



Legal Responsibility In The Protection Of Customers' Personal Data By Sharia Financial Institutions

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Article	Abstract
<p>Keywords: <i>personal data, supervision, Islamic banking, independent authority, legal system.</i></p> <p>Article History Received: 19/12/2025; Reviewed: 22/12/2025; Accepted: 30/01/2026; Published: 31/01/2026;</p>	<p><i>The rapid development of digital technology in the banking sector has increased the vulnerability of customers' personal data, including in Islamic financial institutions. Although Indonesia has established legal frameworks through the Personal Data Protection Law and the Islamic Banking Law, the implementation of supervision over personal data protection obligations still faces significant challenges. This study aims to examine the effectiveness of personal data supervision in Islamic financial institutions by applying Lawrence M. Friedman's legal system theory and to analyze the urgency of establishing an independent supervisory body. This research employs a qualitative method with a normative-judicial approach based on the analysis of statutory regulations, legal literature, and relevant doctrines. The findings indicate that the supervision of personal data protection has not been fully effective due to weak integration between legal substance, institutional structure, and legal culture. Moreover, the absence of a dedicated independent supervisory authority results in limited enforcement and legal certainty for customers. Therefore, strengthening supervisory</i></p>
	<p><i>regulations and establishing an independent oversight institution are necessary to ensure optimal and sustainable protection of personal data in Islamic banking.</i></p>



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INTRODUCTION

Law No. 27 of 2022 Article 1 paragraph 2 explains that Personal Data Protection is the overall effort to protect personal data in the processing of personal data in order to guarantee the constitutional rights of personal data subjects. This article emphasizes that personal data protection is a form of responsibility that must be carried out by parties that process personal data, whether they are agencies, institutions, or individuals. Based on Article 41 of Law Number 21 of 2008 concerning Sharia Banking, banks and affiliated parties are required to keep confidential information about depositors and their deposits as well as investor customers and their investments. This article emphasizes that sharia banks and affiliated parties are required to keep the data of depositors or investor customers confidential. Personal data, which includes identity, transaction activities, and financial information, is an important asset that must be protected from misuse by irresponsible parties. Data security is one of the fundamental aspects in maintaining public trust in Islamic financial institutions, given that the basic principles of these institutions are based on the values of trust and justice, which are the main pillars of Islamic law.

In its development, society currently tends to choose financial institutions that are in accordance with Islamic teachings. The growth and development of Islamic financial institutions in Indonesia cannot be separated from the legal basis that regulates their operations. These regulations are governed by laws applicable in Indonesia, one of which is Law Number 21 of 2008 concerning Islamic banking.) Highlights that the legal system of Islamic financial institutions has an important role in ensuring compliance and providing legal certainty¹. This means that Islamic financial institutions are obliged to comply with and follow applicable laws, regulations, and policies and provide legal certainty for their customers.

As revealed, an institution engaged in public services that regulates state finances and distributes them to the public, it certainly has a major role and responsibility for the security and safety of its customers' personal data. The theft or hacking of customers' personal data is referred to as cybercrime, which is a crime committed by stealing customers' personal data in the banking sector, usually through computer

¹ Hannani. (2025). Sistem hukum lembaga keuangan syariah dan problematikanya: Sebuah kajian literatur (Pre-print). LPPM IAIN Parepare.

media. Several efforts that can be made to resolve this issue, including through criminal and civil law².

The bank can prosecute the perpetrator for crimes committed under criminal law with the ITE Law, while the customer can sue the bank for negligence resulting in the loss of personal data with elements of an unlawful act (PMH) lawsuit³.

Although regulations regarding personal data protection have been clearly stipulated in Law No. 27 of 2022, there are still shortcomings in the implementation and legal responsibility related to personal data protection. Although regulations related to personal data protection, such as Law No. 27 of 2022 concerning Personal Data Protection (PDP), have been implemented, there are still various obstacles in their implementation, including weak law enforcement and low public awareness⁴. In addition, suboptimal supervision and a lack of firmness in the application of penalties make the legal obligation to protect data fragile and more vulnerable to leaks and misuse of information. Therefore, this article aims to analyze legal responsibility in the protection of customer personal data in order to determine how Sharia-based financial institutions protect personal data and customer trust in these Sharia financial institutions.

With this accountability analysis, readers can learn how Islamic financial institutions protect the privacy of customer data and what these institutions can do to gain the trust and confidence of customers who choose them as the place to store their assets. Regulations and supervision of Islamic financial institutions also play an important role in implementing personal data protection accountability because regulations and supervision in financial institutions provide integrity and a basis for action if violations or negligence are found. Integrity and foundation are the main factors why Islamic financial institutions are chosen or used by customers for their respective personal needs and desires.

² Rahmawati, D., & Tien, M. A. (2023). Perlindungan hukum atas kerugian nasabah yang disebabkan bobolnya mobile banking menurut Undang-Undang Nomor 10 Tahun 1998 tentang Perbankan. *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam*, 5(2), 1239–1248. <https://doi.org/10.37680/almanhaj.v5i2.2908>

³ Rahmawati, I., dkk. (2023) Pertanggungjawaban Pihak Bank Terhadap Kebocoran Data Diri Nasabah. *Jurnal Pendidikan, Sosial dan Humaniora*, 3(2), 214.

⁴ Harahap, P. (2025). Perlindungan Data Pribadi dalam Transaksi Digital: Implikasi Regulasi, Keamanan, dan Efisiensi dalam Perspektif Hukum Ekonomi dan Hukum Islam. *Yurisprudentia: Jurnal Hukum Ekonomi*, 11(1), 1-23.

METHOD

In this study, the method used is a qualitative method with a normative juridical approach that utilizes secondary data as data collection and information sources. Qualitative research was chosen in order to gain a deeper understanding of legal phenomena in a descriptive and analytical manner. The normative juridical approach was used to study legal aspects such as legislation, legal principles, and applicable legal doctrines and theories. In the normative juridical approach, data can be obtained from legal texts, court decisions, legal literature, and related regulations to resolve existing problems. Overall, data collection in this study was carried out using secondary data obtained from official sources such as books, journals, laws, scientific articles, legal doctrines, and other legal documents. With secondary data, the research can be analyzed properly because it is collected from reliable sources and can be carried out without conducting direct observation in the field.

RESULTS AND DISCUSSION

I. Lawrence Friedman Method

The effectiveness of supervision in Islamic banking institutions is largely determined by the harmonization between the substance of regulations, institutional structure, and legal culture, as emphasized in Lawrence M. Friedman's theory, which places these three elements as the foundation for the functioning of the legal system⁵. In terms of the substance of regulations concerning the supervision of financial institutions, personal data protection is not specifically regulated, as the supervision of personal data is linked to personal data protection. In Indonesia, regulations related to personal data protection have a legal framework that serves as an important foundation in guaranteeing the rights of citizens. Comprehensive regulations on personal data protection have been realized with the enactment of Law No. 27 of 2022 on personal data protection (PDP Law). This law can be a legal milestone that provides legitimacy to the protection of human rights, one of which is related to the privacy of individuals, which cannot be reduced or violated in accordance with human rights⁶.

⁵ Rosadi, S. (2016). KONSEP PERLINDUNGAN HUKUM ATAS PRIVASI DAN DATA PRIBADI DIKAITKAN DENGAN PENGGUNAAN CLOUD COMPUTING DI INDONESIA. *Yustisia*, 5(1), 28.

⁶ Kholis, I. M. (2024). Perlindungan Data Pribadi dan Keamanan Siber di Sektor Perbankan: Studi Kritis atas Penerapan UU PDP dan UU ITE di Indonesia. *Staatsrecht: Jurnal Hukum Kenegaraan dan Politik Islam*, 4(2), 285 - 286.

Personal data protection is a very important aspect and is guaranteed by the state. This is also stated in Article 28F of the 1945 Constitution, which states that every state shall obtain, process, and manage information obtained from various facilities⁷. Although there are many regulations regarding personal data protection, the supervision of personal data protection by financial institutions is not specifically regulated. This has led to challenges because, despite the existence of many regulations, there is no direct provision for a supervisor of personal data protection. This has resulted in a lack of understanding and accountability regarding who is responsible for supervising personal data. The consequences can be seen in Islamic banking financial institutions, where regulations and understanding of personal data supervision have led to negligence or mistakes that are detrimental to the public⁸. In personal data protection, especially in the supervision sector, an appropriate draft law is needed because currently, personal data protection regulations do not specifically explain how personal data can be categorized as secure, especially in the supervision sector. In addition, personal data protection is still partial and sectoral in nature, only explaining international substance, so it cannot optimally and effectively protect the personal data owned by a country.

Personal data protection laws still need to be improved and developed, especially in the area of supervision, because currently there is no direct supervision of people's personal data. Furthermore, because personal data protection laws are not strict and comprehensive in enforcing existing regulations, this has resulted in weak policies that are only general in nature and do not even address international issues. Legislative drafting is urgently needed in the field of personal data protection in accordance with the philosophy that Indonesia is a country based on the rule of law. Therefore, Indonesia must have clear and specific regulations regarding personal data protection to protect the interests of the state, the interests of its people, and legal protection for both⁹.

On the other hand, Islamic banking regulations in Indonesia already have a fairly strong legal framework. However, research shows that weaknesses in the supervisory

⁷ Aji, M. P. (2022). Sistem keamanan siber dan kedaulatan data di Indonesia dalam perspektif ekonomi politik (Studi kasus perlindungan data pribadi) [Cyber security system and data sovereignty in Indonesia in political economic perspective]. *Jurnal Politika Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional*, 13(2), 222–238. <https://doi.org/10.22212/jp.v13i2.3299>

⁸ Antoine, R. A., Farizqa, N. S., Hasna, A. H., & Pasaribu, M. (2025). Penyalahgunaan Data Pribadi dalam Teknologi Transaksi Digital di Industri Perbankan Digital (Studi Kasus PT. Bank Syariah Indonesia). *Jurnal Multidisiplin Ilmu Akademik*, 2(1), 319 - 320.

⁹ Nurmalasari Nurmalasari, "Urgensi Pengesahan Rancangan Undang- Undang Perlindungan Data Pribadi Demi Mewujudkan Kepastian Hukum," *Syntax Idea* 3(8). 1953 -1954

system remain a major obstacle, especially in protecting customer personal data. This is reinforced by findings related to the implementation of the Personal Data Protection Law, where the absence of an independent supervisory agency has prevented legal norms from being optimally enforced, resulting in ineffective supervision.

This situation shows that the existence of legal substance alone is not enough without the support of a well-functioning supervisory structure. The government and legal institutions must be able to access and process such data securely and effectively, while respecting individual privacy rights and data policies¹⁰. In the context of Islamic banking in Indonesia, a structural supervisory mechanism has not yet been established in the form of an independent institution tasked with supervising the protection of customers' personal data. This structural weakness creates potential conflicts of interest and a diffusion of supervisory responsibilities, which ultimately hinders law enforcement and undermines the independence that should be a key pillar of an effective supervisory system. Amidst the absence of an independent supervisor, the BSI hacking case occurred in May 2023, where the post-incident response by the government and related parties was uncertain, decentralized, and made it difficult to determine a single authority fully responsible for the hacking incident¹¹.

The government must immediately evaluate and further strengthen the existing cybersecurity in this country so as not to cause a multiplier effect that could result in a loss of trust from the public¹². Meanwhile, the legal substance regarding the protection of customer personal data already exists, as stipulated in the Personal Data Protection Law No. 27 of 2022 and the Sharia Banking Law No. 21 of 2008. Although these laws exist, the relationship between the two laws and their implementation in derivative Sharia regulations has not been fully realized, leaving a fundamental gap in comprehensive data protection¹³. Currently, judges in resolving privacy violation cases still rely on their beliefs and interpretations, so it cannot be said that there is a unified opinion. Ultimately, regulations are needed that can accommodate and keep up with the

¹⁰ Chitra, I., Putri, M. D., Eren, A. B., Lola, Y., Khristyawan, W. W., Achmad, H., Rini, A., Feby, A., Zuhdi, A., Widodo, I., Fakhriyah, A. A., Nurjanah, N. (2025). *Transformasi Hukum*. Gita Lentera.

¹¹ Suari, K. R. A., & Sarjana, I. M. (2023). Menjaga privasi di era digital: Perlindungan data pribadi di Indonesia. *Jurnal Analisis Hukum*, 6(1), 132-142.

¹² 9Slamet, M. C., Abshoril. F., Rusfandi. (2025). PERLINDUNGAN HUKUM BAGI KORBAN ATAS KEBOCORAN PUSAT DATA NASIONAL SEMENTARA (PDNs) PERSPEKTIF PERLINDUNGAN DATA PRIBADI. *Jurnal Jendela Hukum*, 12(2), 89 - 122

¹³ Syifa, A. R., & Adam, R. C. (2024). Perlindungan Data Pribadi Nasabah Peminjam dalam Layanan Pinjaman Meminjam Berbasis Teknologi Informasi Berdasarkan Hukum Perlindungan Data Pribadi. *UNES Law Review*, 7(2), 683-694.

times, especially in this case related to technology and information law¹⁴. As a rule, the BSI 2023 case shows that legal norms regarding the obligation of financial institutions to immediately notify customers and the mechanism for sanctions or compensation after data leaks cannot be carried out quickly, transparently, and satisfactorily, so that customer rights are not guaranteed.

Studies show that its implementation is less than optimal due to weak law enforcement, low awareness of privacy, and inadequate digital surveillance mechanisms¹⁵. In addition, from a legal culture perspective, the effectiveness of personal data surveillance in Islamic banking is also greatly influenced by the level of compliance and awareness of all stakeholders regarding the importance of data protection. Such violations can cause losses, both in monetary terms and in terms of things that cannot be measured in monetary terms¹⁶. The legal culture in the protection of customer personal data in Islamic financial institutions can be seen from the perspectives, habits, and level of compliance of stakeholders, ranging from customers, bank employees, management, to law enforcement officials, towards privacy as a fundamental right¹⁷. A number of studies show that the weak protection of personal data in Indonesia is not only caused by a lack of norms, but mainly by a weak legal culture of privacy, both at the community and law enforcement levels, even though a human rights framework and sectoral regulations are already in place¹⁸.

In practice, people still tend to give out their personal data easily without understanding the consequences, while financial institutions often include data processing clauses in long and unclear terms and conditions, so that customer consent is more of a formality than a real understanding. This situation makes existing legal regulations ineffective because they are not supported by awareness and compliance in everyday practice. An immature legal culture means that existing regulations are not implemented consistently. For example, there are still instances of non-transparent data collection practices, weak digital literacy among customers, and a lack of internal training

¹⁴ Sukma dan Makarim, (2021) "Urgensi Konsep dan Prinsip Mengenai Perlindungan Data Pribadi di Indonesia," 1-10.

¹⁵ Ibid.

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¹⁷ Widarto, (2025) "Perlindungan Hukum dalam Melindungi Kerahasiaan Data Pribadi Nasabah di Era Digital (Studi pada PT. BPR Prima Sejahtera berdasarkan Peraturan Otoritas Jasa Keuangan Nomor 22 Tahun 2023)", *Arus Jurnal Sosial dan Humaniora*, 5(2), 2575

¹⁸ Nasution dkk, (2024) "Perlindungan Hukum Terhadap Data Pribadi Nasabah Layanan Perbankan Setelah Berlakunya Peraturan Otoritas Jasa Keuangan (POJK) Nomor 6/Pojk.O7/2022"

on cybersecurity and data protection for bank employees. These factors hinder the internalization of compliance values, resulting in a formalistic supervisory process that is unable to provide substantive protection for customers¹⁹.

In other words, even though legal substance and institutional structure have been established, without a strong and participatory legal culture, the effectiveness of supervision remains low²⁰. In addition, the legal culture among law enforcement officials themselves is still vulnerable and lacks specificity in handling the protection of customers' personal data, resulting in inconsistent case resolution and criminal liability for violations of customers' personal data. Harmonization between legal substance, institutional structure, and legal culture in Islamic banking supervision is not only a normative requirement, but also a fundamental prerequisite for achieving financial system stability and protecting customer rights, including their personal data. The complexity of increasingly digitized banking activities requires adaptive regulatory updates, institutional capacity building for supervisors, and the development of a compliance culture oriented towards ethics and professionalism. Efforts to strengthen the effectiveness of supervision must be directed at enhancing integration between independent structural institutions and bank management in developing comprehensive audit standards and consistent, accountability-based law enforcement.

Thus, the legal system in Lawrence M. Friedman's perspective can function holistically and synergistically, so that the supervision of personal data in Islamic banking is not only procedural, but also provides real, sustainable, and reliable protection for all customers²¹.

II. Supervision of Sharia Financial Institutions

Sharia financial institutions cannot stand alone and carry out their operations without supervision from other parties or parties formed by these financial institutions. Supervision of sharia financial institutions is very important to ensure security and compliance with what is being done. Customers are the parties that must be prioritized in terms of their security, transactions, and comfort in conducting activities at Islamic financial institutions. In addition, the tasks or activities carried out by Islamic financial

¹⁹ Rosadi, S. D. (2018). Protecting privacy on personal data in digital economic era: Legal framework in Indonesia. *Brawijaya Law Journal*, 5(1), 143-157.

²⁰ Earl, J., Maher, T. V., & Pan, J. (2022). The digital repression of social movements, protest, and activism: A synthetic review. *Science advances*, 8(10), eab18198.

²¹ Yusmad, M. A., Irwansyah, I., Marsinah, S. A. B., Ayyub, M., & Muang, M. S. K. (2024). Revitalization Supervision Islamic Banking in Enhancement Compliance in Indonesia and Malaysia. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 8(1), 468-494.

institutions must be supervised to maintain and adjust what has become their obligations. However, an independent supervisory agency specifically tasked with supervising the protection of customer personal data has not yet been established.

In fact, the legal substance governing the protection of customers' personal data already exists, as regulated in Indonesia's Personal Data Protection Law (Law No. 27 of 2022)²² and the Sharia Banking Law (Law No. 21 of 2008)²³. However, in practice, these laws remain ineffective. Several factors contribute to this ineffectiveness, including weak law enforcement, low public awareness of privacy, and inadequate digital monitoring mechanisms²⁴. This argument aligns with Lawrence M. Friedman's legal system theory, which emphasizes that regulatory effectiveness depends on the harmonization of legal substance, institutional structure, and legal culture. In this context, the weakness of enforcement institutions reflects problems within the institutional structure; effective supervision cannot be achieved when enforcing institutions lack capacity and authority.²⁵

Lawrence M. Friedman, in his theory, reveals that the effectiveness of supervision is also determined by the substance of the rules and legal culture. The substance of supervision rules generally includes setting standards, measuring performance against those standards, and evaluating or correcting any deviations. These rules aim to ensure that supervision is effective and complies with applicable regulations. However, currently, the only substance of the rules that has been established is regarding the protection of customer personal data, which is regulated in the Personal Data Protection Law Number 27 of 2022. In fact, a regulation cannot be implemented effectively if there are no rules governing how to implement it²⁶.

This is what causes the supervision of Islamic financial institutions in monitoring and protecting customer personal data to be ineffective. This is because there are no regulations governing how supervision can be carried out effectively and there is no independent institution to enforce these regulations. The state is essentially responsible for respecting, protecting, and enforcing the right to privacy of every individual. The

²² Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 tentang Pelindungan Data Pribadi, Lembaran Negara Republik Indonesia Tahun 2022 Nomor 196, Tambahan Lembaran Negara Republik Indonesia Nomor 6820.

²³ Undang-Undang Republik Indonesia Nomor 21 Tahun 2008 tentang Perbankan Syariah, Lembaran Negara Republik Indonesia Tahun 2008 Nomor 94, Tambahan Lembaran Negara Republik Indonesia Nomor 4867.

²⁴ Rosadi, S. D. (2017). Prinsip-prinsip perlindungan data pribadi nasabah kartu kredit menurut ketentuan nasional dan implementasinya. *Sosiohumaniora*, 19(3), 206–212. <https://doi.org/10.24198/sosiohumaniora.v19i3.11380>

²⁵ Friedman, L. M. (1975). *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation.

²⁶ *Ibid.*

Indonesian state has various regulations related to personal data protection, but the reality shows that existing regulations or laws are sectoral and partial in nature, resulting in a lack of systematic distribution and implementation of existing rules regarding personal data protection²⁷. Furthermore, according to Lawrence M. Friedman, legal culture is one of the three fundamental elements of a functioning legal system. Legal culture can be defined as a unity of views, attitudes, values, and behaviors of society towards the law.

Legal culture is important because it concerns how society views the law. Lawrence M. Friedman (1984:6) states that legal culture is "...people's attitudes toward law and legal systems—their beliefs, values, ideas, and expectations... The legal culture, in other words, is the climate of social thought and social force which determines how law is used, avoided, or abused. Without legal culture, the legal system is inert—a dead fish lying in a basket, not living fish swimming in its sea." Lawrence M. Friedman distinguishes two subjects of legal culture, namely external and internal. External legal culture involves the wider community, while internal legal culture is developed by law enforcement officials. These two subjects of legal culture influence each other. If the external legal culture is healthy, the internal legal culture will adjust itself accordingly²⁸.

This is because law enforcement officials are essentially a product of society. In relation to legal culture, the effectiveness of a legal system is largely determined by the extent to which society perceives the law through the traditional legal mechanisms used to regulate community life²⁹. A strong legal culture is not only formed through the existence of regulations, but also through the process of internalizing legal values in society³⁰. When society is able to understand the law not only as a repressive tool, but as a means of maintaining justice and order, then society will be able to comply with the law more easily. Therefore, legal awareness needs to be instilled from an early age through education and habituation in various environments, starting from the family, school, and social community. Effective legal awareness helps individuals understand their rights and obligations under the law, which in turn supports obedience to legal norms, reduces legal violations, and contributes to the creation of a just and orderly

²⁷ Hidayat, R. (2021). *Rekonsepsi Lembaga Pengawas Terkait Perlindungan Data Pribadi Oleh Korporasi Sebagai Penegakan Hak Privasi Berdasarkan Konstitusi*. SALAM: Jurnal Sosial dan Budaya Syar-i.

²⁸ Friedman, *Loc.cit*

²⁹ Ikrom, M. B. F. D., & Tamam, B., (2024), *Perlindungan Hukum Hak Privasi Warga Negara terhadap Kebocoran Data Pribadi di Indonesia*, *Constitution Journal*, 3(2), 150.

³⁰ Haekal dkk., (2025). *Membangun Budaya Hukum yang Kuat Untuk Mendukung Supremasi Hukum*. *Jurnal Ilmu Sosial & Hukum*, 3(2), 984.

society. Early law education builds a foundation for a law-abiding culture and aligns with efforts to strengthen legal compliance and civic responsibility.³¹

However, the weak legal culture is exacerbated by the poor example set by state officials. Indonesia's legal culture still faces major challenges, reflected in the high rate of violations across various sectors from minor offenses like traffic violations to serious violations such as corruption³². This indicates that law has not yet become a habitual part of daily life, even though legal culture strongly influences law enforcement. Effective supervision and protection of customers also requires firmness both in practice and in law itself; however, this firmness has not yet been found in state institutions today³³.

Therefore, the public needs an independent institution that can supervise and protect customers' personal data. An independent institution that can maintain customer trust. The term "independent institution" consists of the words "institution" and "independent." The word 'institution' means a body or organization formed to achieve a specific purpose, while the word "independent" etymologically comes from English and means free or independent. Independent can also be interpreted as being autonomous or not dependent on other parties. This is because independent institutions must be free from any intervention by any authority, as the purpose of establishing these institutions is to oversee policies and actions to ensure they are effective and to reduce the risk of abuse of power that could lead to corruption. Independent institutions play a role in increasing accountability and public trust because they guarantee transparency in decision-making.

The question may arise as to why the government has not yet established such an independent institution. State institutions or instruments will always develop and grow in line with the needs of the country³⁴. This is because the needs of the country will follow the development and needs of society. In addition, state institutions are divided into main state organs and auxiliary organs. This is due to the differences in the

³¹ Setiawan, B. (2020). [Artikel/publikasi tentang kesadaran hukum dan pendidikan hukum] — the need to instill legal awareness from an early age through education, family socialization, and community habituation is emphasized in legal education literature and educational studies on law awareness

³² Iskandar, R. (2021). Budaya hukum dan tantangan penegakan supremasi hukum di Indonesia. In H. A. F. Putra et al., *Membangun Budaya Hukum yang Kuat untuk Mendukung Supremasi Hukum* (Vol. 3 No. 2, hlm. xxx–xxx). Al-Zayn: Jurnal Ilmu Sosial & Hukum.

³³ Nugroho, (2022). Pengaruh media sosial dan teknologi informasi terhadap penguatan budaya hukum di Indonesia. In H. A. F. Putra et al., *Membangun Budaya Hukum yang Kuat untuk Mendukung Supremasi Hukum* (Vol. 3 No. 2, hlm. xxx–xxx). Al-Zayn: Jurnal Ilmu Sosial & Hukum.

³⁴ Eki Furqon. (2020). Kedudukan Lembaga Negara Independen Berfungsi Quasi Peradilan dalam Sistem Ketatanegaraan Indonesia. *Jurnal Ilmu Hukum*, 3(1), 79.

functions and authorities of state institutions. An independent institution established for the supervision and protection of customer personal data can function as an “auxiliary.” The establishment of this institution can achieve certain targets in a country that are considered unattainable through main state organs alone³⁵.

The institution that performs this auxiliary function is called a state auxiliary organ. The characteristic of a state auxiliary organ is its independent nature. This institution is separate from the executive, legislative, and judicial branches. Independence means freedom, autonomy, independence, and autonomy, as well as not being under personal or institutional domination³⁶. Because personal data is considered private, customers have the right to sue in the event of misuse.

For the first time, privacy was discussed in an academic context by Warren and Brandeis in their scholarly article entitled “The Right to Privacy.” In this work, privacy is defined as “the right to enjoy life and the right to be left alone,” emphasizing that legal development inevitably requires formal recognition and protection of such a right³⁷. In Indonesia, personal data protection remains far from strong and optimal due to the absence of an independent authority specifically tasked with safeguarding citizens’ data³⁸. This weakness is evidenced by numerous large-scale data breaches that have harmed the public, including the leakage of personal data held by the Social Security Agency in 2021, the exposure of SIM-card data by hackers in 2022, and the ransomware attack on Bank Syariah Indonesia customers in 2023³⁹, which ultimately resulted in the sale of personal data on the dark web⁴⁰.

For the first time, privacy was discussed in an academic context by Warren and Brandeis in their scholarly article entitled “The Right to Privacy.” In this work, privacy is described as “the right to enjoy life and the right to be left alone,” emphasizing that legal development inevitably demands formal recognition and protection of such a right⁴¹. In Indonesia, personal data protection remains far from strong and optimal due to the absence of an independent authority specifically mandated to safeguard citizens’ data.

³⁵ Sylvania dkk., (2024). Dinamika Lembaga Independen dalam Ketatanegaraan Indonesia. *Jurnal Ilmiah Nusantara (JINU)*, 1(4), 4.

³⁶ Ibid.

³⁷ Warren, S. D., & Brandeis, L. D. (1890). The right to privacy. *Harvard Law Review*, 4(5), 193–220.

³⁸ BPJS Kesehatan data breach 2021 reported in Indonesian media (2021). BPJS Kesehatan data breach reports. (2021).

³⁹ Tempo. (2023). Datanya diduga dibobol Bjorka, BPJS malah dipuji pakar.

⁴⁰ Reuters. (2024). Cyber attack compromised Indonesia data centre, ransom sought — includes reference to BSI data leak.

⁴¹ Zaid. (2021) Ketika Keamanan Privasi Data Pribadi Semakin Rentan, Bagaimana Negara Seharusnya Berperan?. *Jurnal Volksgeist*, 4(1), 29.

This weakness is evidenced by a series of large-scale data breaches that have harmed the public, including the leakage of personal data held by the Social Security Agency in 2021, the exposure of SIM-card data by hackers in 2022, and the ransomware attack on Bank Syariah Indonesia customers in 2023, which ultimately resulted in the sale of personal data on the dark web⁴².

In light of these explanations and evidentiary cases, the urgency of establishing a personal data supervisory authority has become increasingly evident, and its formation may draw upon the concept of Independent Regulatory Agencies (IRAs). This concept is considered capable of shaping a data protection authority that could be instituted through a presidential regulation⁴³. Given the growing number of personal data theft cases affecting the privacy of Indonesian citizens, the government is therefore expected to promptly establish a supervisory body with full authority to perform its functions. The role of independent institutions in overseeing government performance is closely linked to the need for effective accountability mechanisms in the execution of public duties. Such bodies function as watchdog institutions over governmental activities, thereby minimizing corruption and potential abuses of power⁴⁴. In carrying out this oversight function, independent institutions generally rely on several operational mechanisms, including monitoring and evaluating government programs and policies, issuing recommendations, reporting findings, and supervising budget implementation. To operate effectively, these institutions must demonstrate independence, credibility, and transparency⁴⁵.

CONCLUSION

The protection of customers' personal data is an essential component in building trust and ensuring the operational sustainability of Islamic financial institutions. Within the regulatory framework, Indonesia's Personal Data Protection Law (Law No. 27 of 2022) and the Sharia Banking Law (Law No. 21 of 2008) provide a normative foundation to safeguard individual privacy rights, including those of customers of

⁴² Widjaja, G., & Cesarianti, A. (2024). *Perlindungan hukum data pribadi dalam sektor perbankan Indonesia pasca serangan siber*. Jakarta

⁴³ OECD. (2014). *The governance of regulators*. Paris: Organisation for Economic Co-operation and Development.

⁴⁴ Hakim, A. (2009). *Lembaga negara independen dalam sistem ketatanegaraan Indonesia*. Jakarta: Konstitusi Press.

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Islamic financial institutions⁴⁶⁴⁷. However, the analysis indicates that these regulations have not been proportionally matched by effective implementation in practice.

Based on Lawrence M. Friedman's legal system theory, which comprises three elements legal substance, legal structure, and legal culture it can be observed that, from the perspective of legal substance, the obligation to protect personal data has been formally articulated⁴⁸. Nevertheless, the prevailing regulatory framework remains fragmented and is not yet supported by technical provisions and operational guidelines capable of ensuring that supervision, data governance, and law enforcement in cases of customer data violations are carried out systematically. In terms of institutional structure, the principal weakness lies in the absence of an independent supervisory authority with the mandate to ensure compliance by financial institutions. This became evident in the 2023 Bank Syariah Indonesia (BSI) data breach incident, where limited oversight contributed to delayed responses and blurred accountability for customer protection. Therefore, establishing an independent body is imperative to create objective and accountable oversight⁴⁹.

Meanwhile, the dimension of legal culture also reveals fundamental weaknesses. Public awareness regarding personal data protection remains low, as reflected in the tendency to disclose personal information without adequate consideration of security risks. At the same time, the internal legal culture of financial institutions and law enforcement agencies has not demonstrated strong discipline in implementing personal data protection principles⁵⁰.

ACKNOWLEDGMENTS

The author would like to express sincere gratitude to Mrs. Wardah Yuspin, S.H., M.Kn., Ph.D for her guidance, advice, and support during the preparation of this research. In addition, we would like to thank our colleagues who have provided technical input for this article.

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