and flexibility in completing transactions as a result, which supports e-commerce's ongoing expansion and appeal. Nonetheless, one of the main challenges is the increasing competition among platforms seeking to gain a larger market share. Data

[28] Rahmia Rachman, Elyezer Hamonangan Silalahi, and Intje Safira Dahlan, "Perspektif Hukum Terhadap Tindak Pidana Online Fraud Dalam E-Commerce : Peran Kebijakan Internasional" 8, no. 193 (2025): 118–41, https://doi.org/10.33474/yur.v8i1.22911.

[29] Hansen Samin, "Perlindungan Hukum Terhadap Kebocoran Data Pribadi Oleh Pengendali Data Melalui Pendekatan Hukum Progresif."

security and privacy are also major concerns for consumers, especially when it comes to online payments and the storage of personal information.[30]

As of right now, e-commerce transactions lack a commonly agreed-upon description. However, e-commerce, often known as electronic commerce, is defined by dictionary definitions as the purchasing and selling of goods or services using electronic channels. This broad interpretation encompasses various online commercial activities carried out using digital platforms and electronic communication technologies. As e-commerce continues to evolve, its scope includes not only traditional retail transactions but also a wide range of business activities facilitated by the internet and other digital networks. According to Kalakota and Whinston, e-commerce is a contemporary business strategy that aims to satisfy the demands of merchants, consumers, and organisations by cutting costs, improving the quality of goods and services, and speeding up delivery. Amir Hartman defines e-commerce as a type of electronic business system that emphasizes individual-centered transactions conducted online, enabling the exchange of goods or services between two organizations or directly between organizations and consumers. E-commerce can be broadly defined as a method of carrying out purchasing, selling, or trading activities through electronic facilities, which typically use the internet as a connecting medium for communication.[31]

The body of laws and rules governing e-commerce operations is still quite small at the moment. The main legal source for e-commerce transactions is Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), which regulates the technical aspects of electronic transactions. However, the evolution of economic and trade transactions is not covered by this regulation. Rules related to the economic aspect in E-Commerce are generally contained in Law Number 7 of 2014 in concern Trade. In line with the directives of the Trade Law, implementation regulations are currently being developed in the form of a Draft Government Regulation (RPP) on Electronic Commerce. This lesson plan is designed to regulate various aspects, including:[32]

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30 Firyaal Shabrina Izazi et al., "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi E-Commerce Melalui Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen Dan Peraturan Pemerintah (PP) Nomor 80 Tahun 2019 Tentang Perdagangan Melalui Sistem Elektronik," *Leuser: Jurnal Hukum Nusantara* 1, no. 2 (2024): 8–14, https://journal.myrepublikcorp.com/index.php/leuser/article/view/73.

31 Ridayati et al., "Pengenaan Pajak E-Commerce Pasca Diundangkannya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja."

32 Ridayati et al.

1. Fair business practices,
2. Accessibility and disability,
3. Advertising and marketing,
4. Disclosure of business identity and location,
5. Disclosure of contract mechanisms,
6. Implementation of the contract agreement mechanism,
7. Application of the principle of confidentiality,
8. Payment mechanism,
9. Security and authentication,
10. Resolve external conflicts, and
11. Using the consensual and legal framework.

In an attempt to establish a secure, open, and encouraging environment for digital economic development, since the release of Government Regulation Number 80 of 2019 concerning Trade Through Electronic Systems (PP PMSE), which serves as the legal foundation for e-commerce activities in Indonesia, the Indonesian government has started to give e-commerce laws more attention. These regulations cover business actors, data security obligations, consumer rights, and dispute resolution procedures. As a measure of legality, PP PMSE mandates that business actors register and possess a Business Identification Number (NIB).[33] Law Number 7 of 2014 concerning Trade, Law Number 11 of 2008 Juncto Law Number 19 of 2016 Juncto Law Number 1 of 2024 concerning Electronic Information and Transactions, Law Number 8 of 1999 concerning Consumer Protection, and Government Regulation Number 71 of 2019 are some additional laws and regulations pertaining to e-commerce. Circular Letters Number 3 of 2016 from the Ministry of Communication and Information Technology and Numbers SE-62/PJ/2013 and SE-06/PJ/2015 from the Director General of Taxation The Financial Services Authority (OJK), which also regulates digital payments to ensure security and reliability, has issued additional regulations pertaining to derivatives. These regulations include Regulation of the Minister of Finance Number 210/PMK.010/2018, Regulation of the Minister of Transportation Number PM 32 of 2016, Regulation of the Minister of Trade Number 31 of 2023, and others.[34] The

[33] Maldi Omar Muhammad and Lucky Dafira Nugroho, "Perlindungan Hukum Terhadap Pengguna Aplikasi E-Commerce Yang Terdampak Kebocoran Data Pribadi," *Pamator Journal* 14, no. 2 (2021): 165–74, https://doi.org/10.21107/pamator.v14i2.12472.

[34] Naufan Mufti Sudarmono, "Adaptasi Regulasi Persaingan Usaha Dalam Bidang Perbankan Digital," *Journal of Studia Legalia* 4, no. 1 (2023): 60–71, https://doi.org/https://doi.org/https://doi.org/10.61084/jsl.v4i01.65.

Minister of Finance Regulation Number 210/PMK.010/2018 has additionally imposed tax duties on operators of e-commerce businesses. This measure intends to increase state revenue and guarantee an equal playing field for physical and internet enterprises.[35]

Given this, protecting personal information is part of the state's efforts to protect consumers, as it is a fundamental human right for the protection of individuals. Thus, in compliance with the 1945 Constitution, a legal framework is required to ensure the security of personal data. This protection is intended to safeguard citizens' rights, raise public awareness, and foster appreciation for the critical role of personal data security.[36] Since the obligations are scattered across multiple laws, specific legislation is needed to increase the effectiveness of personal data protection. To lessen data breaches and the misuse of personal information, the government established Law Number 27 of 2022 regulating Personal Data Protection (PDP Law). This law specifies how e-commerce platforms must preserve, keep, and secure customer data.[37]

When placed in the building of constitutionalism, especially in the late 18th century, the idea of constitutionalism emerged in response to absolute monarchy and popular despotism.[38] This concept encourages the application of the constitution, which is a written legal document that establishes the legal basis of a country and affirms the supremacy of the state over the will of the ruler. The authority of the government must be founded on constitutional legitimacy and the sovereignty of the people. Protecting basic rights and human dignity are the two main goals of constitutionalism, namely limiting power through a system of control and checks and balances.[39] Furthermore, the concept of constitutionalism contains "thought movements", "conceptual frameworks", "sets of values", and "ideologies", which are built on constitutional

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35 Palmira Permata et al. Bachtiar, "Ekonomi Digital Untuk Siapa," Menuju Ekonomi Digital Yang Inklusif Di Indonesia," in *Cetakan Pertama* (Jakarta: SMERU Reseatch Institute, 2020).

36 Sekaring Ayumeida Kusnadi, "Perlindungan Hukum Data Pribadi Sebagai Hak Privasi," *AL WASATH Jurnal Ilmu Hukum* 2, no. 1 (2021): 9–16, https://doi.org/10.47776/alwasath.v2i1.127.

37 Etania Fajarani Halim, "Perlindungan Hukum Data Pribadi Pembeli Di Perdagangan Secara Elektronik (E-Commerce) Di Indonesia," *Jurnal Hukum Visio Justisia* 2, no. 1 (2022): 1–22, https://www.bi.go.id/id/publikasi/ruang-media/news-release/Pages/sp_233321.aspx.

38 Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia* (SInae Grafika, 2021).

39 Mario Agritama S W Madjid and Muh. Ilham Akbar, "Tinjauan Prinsip Konstitusionalisme Dalam Undang-Undang Dasar 1945 Hasil Amandemen Dan Wacana Perubahannya," *Jurnal Hukum Dan HAM Wara Sains* 2, no. 03 (2023): 152–62, https://doi.org/10.58812/jhhws.v2i03.239.

theory. Usually, "ism" is associated with a specific "political ideology", "practice", "system", or philosophy.[40]

Thus, the idea of 'digital constitutionalism', as Suzor puts it, It can be described as a concept and initiative aimed at defining boundaries on private authority that influence individuals' ability to exercise their rights within the digital realm. The values of a country's constitutional law would inform the application of ordinary laws that impose a set of minimal guarantees that technology companies must respect in regulating their own products and services.[41]

In theory, the goal of the digital constitutionalism movement is to reevaluate how authority should be limited (and thus justified) in the digital age. Constitutionalism basically fulfils two important roles in the governance of the Internet. Constitutionalism seeks to limit the growth of authority that surpasses constitutional supervision and, second, to ensure the safeguarding of fundamental rights. Accordingly, constitutionalism reflects ideals that are essential in the digital age. People can be protected on a national, regional, and international level by public authorities, who are then legitimated by the people through democratic involvement.

Digital constitutionalism can be understood as a theoretical and normative framework that seeks to translate the principles of constitutional law such as democracy, human rights, and the rule of law into the governance of digital technologies. Suzor (2019) defines digital constitutionalism as an initiative to establish boundaries on the authority of digital platforms and governments in order to ensure that individual rights are respected in cyberspace.[42] Similarly, Celeste (2018) emphasizes that digital constitutionalism is a reaction to the increasing concentration of power in private actors, such as technology corporations, which often regulate users' rights through unilateral terms of service without adequate accountability. In this regard, digital constitutionalism serves not only as a conceptual approach but also as a normative demand to embed constitutional safeguards into the digital environment.[43]

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[40] Nanang Subekti, I Gusti Ayu Ketut Rahmi Handayani, and Arief Hidayat, "Konstitusionalisme Digital Di Indonesia: Mengartikulasikan Hak Dan Kekuasaan Dalam Masyarakat Digital," *Peradaban Journal of Law and Society* 2, no. 1 (2023): 1–22.

[41] Subekti, Handayani, and Hidayat.

[42] Nicolas P Suzor, *Lawless: The Secret Rules That Govern Our Digital Lives*, 2019.

[43] Eduordo Celeste, "Digital Constitutionalism," *Constitutional Erosion in Brazil*, 2021, https://doi.org/10.5040/9781509941971.ch-007.

The importance of digital constitutionalism lies in its role as a safeguard against the risks of excessive power in the digital sphere. E-commerce platforms, social media, and digital applications have become central to economic and social activities, yet they also collect, process, and monetize vast amounts of personal data. Without constitutional principles guiding their operation, this digital authority can lead to privacy violations, misuse of personal information, and restrictions on fundamental freedoms. Subekti, Handayani, and Hidayat (2023) argue that in the Indonesian context, digital constitutionalism must be seen as an effort to articulate constitutional values particularly those enshrined in the 1945 Constitution and Pancasila into the regulation of digital society.[44] This ensures that technological development aligns with national ideology while also protecting citizens from potential abuses.

The idea of digital constitutionalism provides a framework for e-commerce technology development that is consistent with Pancasila values and the constitution. The preservation of human rights, which takes the shape of laws and regulations, is the true expression of constitutionalism.[45] Harmonisation and legal certainty should be prioritised in the content of laws and regulations. According to KBBI, harmonization is an effort to find harmony,[46] according to the attachment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations, the goal of harmonisation is to ensure that the substance of each law and regulation reflects a balance and harmony between the interests of individuals, society, and the nation and state.[47] The key elements derived from the definition of harmonization above include:[48]

1. Harmonizing contradictory things to form a complete system
2. The occurrence of contradictory objects or irregularities; a procedure or endeavour to achieve harmony, alignment, compatibility, and balance;
3. The cooperation of different elements so that they result in unity

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44 Subekti, Handayani, and Hidayat, "Konstitusionalisme Digital Di Indonesia: Mengartikulasikan Hak Dan Kekuasaan Dalam Masyarakat Digital."

45 Roni Febrianto, "Konstitusi Dan Undang Undang Omnibus Law," *Dekonstruksi* 10, no. 03 (2024): 49–56, https://doi.org/10.54154/dekonstruksi.v10i03.257.

46 Nyoman Nidia Sari Hayati, "Analisis Yuridis Konsep Omnibus Law Dalam Harmonisasi Peraturan Perundang-Undangan Di Indonesia," *Maleo Law Journal* 8, no. 2 (2024), https://doi.org/https://doi.org/10.56338/mlj.v8i2.1418.

47 Muhammad Saleh Suat, *Scori Dan Penerapannya BAB* (Omnibus Law: Teori Dan Penerapannya, 2024).

48 Nyoman Nidia Sari Hayati, Sri Warjiyati, and Muwahid, "Analisis Yuridis Konsep Omnibus Law Dalam Harmonisasi Peraturan Perundang-Undangan Di Indonesia," *Jurnal Hukum Samudra Keadilan* 16, no. 1 (2021): 1–18, https://doi.org/10.33059/jhsk.v16i1.2631.

In the development of legal and societal dynamics, regulations regarding E-Commerce must be carried out systematically, harmoniously, harmoniously, so as to form a complete and comprehensive regulation based on constitutionalism and legal certainty. The importance of specific rules to ensure legal certainty, this is strengthened by Gustav Radbruch's theory in his book entitled Rechtsphilosophie in 1975, law has three values as well as mutually reinforcing goals, namely justice, utility, after that only legal certainty.[49] To harmonize a disharmonized law can be done with several steps as follows; using legal principles including, Higher level regulations will override lower regulations (*Lex superior derogate legi inferior*), Later regulations will override previous regulations (*Lex posterior derogate legi priori*), Regulations that are more specific in scope will override the more general regulations (*Lex specialis derogate legi generalis*), Later regulations will override the previous regulations (*Lex posterior derogate legi priori*), Judges' decisions must be considered correct even if the content is contrary to the law, until there is a decision of another judge correcting it (*Res judicata proveritate habetur*), Repeated acts will give the force of normative enforcement (*Legality; Lex dura sedtamen scripta*).[50] Furthermore, there are three ways to overcome the disharmony of laws and regulations:[51]

1. Amending/revoking certain articles or all articles of laws and regulations that are disharmonized by authorized institutions/agencies.
2. Send a request for material review to a court, like the Supreme Court or the Constitutional Court.
3. Use legal doctrines like *Lex posterior derogat legi priori, Lex specialis derogat legi generalis,* and *Lex superior derogat legi inferiori.*

In a legal state, the regulation of e-commerce remains fragmented across multiple laws and regulations, both scattered and organized in a hierarchical manner,[52] to ensure the upholding of the principle of constitutionalism in order to realize harmonious laws and regulations with legal certainty, Legislators, including the President and the House of Representatives, ought to enact

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[49] Fadly Andrianto, "Kepastian Hukum Dalam Politik Hukum Di Indonesia," *Administrative Law and Governance Journal* 3, no. 1 (2020): 114–23, https://doi.org/10.14710/alj.v3i1.114-123.

[50] Sitti Mawar, "Metode Penemuan Hukum (Interpretasi Dan Konstruksi) Dalam Rangka Harmonisasi Hukum," *Jurnal Iustisia, Jurnal Ilmu Hukum, Perundang-Undangan Dan Pranata Sosial* 1, no. 1 (2016): 1–14, https://jurnal.ar-raniry.ac.id/index.php/Justisia/article/view/2558.

[51] Nur Kemala Putri et al., "Disharmonisasi Peraturan Perundang-Undangan Di Indonesia: Antara Bentuk, Penyebab Dan Solus," *Wathan: Jurnal Ilmu Sosial Dan Humaniora* 1, no. 1 (2024): 55–63, https://doi.org/10.55129/jph.v9i1.1016.

[52] Marcella Suwignjo, "Urgensi Perlindungan Hukum Data Pribadi User E- Commerce Indonesia," *Jurnal Education and Development Institut Pendidikan Tapanuli Selatan* 12, no. 1 (2024): 85–89.

particular e-commerce legislation based on the ideas of legal harmonisation, constitutionalism, and legal clarity. According to Julius Stahl, the spirit of creating a distinct E-Commerce law is mandated by the state's legal principles, namely:[53]

1. Principles of human rights protection
2. The law serves as the foundation for state governance.
3. The division of powers premise
4. The administrative justice concept of the state

Dicey's views, which stress the supremacy of the law, equality before the law, and the application of the law in conformity with due process, are in line with the upholding of the rule of law premise.[54] Based on this, There are still a number of obstacles to overcome despite Indonesia's progress in regulating e-commerce, especially with regard to data breaches, abuse of personal information, and associated problems.[55] Through the development and renewal of e-commerce laws, specific laws must be presented in a methodical and complete manner in order to support the strengthening of personal data protection in the digital era against the electronic commerce process (e-commerce) mentioned above.

Conclusion

The government has an obligation to protect individual rights, especially the security of personal data in electronic commerce (e-commerce), as we move into a fast evolving digital technology era. But because these protection-related guidelines are currently dispersed among several laws, there is a chance that they will become inconsistent and erode legal clarity, making consumer protection more difficult. Strategic measures are required to address this issue, such as establishing a special legislation based on the *lex specialis derogat lex generalis* concept to assure legal clarity and certainty and harmonising e-commerce regulations. The government must also strengthen oversight and enforcement, particularly in the areas of transaction security, fair business practices, and the

[53] Joseph Hugo Vieri Iusteli Sola Kira, "Implementasi Prinsip-Prinsip Negara Hukum Dalam Kekuasaan Kehakiman," *Jurnal Pendidikan Dan Konseling* 5, no. 2 (2023): 1349–58.

[54] Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia*.

[55] Esa Negarawati and Siti Rohana, "Peran Fintech Dalam Meningkatkan Akses Keuangan Di Era Digital," *Jurnal Ekonomi, Bisnis Dan Manajemen (EBISMEN)* 4, no. 3 (2024): 46–60, https://doi.org/10.56910/gemilang.v4i3.1573.

protection of personal data. It is anticipated that this strategy would create an e-commerce environment that is equitable, safe, and reliable and that can provide enough legal protection for all parties.

In practical terms, this study recommends several steps that can be taken to reinforce the normative framework. The government, through legislators, should draft a comprehensive e-commerce law that consolidates fragmented regulations into an integrated framework aligned with the 1945 Constitution and the Personal Data Protection Law. Institutional capacity, particularly of Kominfo and the future Data Protection Authority, must be enhanced with resources and expertise to effectively monitor compliance. At the same time, business actors should be required to adopt strict data protection standards, including encryption, data minimization, and regular security audits. Equally important, consumer digital literacy must be promoted through awareness campaigns to strengthen public understanding of privacy rights, while multi-stakeholder collaboration involving the state, private sector, and international institutions is needed to address cross-border data flows and cyber threats. Through this combination of legal reform and practical implementation, the protection of personal data in e-commerce can be realized more effectively in Indonesia.

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The authors used a generative AI tool, namely ChatGPT, solely to assist with language editing, grammar correction, and improvement of readability. ChatGPT was not used to generate scientific content, analyze data, interpret results, draw conclusions, or create images. The authors reviewed, edited, and verified all output generated with the assistance of ChatGPT and take full responsibility for the entire content of the article.

AUTHOR CONTRIBUTIONS
Okky Andaniswari: Conceptualization, Methodology, Investigation, Data Curation, Formal Analysis, Writing – Original Draft, Visualization. Dewi Sulistianingsih: Investigation, Data Curation, Formal Analysis, Validation, Writing – Review & Editing. Pujiono Pujiono: Conceptualization, Methodology, Supervision, Validation, Resources, Project Administration, Writing – Review & Editing.

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