

Legal Analysis of the Notary's Role in Protecting Client Personal Data

Principia Prima Shafa Hayati¹, Nur Rahmat², Jaenudin Umar³, Solichin⁴

^{1,2,3,4} Universitas Swadaya Gunung Jati

Article Info

Article history:

Received Oct, 2024

Revised Oct, 2024

Accepted Oct, 2024

Keywords:

Legal Basis

Notary

Personal Data

ABSTRACT

Notaries, empowered to create authentic deeds, require client personal data to perform their duties, making this information vulnerable to misuse if not properly secured. This paper examines the obligations of notaries in protecting client data under the Personal Data Protection Act No. 27 of 2022. Using doctrinal legal research methods, it explores data protection principles, the legal framework for client rights, and how these responsibilities align with notarial duties. Findings reveal that privacy is central to data protection, with the 2022 Act providing a legal foundation for notaries to safeguard client information, emphasizing the importance of maintaining confidentiality in all deed-related activities. The Personal Data Protection Act supports notaries' roles as data controllers and processors, linking these duties with the authority granted under the Notary Position Act. The synergy between these laws ensures that clients' data rights are upheld, and notarial responsibilities are reinforced within the legal framework.

This is an open access article under the [CC BY-SA](#) license.



Corresponding Author:

Name: Principia Prima Shafa Hayati

Institution: Jl. Terusan Pemuda No.01 A, Sunyaragi, Kec. Kesambi, Kota Cirebon, Jawa Barat 45132

Email: principiaa24@gmail.com

1. INTRODUCTION

In legal practice, notaries play an essential role as public officials authorized to create authentic deeds according to Law No. 30 of 2004 concerning Notary Positions, amended by Law No. 2 of 2014. The law states, "A notary is a public official authorized to create authentic deeds and other authorities as referred to in this Law." This shows that the primary authority of a notary is to create

authentic deeds, which have significant value as perfect evidence in daily life.¹ A document can be considered an authentic deed if it meets three main criteria: first, it is created by an authorized official; second, the deed must be made in accordance with the form prescribed by law; and third, the public official who creates or witnesses the creation of the deed must have the authority to do so.²

A notary, in carrying out their duties, adheres to strict operational service procedure

¹ I Gusti Ngurah Wira Prabawa and Dewa Gde Rudy, "Peran Notaris Dalam Pendirian Koperasi Setelah Diberlakukannya Online Single Submission," *Acta Comitas* 5, no. 2 (2020): 411, <https://doi.org/10.24843/ac.2020.v05.i02.p17>.

² Muhammad Farid Alwajdi and Kata Kunci, "Kemudahan Berusaha Di Indonesia," *Jurnal Media Pembinaan Hukum Nasiona* 9 (2020): 257-74.

standards. When drafting deeds, the notary requests formal data from the appearers. This formal data includes the identity of the appearers, such as name, place and date of birth, occupation, citizenship, and residence, which are typically verified with original KTP (Identity Card) and original KK (Family Card), as well as other supporting data according to the purpose of the deed being made.³ The formal data of clients is highly vulnerable to misuse by irresponsible notaries, especially in the absence of oversight and the neglect of the importance of personal data by the relevant parties. The misuse of personal data can harm clients and lead to various types of crimes involving personal data. Cases of personal data breaches for commercial purposes by certain individuals or groups are becoming a serious concern. This represents a significant threat, as personal data breaches can be damaging and infringe upon the privacy of individuals. Therefore, the use of personal data must be accompanied by strong protections regarding personal data in practice in Indonesia.⁴

The protection of clients by notaries regarding confidentiality is regulated in the Indonesian Law on Notary Positions (UUJN-P). Article 16 Paragraph 1 letter f states that a notary must keep confidential everything regarding the deeds they make and the information obtained for making the deeds, unless otherwise stipulated by law. The explanation of this article mentions that the

obligation to maintain confidentiality is to protect the interests of all parties involved in the deed. Additionally, Article 16 Paragraph 1 letter a of UUJN-P emphasizes that a notary must act with trustworthiness, honesty, independence, impartiality, and safeguard the interests of the parties involved in the legal acts. These provisions demonstrate that maintaining confidentiality in all matters related to the deed, including the formal data of clients, and acting trustworthily and safeguarding the interests of the parties are obligations for notaries. However, the regulations regarding personal data protection in Indonesia have not yet reached a stage where they comprehensively detail how personal data protection should be implemented.⁵ The protection of personal data is a fundamental right guaranteed by the constitution. Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia mandates the state to protect personal data. The protection of personal data is part of human rights as regulated in Article 12 of the Universal Declaration of Human Rights (UDHR). This article provides a legal basis for member states to protect and respect the right to privacy of their citizens.⁶ Amanwinata states that the Universal Declaration of Human Rights (UDHR) is accepted as *ius cogens* in the Indonesian legal system.⁷ On October 17, 2022, President Joko Widodo signed Law No. 27 of 2022 on Personal Data Protection.⁸ The PDP Law is a legal regulation

³ Asep Setiawan and Gunarto Gun, "Analisis Yuridis Standar Prosedur Pelayanan Operasional (Sppop) Notaris Dalam Pembuatan Akta Terkait Klausul Proteksi Diri Notaris Berdasarkan Pasal 15 Ayat (1) Undang-Undang Nomor 2 Tahun 2014 Tentang Jabatan Notaris," *Jurnal Akta* 4, no. 1 (2017): 5, <https://doi.org/10.30659/akta.v4i1.1538>.

⁴ Moh Hamzah Hisbulloh, "Urgensi Rancangan Undang-Undang (Ruu) Perlindungan Data Pribadi," *Jurnal Hukum Unissula* 37, no. 2 (2021): 119–33, <https://doi.org/10.26532/jh.v37i2.16272>.

⁵ Setyawati Fitri Anggraeni, "Polemik Pengaturan Kepemilikan Data Pribadi: Urgensi Untuk Harmonisasi Dan Reformasi Hukum Di Indonesia," *Jurnal Hukum & Pembangunan* 48, no. 4 (2018): 814, <https://doi.org/10.21143/jhp.vol48.no4.1804>.

⁶ Sahat Maruli Tua Situmeang, "Penyalahgunaan Data Pribadi Sebagai Bentuk Kejahatan Sempurna Dalam Perspektif Hukum Siber," *Sasi* 27, no. 1 (2021): 38, <https://doi.org/10.47268/sasi.v27i1.394>.

⁷ Sinombor, S. (2022, April 20). The Use Of Universal Declaration Of Human Rights (Udhr) In Indonesia Legal System. *Al Wasath Jurnal Ilmu Hukum*, 3(1), 1-12. <https://doi.org/https://doi.org/10.47776/alwasath.v3i1.336>

⁸ M. J. Rizki, "Sah! UU 27/2022 Jadi Nomor Resmi UU PDP," *Hukumonline*, 2022. [Online]. Available: <https://www.hukumonline.com/berita/a/sah-uu-27-2022-jadi-nomor-resmi-uu-pdp-lt634f8040346d5/>. [Accessed: 24-Mar-2024].

that comprehensively governs personal data protection in Indonesia. Parties involved in the PDP Law, such as Data Controllers, Data Processors, and other parties related to the processing of Personal Data, are required to comply with the provisions for processing Personal Data under this law no later than two years from its promulgation.⁹ With the enactment of the PDP Law, notaries, as parties who require clients' personal data to carry out their duties and authorities, face new responsibilities.

This writing serves as both a complement and an extension of the previous studies conducted. It aims to analyze the role and obligations of notaries in protecting clients' personal data within the context of the Personal Data Protection Law (PDP Law). This effort is necessary not only to justify the need for protection of clients' personal data by notaries but also to assist in evaluating, developing, and providing corrections in its implementation. Therefore, this paper will explain why the PDP Law is a regulation that provides a basis for the protection of clients' personal data. Specifically, this research focuses on: 1. Analyzing the concept of personal data protection and the principles of personal data protection in relation to notarial legal principles; 2. Identifying the rights of notary clients regarding data protection; and 3. Analyzing the obligations of notaries in protecting clients' personal data in the performance of their duties and authorities.

2. LITERATURE REVIEW

Several studies have been conducted regarding the protection of personal data by notaries. Such As:

2.1 First Literature

Mislaini (2024), in their study on the responsibility of notaries in safeguarding

⁹ Undang-Undang No. 27 Tahun 2022 tentang *Pelindungan Data Pribadi*, Pasal 74.

¹⁰ Mislaini and Habib Adjie, "Tanggung Jawab Notaris Dalam Pengamanan Data Pribadi Dalam Perjanjian Notariil Pada Era Digital," *UNES Law Review* 6, no. 2 (2024): 7481–90.

¹¹ R. Budi Prabowo Wicaksono, "Kewajiban Notaris Dalam Menjaga Data Pribadi Secara Digital

personal data in notarial agreements in the digital era, highlights the role of notaries as guarantors of trust and confidentiality regarding clients' personal information. This research emphasizes that notaries have an obligation to maintain the confidentiality of information and to issue warnings if there are breaches in information protection.¹⁰

2.2 Second Literature

Wicaksono (2023), in their article "The Obligations of Notaries in Safeguarding Personal Data Digitally: Perspectives of the Indonesian Personal Data Protection Law," categorizes notaries as data controllers under the PDP Law. This research also explains the obligations of notaries to maintain the confidentiality of personal data in accordance with the Notary Position Law and the PDP Law, including related sanctions.¹¹

2.3 Third Literature

Meanwhile, Ulum and Sesung (2023), in their article "The Role of Notaries in Safeguarding Personal Data Security in the Digital Era," reveal the role of notaries in verifying digital signatures and electronic documents. This research emphasizes the importance of notaries in ensuring the security of digital transactions as well as compliance with data privacy regulations and cybersecurity.¹²

2.4 Fourth Literature

Furthermore, Wijayanti and Ariawan (2021), in their study titled "Efforts to Protect the Identity of Parties in Cyber Notary Practice," which examines efforts to protect the identity of parties in cyber notary practices, highlight measures that can be taken to maximize legal protection

Persepektif Undang-Undang Perlindungan Data Pribadi Indonesia," *Otentik's: Jurnal Hukum Kenotariatan* 5, no. 2 (2023): 208–26, <https://doi.org/10.35814/otentik.v5i2.5015>.

¹² Dicky Fachrul Ulum et al., "Peran Notaris Dalam Menjaga Keamanan Data Pribadi Di Era Digital" 20, no. 2 (2023): 1829–811.

for personal data security and the parties involved in cyber notary activities.¹³

2.5 Five Literature

Another relevant study on the topic of personal data protection is the research conducted by Kusnadi and Wijaya (2021) in their article titled "Legal Protection of Personal Data as Privacy Rights." This study highlights legislative regulations on personal data protection in Indonesia and several other countries.¹⁴

3. METHODS

This research uses a doctrinal research method, which is normative or normative legal research, aimed at examining the internal aspects of positive law to address the issues within it.¹⁵ Using the Statutory Approach, this paper will examine literature or secondary data, with data collection tools including document studies. The approach is qualitative, where the author reviews and analyzes legal norms within the evolving legislative framework concerning personal data protection. Specifically, it discusses the implications of the PDP Law on the responsibilities of notaries in protecting personal data.

4. RESULTS AND DISCUSSION

4.1 Concept of Personal Data Protection and Legal Basis for Personal Data Protection

Personal data is a privacy right of every individual that must be protected.¹⁶ Alan Westin defines privacy as the claim by an individual,

group, or institution to determine for themselves when, how, and to what extent information about them is communicated to others.¹⁷ According to Rosadi and Gumelar (2018), the definition of privacy mentioned above is known as information privacy because it concerns personal information. Although there is a polarization of meanings related to the definition of privacy, the essence is that privacy involves the claim, right, or entitlement of individuals to determine what information about themselves can be disclosed to others.¹⁸ Although there is a polarization of meanings related to the definition of privacy, the essence is that privacy involves the claim, right, or entitlement of individuals to determine what information about themselves can be disclosed to others.¹⁹

Although privacy is a part of human rights, it can be exempted under certain conditions. Warren and Brandeis outline several limitations to privacy: the publication of personal information for public interest is still permissible; privacy is not protected if no harm occurs; privacy does not apply if an individual has consented to the dissemination of their personal information to the public; and consent and privacy should receive legal protection because the harm experienced is difficult to measure and often psychological, which is

¹³ Adinda Ari Wijayanti and I Gusti Ketut Ariawan, "Upaya Perlindungan Terhadap Identitas Para Pihak Dalam Praktik Cyber Notary," *Acta Comitas* 6, no. 03 (2021): 679, <https://doi.org/10.24843/ac.2021.v06.i03.p16>.

¹⁴ Sekaring Ayumeida Kusnadi and Andy Usmina Wijaya, "Perlindungan Hukum Data Pribadi Sebagai Hak Privasi Sekaring," *Tjyybjb.Ac.Cn* 27, no. 2 (2019): 58–66.

¹⁵ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer,"

Gema Keadilan 7, no. 1 (2020): 20–33, <https://doi.org/10.14710/gk.2020.7504>.

¹⁶ Kusnadi and Wijaya, "Perlindungan Hukum Data Pribadi Sebagai Hak Privasi Sekaring."

¹⁷ Siti Yuniarti, "Perlindungan Hukum Data Pribadi Di Indonesia," *Business Economic, Communication, and Social Sciences (BECOSS) Journal* 1, no. 1 (2019): 147–54, <https://doi.org/10.21512/becossjournal.v1i1.6030>.

¹⁸ Yuniarti.

¹⁹ Ni Komang Sutrisni² Ni Putu Noni Suharyanti¹, "Prosiding Seminar Nasional Fh Unmas Denpasar," n.d., 144–59.

considered more severe than physical harm.²⁰

Privacy is the foundation of the concept of personal data protection. Privacy is recognized as a human right that requires legal protection for personal data.²¹ According to Edmond Makarim (2012), the first country to regulate personal data protection was the state of Hesse in Germany in 1970. This was followed by Sweden in 1973, the United States in 1974, and the United Kingdom in 1984.²²

In the concept of personal data protection, each individual has the right to decide whether to share or exchange their personal data. Additionally, they have the right to set conditions for the transfer of their personal data. Privacy rights have evolved to encompass the right to protect personal data, allowing individuals to formulate their rights in personal data protection.²³ Personal data protection emphasizes that each individual has the right to decide whether to share their personal data or not, and to set the conditions that must be met if they choose to share that data.²⁴

Regarding personal data, Article 1, paragraph 1 of the PDP Law defines personal data as data about an individual that can be specifically identified, either directly or

indirectly, through electronic or non-electronic systems, whether alone or in combination with other information. Data is considered personal data if it can be used to recognize or identify someone.²⁵

Furthermore, according to Article 1, paragraph 2 of the PDP Law, personal data protection is defined as the effort to protect personal data during the data processing process. The processing of personal data includes acquisition, collection, processing, analysis, storage, correction, updating, display, announcement, transfer, dissemination, disclosure, deletion, or destruction.²⁶

Regarding the processing of personal data, according to Article 18 of the PDP Law, the processing of personal data by two or more data controllers is permitted in the performance of their duties and responsibilities. A notary is typically assisted by notarial staff in preparing all the necessary requirements for the creation of deeds. However, the responsibility for the authenticity of the deed remains with the notary. If the notarial staff discloses a deed created by the notary, the notary is still liable, even if they did not commit a direct violation, as it is considered a failure to maintain the confidentiality of the deed by their staff.²⁷

²⁰ Yuniarti, "Perlindungan Hukum Data Pribadi Di Indonesia."

²¹ Yuniarti.

²² Lia Sautunnida, "Urgensi Undang-Undang Perlindungan Data Pribadi Di Indonesia: Studi Perbandingan Hukum Inggris Dan Malaysia," *Kanun Jurnal Ilmu Hukum* 20, no. 2 (2018): 369–84, <https://doi.org/10.24815/kanun.v20i2.11159>.

²³ Anggraeni, "Polemik Pengaturan Kepemilikan Data Pribadi: Urgensi Untuk Harmonisasi Dan Reformasi Hukum Di Indonesia." *Jurnal Hukum & Pembangunan* 48 No. 4 (2018): 814-825 <https://doi.org/10.21143/jhp.vol48.no4.1804>.

²⁴ Fanny Priscyllia, "Perlindungan Privasi Data Pribadi Dalam Perspektif Perbandingan Hukum," *Jatiswara* 34, no. 3 (2019): 1–5, <https://doi.org/10.29303/jatiswara.v34i3.218>.

²⁵ Mesra Betty Yel and Mahyuddin K. M Nasution, "Keamanan Informasi Data Pribadi Pada Media Sosial," *Jurnal Informatika Kaputama (JIK)* 6, no. 1 (2022): 92–101, <https://doi.org/10.59697/jik.v6i1.144>.

²⁶ *Undang-Undang No. 27 Tahun 2022 tentang Pelindungan Data Pribadi, Pasal 16 ayat (1)*.

²⁷ Mahmul Siregar Lidia Margaret Sinaga, Madiasa Ablizar, "Tanggung Jawab Notaris Dan Pegawai Notaris Dalam Menjaga Kerahasiaan Akta Lidia Margaret Sinaga 1, Madiasa Ablizar 2 ,

Still within Article 18 of the PDP Law, paragraph 2 sets out the minimum requirements for data processing conducted by two or more data controllers, which must include: a) an agreement between the data controllers outlining their roles, responsibilities, and relationships; b) interrelated purposes and methods of personal data processing established jointly; and c) the appointment of a designated contact person. When data processing involves two or more data controllers, a notary must ensure that there are limitations in the performance of their duties and authority. Staff assisting the notary have an obligation to maintain the confidentiality of the deed, serve as witnesses to the deed, and oversee or be aware of the deed's creation process. They are also prohibited from reading the deed aloud, representing the notary in signing deeds, documents, or letters without authorization, distributing data, or taking other actions that violate regulations.²⁸ They are also prohibited from reading out deeds, representing the Notary in signing deeds, files, or letters without authorization, sharing data, or performing other actions that violate legal regulations.²⁹

Regarding the addressees of personal data protection regulations, the addressees are the legal subjects to whom a regulatory provision is directed.³⁰ The addressees of legal subjects are important to discuss

because legal subjects are related to who is granted rights and obligations by the law. A legal subject is defined as anything that has legal authority, as well as the bearer of rights and obligations in legal acts.³¹ The addressees of the PDP Law are Data Subjects, Data Controllers, and Data Processors. A notary, as an individual public official, can be categorized as a legal subject. As a legal subject, a notary is defined as a public legal subject in the context of serving public legal relationships.³²

A notary has an obligation to protect the parties involved according to the provisions of the law.³³ In performing tasks related to personal data, as mandated by the PDP Law, a notary acts as a data controller because the notary is the party that determines the purpose and oversees the processing of data. According to Article 1, paragraph 4 of the PDP Law, a data controller is defined as a person, public body, or international organization that, individually or jointly, determines the purposes and controls the processing of personal data.

The role of a notary extends beyond merely setting the purpose and controlling the processing of personal data. In the context of data protection, the notary is also the party that processes data as part of their responsibility to protect the personal data of their clients. The party that performs data processing is known as a data processor. As defined in Article

Mahmul Siregar 3 Fakultas Hukum Universitas Sumatera Utara, Medan," 2021, 152–66.

²⁸ Magnalia Devita Nadine, "Perlindungan Dan Pertanggung Jawaban Hukum Bagi Notaris Atas Penyalahgunaan Tugas Oleh Pegawai Notaris," 2023.

²⁹ Nadine.

³⁰ E. O. S. Hiariej, *Prinsip-Prinsip Hukum Pidana*. Depok: Rajawali Pers, 2022, p. 20.

³¹ Dyah Hapsari Prananingrum, "Telaah Terhadap Esensi Subjek Hukum: Manusia Dan

Badan Hukum," *Refleksi Hukum: Jurnal Ilmu Hukum* 8, no. 1 (2014): 73–92, <https://doi.org/10.24246/jrh.2014.v8.i1.p73-92>.

³² Putra Arifaid, "Tanggung Jawab Hukum Notaris Terhadap Akta in Originali," *Jurnal IUS Kajian Hukum Dan Keadilan* 5, no. 3 (2017): 510, <https://doi.org/10.29303/ius.v5i3.456>.

³³ Wiriya Adhy Utama and Ghansham Anand, "Perlindungan Hukum Terhadap Notaris Pengganti Dalam," *Jurnal Panorama Hukum* 3, no. 1 (2018): 105–24.

1, paragraph 5 of the PDP Law, a data processor is a party that processes personal data on behalf of the data controller.

Certainly, the role of a notary as both a data controller and data processor is a step towards fulfilling legal protection as stipulated in the constitution concerning personal data protection. From this explanation, it is evident that the role of a notary, according to the PDP Law, provides clarity on the protection of personal data.

The position of the client is as the parties (applicants) who approach the notary with the intention that their statements, legal actions, or declarations be documented or formulated into a notarial deed.³⁴ According to Article 1, paragraph 7 of the Notarial Law (UUJN-P), a notarial deed is defined as an authentic deed created by or in the presence of a notary according to the form and procedures established in this law. Clients are the parties whose interests must be protected by the notary, as regulated in the UUJN-P and the Notarial Code of Ethics. The notary processes the personal data of clients as part of the protection of personal data. In terms of personal data protection, clients are data subjects. The information containing the clients' personal data is used by the notary to create the authentic deeds desired by the parties. Article 1, paragraph 6 of the PDP Law defines a data subject as "an individual who has personal data attached to them."

In carrying out the task of protecting personal data for their

clients, notaries must adhere to the principles of personal data protection. These legal principles are important to observe. Legal principles serve as the "ratio legis" of the legislation.³⁵ This means that within these legal principles lies the spirit of the law or regulation, which reflects the intent of the legislative drafters, in this case, the law on personal data protection. Legal principles are legal norms that embody values serving as guidelines for thinking about the law.³⁶

Article 3 of the PDP Law provides the foundational principles of personal data protection, which state: "This Law is based on: a. protection; b. legal certainty; c. public interest; d. utility; e. caution; f. balance; g. accountability; and h. confidentiality." The implementation of these principles of personal data protection, as outlined in the PDP Law, is crucial as they not only provide certainty but also regulate the legal protection afforded to clients.

There is a mutual reinforcement between the principles of personal data protection and the Notarial Code of Ethics. In carrying out their duties, a notary is required to act honestly, independently, impartially, with trustworthiness, diligence, and a sense of responsibility.³⁷ Moreover, notaries are required to continuously enhance their knowledge not only in the field of law and notarial practices but also in laws concerning personal data protection. Therefore, the legal principles outlined above should ideally serve as an "umbrella law" for the implementation of personal data

³⁴F. N. Heriani, "Ini Akibat Hukumnya Jika Minuta Akta Tidak Ditandatangani Notaris," *Hukumonline*, 2022. [Online]. Available: <https://www.hukumonline.com/berita/a/ini-akibat-hukumnya-jika-minuta-akta-tidak-ditandatangani-notaris-lt62d9dac23210c>. [Accessed: 24- Mar-2024].

³⁵ Dewa Gede Atmadja, "Asas-Asas Hukum Dalam Sistem Hukum," *Kertha Wicaksana* 12, no. 2 (2018): 145–55, <https://www.ejournal.warmadewa.ac.id/index.php/kertawicaksana/article/view/721>.

³⁶ F. Amin et al., "Ilmu Perundang-Undangan," Sada Kurnia Pustaka, Kab. Serang, 2023, p. 74.

³⁷ Lihat Pasal 3 Kode Etik Notaris Perubahan

protection for clients by notaries. Notaries have a crucial responsibility in safeguarding clients' rights, including in the context of personal data protection as regulated by Law Number 27 of 2022 on Personal Data Protection (PDP Law). In processing client data, notaries must ensure that each step aligns with the principles of personal data protection established in the PDP Law. Concurrently, the legal principles specified in the Notarial Position Act (UUJN-P), particularly Article 16, paragraph (1) letter a, mandate that notaries must act honestly, diligently, independently, impartially, and safeguard the interests of parties involved in legal acts. Article 16, paragraph (1) letter f of UUJN-P also emphasizes the notary's obligation to maintain confidentiality regarding the deeds they create. Furthermore, Article 36 of the PDP Law stipulates that as data controllers, notaries have a strong obligation to maintain the confidentiality of managed personal data. This obligation not only covers the technical aspects of data processing but also involves a professional attitude in ensuring that any personal information obtained in the course of their work is not misused or accessed unlawfully. Thus, through the implementation of legal principles in UUJN-P and the PDP Law, notaries play a dual role, not only as guarantors of validity and legal certainty through authentic deeds but also as custodians of client trust and confidentiality in the current digital era.

4.2 Client Rights Regarding Personal Data Protection

In carrying out their duties, notaries must consider the rights of clients as both parties appearing before them and data subjects. Through a comparative analysis of the Personal Data Protection Law (UU PDP), the Notary Position Law

(UUJN), and its amendments (UUJN-P), several rights of data subjects in UU PDP are found to be relevant to the regulations concerning the Notary Position.

Article 5 of the UU PDP states that clients have the right to receive information about the clarity of identity, the purpose of the request, and the use of personal data, as well as the accountability of the notary. This means that the notary is obligated to provide such information to the client. This is in line with Article 15 of the UUJN, which states that notaries are authorized to provide legal counseling related to the process of drafting deeds. Thus, notaries can provide information regarding the drafting of deeds, including the information mentioned in Article 5 of the UU PDP.

The notary's obligation to provide this information not only demonstrates compliance with the UU PDP but also strengthens transparency and accountability in performing their duties. By providing clear and comprehensive explanations to clients, notaries can ensure that the rights of clients as data subjects are well protected.

Furthermore, Article 6 of the UU PDP states that clients have the right to complete, update, and/or correct errors and/or inaccuracies in their personal data according to the purposes of data processing. This is relevant to Article 48 of the UUJN-P, which stipulates that client may request notaries to make changes to the contents of deeds in accordance with applicable regulations. Changes to the deed's contents are also regulated in Article 51 of the UUJN-P, where changes may be made if there are typographical or clerical errors in the deed minute signed by the notary.

Next, Article 7 of the UU PDP requires notaries to provide access to and copies of personal data to their

clients in accordance with the legislation, as this is also a right of clients as data subjects. Article 54 of the UUJN-P specifies that notaries may only provide, show, or disclose the contents of deeds, deed copies, or extracts to clients directly interested in the deed. This means that the issue of notaries providing access to copies is also regulated under the UUJN-P.

Article 12 of the UU PDP states that clients also have the right to file a complaint and receive compensation for violations of their personal data processing in accordance with the applicable regulations. Article 49 of the UUJN-P mentions that for violations in deed amendments, the affected party can demand compensation and interest from the notary. This means that if a notary violates the processing of client data into a deed, the notary can be asked for compensation or even sued by the client who feels aggrieved.

The UU PDP grants clients the right to withdraw their consent for the processing of their personal data that has been given to the notary. This is stated in Article 9 of the UU PDP. In Article 20 of the UU PDP, consent is defined as the explicit and valid consent from the client for one or more specific purposes communicated by the notary to the client. In performing their duties, a notary processes data for the registration of a deed. Once registered, the data cannot be withdrawn, as a registered deed cannot be withdrawn or canceled. This is in conflict with Article 9 of the UU PDP.

4.3 Data Processing by Notaries and Their Obligations

According to Article 4 of the Personal Data Protection Law (UU PDP), personal data is classified into two types: specific personal data and general personal data. Specific

personal data includes information such as health data, biometric data, genetic data, criminal records, data on children, and personal financial data, in accordance with legal provisions. On the other hand, general personal data includes full name, gender, nationality, religion, marital status, and data combined to identify an individual. In practice, notaries collect personal information from parties or clients involved in legal transactions, whether specific or general, in line with the needs of the transaction.

The obligations of data controllers are regulated by the Personal Data Protection Law (UU PDP). This serves as a reference point for notaries, both as data controllers and processors, to carry out their duties in accordance with the provisions outlined in UU PDP. Notaries must have a basis for processing personal data. The basis for processing data carried out by notaries is part of fulfilling the legal obligations mandated by the Notary Position Law (UUJN-P) to act in the interest of the parties involved in legal acts, as stipulated in Article 16, paragraph 1, letter a.

According to Article 21 of the Personal Data Protection Law (UU PDP), notaries are required to provide information regarding the legality of personal data processing, the purpose of processing personal data, the types and relevance of the personal data to be processed, the retention period of documents containing personal data, details regarding the collected information, the duration of personal data processing, and the rights of data subjects. This aligns with Article 15, paragraph (2), letter e of the Notary Position Law (UUJN-P), which regulates the authority of notaries to provide legal counseling. This legal counseling is related to the process of drafting deeds. In providing such

counseling, notaries can explain how the deed is created from start to finish and how the collected data will be processed into a deed.

Furthermore, Article 21 of the Personal Data Protection Law (UU PDP) also requires notaries to notify clients in case of information changes. According to the provisions set forth in Article 30 of UU PDP, notaries are obligated to update and/or correct errors and/or inaccuracies in personal data no later than 3x24 (three times twenty-four) hours from the time the notary receives the request for data update and/or correction, and must inform the client of the results of the update and/or correction. In the notary's work, notaries prepare official reports. The correction report is regulated in Article 51 of the Notary Position Law (UUJN-P), where the correction is carried out in the presence of the parties, witnesses, and the notary, and is documented in the report, with a note added to the original deed's minute indicating the date and number of the correction report.

Notaries are also required to process personal data in a limited and specific manner, legally, and transparently, based on Article 27 of the Personal Data Protection Law (UU PDP). Article 54 of the Notary Position Law (UUJN-P) regulates a similar provision, stating that notaries may only provide, show, or disclose the contents of the Deed, Grosse Deed, Deed Copy, or Deed Extract to parties directly interested in the Deed, heirs, or individuals who acquire rights, unless otherwise specified by the legislation. This means that notaries must conduct their work in a limited, specific, legally compliant, and transparent manner.

Article 29 of the Personal Data Protection Law (UU PDP) also requires notaries to ensure the accuracy, completeness, and consistency of the personal data they process in accordance with legal regulations and to perform verification. Article 16, paragraph (1), letter a of the Notary Position Law (UUJN-P) states that one of the obligations of notaries in carrying out their duties is to act diligently. According to the definition of 'diligent' in the Kamus Besar Bahasa Indonesia, 'diligent' means careful; meticulous.³⁸ This means that both regulations require notaries to be diligent in performing their duties. Diligence is necessary to ensure the accuracy, completeness, and consistency of personal data. This requirement applies not only to notaries as data controllers but also to notaries as data processors.

According to Article 35 of the PDP Law, notaries are also required to protect and ensure the security of personal data they process by developing and implementing technical and operational measures to safeguard personal data from processing activities that violate legal provisions. This includes determining the level of data security by considering the nature and risks associated with the personal data that needs to be protected in the data processing. Article 16(1)(g) of the Notarial Law (UUJN-P) states that deeds and documents made by notaries, as official authentic documents, require protection both for the deeds themselves and their contents to prevent irresponsible misuse. To safeguard against misuse, notaries must bind the deeds they create into a book containing up to 50 deeds within one month. To enhance

³⁸ "Saksama," Kamus Besar Bahasa Indonesia (KBBI) Online, [Online]. Available:

<https://kbbi.kemdikbud.go.id/entri/saksama>. [Accessed: 12-Jun-2024].

protection, notaries should refer to the provisions in Article 35 of the PDP Law. Developing and implementing technical and operational measures should be practiced by notaries to ensure the security of processed personal data and to serve as standard operational procedures within the notarial office, which must be adhered to by all employees and notaries in the office.

In processing personal data, notaries are required to maintain the confidentiality of the personal data they handle in accordance with Article 36 of the PDP Law. Regarding the confidentiality of the contents of deeds, this is regulated by the Notarial Law (UUJN) and the Notarial Law Amendment (UUJN-P). According to Article 16(1)(f) of the UUJN-P, notaries must keep confidential all matters related to the creation of deeds, including personal data collected from their clients. As data processors, notaries are also obligated to comply with the provisions of Articles 35 and 36 of the PDP Law.

In Article 37 of the PDP Law, notaries are also responsible if personal data processing involves other parties, by supervising each party involved in the data processing. Therefore, notaries are also obligated to protect personal data from unlawful processing as stated in Article 38 of the PDP Law. As data controllers and processors, notaries must implement the obligations mentioned above.

When notaries process personal data and are accountable to other parties, they must be responsible for this as part of fulfilling their obligation to uphold the principles of personal data protection in accordance with Article 47 of the PDP Law. Notaries who control and process data must comply with institutional directives

regarding the implementation of personal data protection as stipulated in Article 49 of the PDP Law.

In carrying out their duties, a notary may certainly perform data transfers for specific purposes. The provisions for data transfers are also regulated by the PDP Law. Among other things, notaries may transfer personal data to other data controllers both within and outside Indonesia's legal jurisdiction. When transferring data, notaries are required to ensure that the destination for the transferred data provides a level of data protection that is equivalent to or higher than what is stipulated in the PDP Law. This is because the recipient of the transferred data is also obligated to protect personal data in accordance with the PDP Law.

5. CONCLUSION

The concept of personal data protection is based on the individual's right to privacy. This right to privacy may be subject to certain exceptions, such as when a notary processes personal data of their clients as part of their professional duties. Law No. 27 of 2022 provides a legal basis for protecting a notary's clients' data as part of a commitment to human rights, which includes the right to privacy. There is a relevance between the legal principles of data protection and the notary's obligation to safeguard the interests of the parties involved, including maintaining the confidentiality of all information related to the deed.

Notaries ensure the fulfillment of clients' personal data protection rights. However, challenges can arise in meeting these rights, such as those outlined in Article 9 of the Personal Data Protection Law (UU PDP). This article grants clients, as data subjects, the right to withdraw their consent from the notary, who acts as the data controller. This presents a particular challenge for notaries, as they must navigate the complexities of managing and potentially

reversing data processing activities in response to clients' withdrawal of consent.

Notaries are responsible both as data controllers and data processors. This responsibility includes implementing and applying technical and operational measures to ensure the security of the processed personal data. These measures should serve as standard operational procedures within the notarial office, applicable to all employees and notaries within the office. Proper regulation ensures data security and compliance with data protection laws

The role of notaries as data controllers and processors is integrated with the duties and authority granted by the Notarial Position Act (UUJN). The rights of clients as data subjects, as regulated by the Personal Data Protection Law (UU PDP), can collaborate with UUJN and UUJN-P, making UU PDP a strong legal foundation for regulating notaries in safeguarding their clients' personal data.

Notaries must continuously update their knowledge on the latest laws related to personal data protection and ensure that their practices comply with these regulations. This includes creating policies related to personal data processing with transparency regarding how client data is used and stored. Evaluating and updating personal data security procedures regularly to keep up with technological advancements and regulations is also essential. By implementing these suggestions, notaries are expected to better safeguard client data, ensure compliance with regulations, and enhance client trust in the services provided.

ACKNOWLEDGEMENTS


I would like to extend my sincere gratitude to my fellow researchers for their assistance and participation in the data collection and analysis process. Your contributions are greatly appreciated and have been an essential part of this research.

REFERENCES

- [1] I. G. N. W. Prabawa and D. G. Rudy, "Peran Notaris Dalam Pendirian Koperasi Setelah Diberlakukannya Online Single Submission," *Acta Com.*, vol. 52, p. 411, 2020.
- [2] M. F. Alwajdi and K. Kunci, "Kemudahan Berusaha Di Indonesia," *J. Media Pembim. Huk. Nasiona*, vol. 9, pp. 257–274, 2020.
- [3] A. Setiawan and G. Gun, "Analisis Yuridis Standar Prosedur Pelayanan Operasional (SPPOP) Notaris Dalam Pembuatan Akta Terkait Klausul Proteksi Diri Notaris Berdasarkan Pasal 15 Ayat (1) Undang-Undang Nomor 2 Tahun 2014 Tentang Jabatan Notaris," *J. Akta*, vol. 4, no. 1, p. 5, 2017.
- [4] M. H. Hisbulloh, "Urgensi Rancangan Undang-Undang (Ruu) Perlindungan Data Pribadi," *J. Huk. Unissula*, vol. 37, no. 2, pp. 119–133, 2021, doi: 10.26532/jh.v37i2.16272.
- [5] Mislaini and H. Adjie, "Tanggung Jawab Notaris Dalam Pengamanan Data Pribadi Dalam Perjanjian Notariil Pada Era Digital," *UNES Law Rev.*, vol. 6, no. 2, pp. 7481–7490, 2024.
- [6] R. B. P. Wicaksono, "Kewajiban Notaris Dalam Menjaga Data Pribadi Secara Digital Persepektif Undang-Undang Perlindungan Data Pribadi Indonesia," *J. Huk. Kenotariatan*, vol. 5, no. 2, 2023.
- [7] D. Fachrul Ulum, R. Sesung Magister Kenotariatan, F. Hukum, and C. Author, "Peran Notaris Dalam Menjaga Keamanan Data Pribadi Di Era Digital," vol. 20, no. 2, pp. 1829–811, 2023.
- [8] A. A. Wijayanti and I. G. K. Ariawan, "Upaya Perlindungan Terhadap Identitas Para Pihak Dalam Praktik Cyber Notary," *Acta Com. J. Huk. Kenotariatan*, vol. 06, no. 03, 2021.
- [9] S. A. Kusnadi and A. U. Wijaya, "Perlindungan Hukum Data Pribadi Sebagai Hak Privasi," *Al Wasath J. Ilmu Huk.*, vol. 2, no. 1, 2021.
- [10] K. Benuf and M. Azhar, "Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan*, vol. 7, no. 1, pp. 20–33, 2020, doi: 10.14710/gk.2020.7504.
- [11] S. Yuniarti, "Perlindungan Hukum Data Pribadi Di Indonesia," *Bus. Econ. Commun. Soc. Sci. J.*, vol. 1, no. 1, pp. 147–154, 2019, doi: 10.21512/becossjournal.v1i1.6030.
- [12] N. K. S. Ni Putu Noni Suharyanti1, "Prosiding seminar nasional fh unmas denpasar," pp. 144–159.
- [13] L. Sautunnida, "Urgensi Undang-Undang Perlindungan Data Pribadi di Indonesia: Studi Perbandingan Hukum Inggris dan Malaysia," *Kanun J. Ilmu Huk.*, vol. 20, no. 2, pp. 369–384, 2018, doi: 10.24815/kanun.v20i2.11159.
- [14] F. Priscyllia, "Perlindungan Privasi Data Pribadi dalam Perspektif Perbandingan Hukum," *Jatiswara*, vol. 34, no. 3, pp. 1–5, 2019, doi: 10.29303/jatiswara.v34i3.218.
- [15] M. B. Yel and M. K. M. Nasution, "Keamanan Informasi Data Pribadi Pada Media Sosial," *J. Inform. Kaputama*, vol. 6, no. 1, pp. 92–101, 2022, doi: 10.59697/jik.v6i1.144.

- [16] M. S. Lidia Margaret Sinaga, Madiasa Ablizar, "TANGGUNG JAWAB NOTARIS DAN PEGAWAI NOTARIS DALAM MENJAGA KERAHASIAAN AKTA Lidia Margaret Sinaga 1 , Madiasa Ablizar 2 , Mahmud Siregar 3 Fakultas Hukum Universitas Sumatera Utara, Medan," pp. 152–166, 2021.
- [17] M. D. Nadine, "Perlindungan Dan Pertanggung Jawaban Hukum Bagi Notaris Atas Penyalahgunaan Tugas Oleh Pegawai Notaris," 2023.
- [18] D. H. Prananingrum, "Telaah Terhadap Esensi Subjek Hukum: Manusia Dan Badan Hukum," *Refleks. Huk. J. Ilmu Huk.*, vol. 8, no. 1, pp. 73–92, 2014, doi: 10.24246/jrh.2014.v8.i1.p73-92.
- [19] P. Arifaid, "Tanggung Jawab Hukum Notaris Terhadap Akta in Originali," *J. IUS Kaji. Huk. dan Keadilan*, vol. 5, no. 3, p. 510, 2017, doi: 10.29303/ius.v5i3.456.
- [20] Wiriya Adhy Utama and Ghansham Anand, "Perlindungan Hukum Terhadap Notaris Pengganti Dalam," *J. Panor. Huk.*, vol. 3, no. 1, pp. 105–124, 2018.
- [21] D. G. Atmadja, "Asas-Asas Hukum Dalam Sistem Hukum," *Kertha Wicaksana*, vol. 12, no. 2, pp. 145–55, 2018, [Online]. Available: <https://www.ejournal.warmadewa.ac.id/index.php/kertawicaksana/article/view/721>.
- [22] S. F. Anggraeni, "Polemik Pengaturan Kepemilikan Data Pribadi: Urgensi Untuk Harmonisasi Dan Reformasi Hukum Di Indonesia," *J. Huk. Pembang.*, vol. 48, no. 4, p. 814, 2018.
- [23] E. O. S. Hiariej, *Prinsip-Prinsip Hukum Pidana*. Depok: Rajawali Pers, 2022, p. 20.
- [24] F. Amin, R. Susmayanti, F. S. Faried, M. A. Zaelani, A. Agustiwi, D. Y. Permana, and M. Rizaldi, *Ilmu Perundang-Undangan*. Kab. Serang: Sada Kurnia Pustaka, 2023, p. 74.
- [25] F. N. Heriani, "Ini Akibat Hukumnya Jika Minuta Akta Tidak Ditandatangani Notaris," *Hukumonline*, 2022. [Online]. Available: <https://www.hukumonline.com/berita/a/ini-akibat-hukumnya-jika-minuta-akta-tidak-ditandatangani-notaris-lt62d9dac23210c>.
- [26] M. J. Rizki, "Sah! UU 27/2022 Jadi Nomor Resmi UU PDP," *Hukumonline*, 2022. [Online]. Available: <https://www.hukumonline.com/berita/a/sah-uu-27-2022-jadi-nomor-resmi-uu-pdp-lt634f8040346d5/>.
- [27] Undang-Undang Republik Indonesia No. 27 Tahun 2022 tentang Perlindungan Data Pribadi, § Lembaran Negara Republik Indonesia Tahun 2022 Nomor 196, 2022.
- [28] Undang-Undang Republik Indonesia No. 30 Tahun 2004 tentang Jabatan Notaris, § Lembaran Negara Republik Indonesia Tahun 2004 Nomor 117, 2004.
- [29] Kode Etik Notaris Perubahan

BIOGRAPHIES OF AUTHORS

	<p>Principia Prima Shafa Hayati. Born in Cirebon, February 24, 2002. Bachelor of Law student at Swadaya Gunung Jati University. Email: principiaa24@gmail.com</p>
	<p>Nur Rahmat. Born in Bandung, November 24, 2000. Bachelor of Law student at Swadaya Gunung Jati University. Email: zr.nurrahmat@gmail.com</p>
	<p>Jaenudin Umar. Born in Kuningan, West Java, November 4, 1970. Completed a Bachelor of Economics majoring in Accounting from Swadaya Gunung Jati University, Cirebon, 1997, a Bachelor of Law from the University of August 17, 1945 Cirebon, 2003, a Master of Notary from Padjadjaran University, Bandung, 2006, a Doctorate in Law from Sultan Agung University, Semarang, 2020. The author has an interest in legal issues and studies, and is active in researching, writing and teaching. Email: jaenudin.umar@ugj.ac.id</p>
	<p>Solichin. Born in Cirebon, July 5, 1977. Completed Bachelor of Law from the Islamic University of Indonesia Yogyakarta in 2001, Master of Notary from UGM Yogyakarta in 2004, and Doctor of Law from the Islamic University of Indonesia Yogyakarta in 2020. Email: solichinppat@ymail.com</p>