

# Public Information Disclosure and Personal Data Protection in Court Decisions: Legal and Islamic Law

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## Abstract

*The public's freedom to access information is increasingly guaranteed by law. However, when accessing copies of court decisions, the court must still protect the personal rights of all parties involved. The application of secure technology, supported by regulatory protection, is essential to prevent privacy-related data breaches and maintain public trust in the judiciary. In this context, the Personal Data Protection Law application should be expanded to include guidelines for accessing court decision copies. This research analyzes the importance of maintaining the parties' confidentiality when accessing copies of court decisions and the need for legal certainty regarding sanctions for disseminating personal data in these decisions. This study uses normative juridical methods with statutory and conceptual approaches. The study results indicate that this is appropriate if court decisions are accessed for the benefit of the litigating parties. However, certain aspects, particularly personal data, must remain confidential when accessed by the general public. It is also explained in the Qur'an that, in general, privacy within the home is highly protected and respected.*

*Keywords: personal data protection; court decision; Islamic law*

## Abstrak

Kebebasan masyarakat untuk mengakses informasi semakin dijamin oleh undang-undang, namun dalam hal mengakses salinan putusan suatu perkara yang telah diputuskan, pengadilan harus tetap melindungi hak-hak pribadi masing-masing pihak yang terlibat dalam perkara tersebut. Penerapan teknologi yang aman dan didukung dengan perlindungan regulasi diperlukan untuk mencegah pelanggaran data terkait privasi dan menjaga kepercayaan publik terhadap lembaga peradilan. Dalam hal ini, penerapan Undang-Undang Perlindungan Data Pribadi perlu diperluas hingga mencakup pedoman dalam mengakses salinan putusan pengadilan. Penelitian ini bertujuan untuk menganalisis pentingnya menjaga kerahasiaan para pihak dalam mengakses salinan putusan pengadilan, serta pentingnya kepastian hukum terkait sanksi atas penyebarluasan data pribadi para pihak dalam putusan pengadilan. Penelitian ini menggunakan metode yuridis normatif, dengan pendekatan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa jika putusan tersebut diakses untuk kepentingan para pihak yang berperkara, maka hal ini sesuai dengan ketentuan. Namun demikian, ada hal-hal yang harus dirahasiakan terkait data pribadi para pihak apabila putusan tersebut diakses oleh publik. Dalam Al-Qur'an dijelaskan bahwa secara umum, privasi di dalam rumah sangat dilindungi dan dihormati.

**Kata kunci:** perlindungan data pribadi; putusan pengadilan; hukum Islam

### I. Introduction

The rapid pace of information technology has caused open access to public services to grow. In some countries, the freedom of the public to access information is increasingly guaranteed by law or constitution. However, in terms of obtaining a copy of a case's decision, the court should still protect the personal rights of each party involved in the case. Legal regulations regarding openness in access to information to the public vary in various countries and continue to develop along with accompanying technological changes. Recently, the public was shocked by the

distribution of a copy of the divorce decision of one of the public figures, which was widely circulated, sparking debate among the public. Several parties regretted the results of this decision, which were widely circulated. Responding to this, the Deputy Chair of the Indonesian Central Information Commission (KIP), Arya Sandhiyudha, said that according to regulations, a copy of the divorce decision in the information must always be available. This is based on Article 11, paragraphs 1 b and/or c regarding a public body's decisions and/or policies; this article explains that a copy is open public information.<sup>1</sup>

1 Zap/Yld, "KIP: Salinan Putusan Cerai Ria Ricis-Teuku Ryan Informasi Terbuka," *Antara News - detikNews*, Mei 2024, <https://news.detik.com/berita/d-7330074/kip-salinan-putusan-cerai-ria-ricis-teuku-ryan-informasi-terbuka>.

In this case, the Deputy Chair of the Central Information Commission also cited the regulations in Law Number 14 of 2008 on Openness of Public Information. Still, this opinion also differed from the Supreme Court, which stated the need to disguise the identities of the parties in a decision. Even though the decision is open and can be accessed by a wide audience, it is necessary to exclude several elements from a decision. It should be noted that public transparency in a decision can be accessed by certain parties. In this case, the party can be each party's principal or legal representative. Still, the decision made by the South Jakarta Religious Court dated 03, the court published in May 2024. Still, since May 7, 2024, the decision can no longer be accessed; after confirmation, the court withdrew it on privacy grounds. The question is, why, if the reason was privacy, should it not have been published in the first place? Decision Number 547/Pdt.G/2024/PAJS was spread shortly after the two public figures separated and officially divorced on May 3, 2024. Although the parties' names have been disguised, the decision has several similarities. Starting from the attorney's name, the child's birth, and when the lawsuit was filed.<sup>2</sup> Access to public transparency is important in obtaining the information needed. However, there needs to be restrictions on what is excluded. This information exclusion protects a

person's data that should not be accessible to others. This guarantees the privacy of a person or party involved in a lawsuit. Obtaining information is fundamental, but the constitution protects this in article 28F of the 1945 Constitution of the Republic of Indonesia, where these rules are implemented in a legal product, namely Law number 14 of 2008 on Openness of Public Information, usually referred to as KIP.<sup>3</sup> In the context of this KIP regulation, which came into effect in 2010, it brings new history to Indonesia's journey towards good governance and democratic consolidation. This is because access to public transparency is considered capable of strengthening society by encouraging government transparency.<sup>4</sup>

This research related to aspects of public information openness is not the first research; there are similar studies that have been written, including research on public information openness written by Ricky and Muhammad Tanzil Aziz Rahimallah in 2022, which describes the importance of public information openness to realize good governance., the research results show that the implementation of public information disclosure is one of the most effective ways to accelerate and improve good governance.<sup>5</sup> Next is an article written by Aswar Hasan, Najamuddin Arfah, Resky Amalia P with the title Democratization of Bureaucracy: Case Study of Public

2 Yonada Nancy, "Isi Gugatan Ria Ricis ke Teuku Ryan dan Apa Saja Alasan Cerai?," *Tirto.Id-Sosila Budaya*, Mei 2024, <https://tirto.id/isi-gugatan-ria-ricis-ke-teuku-ryan-dan-apa-saja-alasan-cerai-gYpF>.

3 Ferdy Arya Nulhakim, "ASPEK Keterbukaan Informasi Publik dalam Kaitannya dengan Perlindungan Data Pribadi yang Terpublikasi pada Direktori Salinan Putusan Mahkamah Agung dalam Perkara yang Diatur dalam Kma Nomor 1-144/KMA/SK/ I/2011," *Jurnal Hukum dan Pembangunan Ekonomi* 10, no. 2 (2022).

4 Noore Alam Siddiquee, *Open Government and Freedom of Information*, 2023.

5 Ricky and Muhammad Tanzil Aziz Rahimallah, "Public Information Disclosure: Holistic and Acceleration of Good Governance in Indonesia," *Jurnal Ilmiah Wahana Bhakti Praja* 12, no. 2 (2023), <https://doi.org/10.33701/jwbp.v12i2.2911>.

Information Openness Services in Makassar City. The research results found that in the Makassar city government, the public information openness service bureaucracy has been running, although not optimally. This is due to the human resource factor who still does not fully understand Law number 14 of 2008 on KIP.<sup>6</sup>

Previous research was also written by Yudhitiya Dyah Sukmadewi and Kartika Widya Utama in 2022, where this research used a case study approach to a decision that had permanent legal force. The article aims to discuss whether the right to public disclosure is a right that must exist in its entirety and what its purpose and benefits are.<sup>7</sup> Furthermore, research by Ferdy Arya Nulhakim in 2022 shows that at a theoretical level, the Supreme Court has issued KMA 1-144/KMA/SK/I/2011, which is a legal instrument to protect the personal identity of the parties involved in the case without providing concrete legal certainty.<sup>8</sup> Based on the background explanation above, in this research, the researcher will discuss the urgency of protecting the parties' data in a decision and how open this privacy protection is from the perspective of the Qur'an.

Furthermore, research conducted by Erlin Setia Ayuningtyas on the urgency of establishing a personal data institution from the perspectives of positive law and Islamic law explains that establishing such an institution is crucial for protecting both life and property. In this case, the formation of this institution is a government obligation by the law's mandate.<sup>9</sup>

Until now, several regulations related to personal data protection have been regulated separately and only contain personal data protection in general. Some of the existing regulations do not provide sanctions for the crime of intentionally disseminating a person's data. This has caused similar cases of personal data dissemination to occur.<sup>10</sup>

The data breach related to court decisions published on the Supreme Court's decision directory website reflects weaknesses in digital information management systems. While the public has the right to access information, there must be a balance between the public's right and privacy protection for the parties involved in the cases. Implementing secure technology, supported by regulatory protections, is necessary to prevent data

- 6 Aswar Hasan, Najamuddin Arfah, Resky Amalia P, "Demokratisasi Birokrasi: Studi Kasus Pelayanan Keterbukaan Informasi Publik di Kota Makassar," *JAKPP Jurnal Analisis Kebijakan dan Pelayanan Publik* 9, no. 1 (2023), <https://doi.org/10.31947/jakpp.v9i1.27590>.
- 7 Yudhitiya Dyah Sukmadewi and Kartika Widya Utama, "Relevansi Undang - Undang Keterbukaan Informasi Publik dan Asas Kemanfaatan," *Law, Development and Justice Review* 5, no. 1 (June 7, 2022): 1–9, <https://doi.org/10.14710/ldjr.v5i1.14054>.
- 8 Ferdy Arya Nulhakim, "Aspek Keterbukaan Informasi Publik dalam Kaitannya dengan Perlindungan Data Pribadi yang Terpublikasi pada Direktori Salinan Putusan Mahkamah Agung dalam Perkara yang Diatur dalam Kma Nomor 1-144/KMA/SK/ I/2011."
- 9 Erlin Setia Ayuningtyas, "Urgensi Pembentukan Lembaga Perlindungan Data Pribadi dalam UU No. 27 Tahun 2022 Tentang Perlindungan Data Pribadi Perspektif Hukum Positif dan Hukum Islam" (2023), [https://eprints.uinsaizu.ac.id/19637/1/Erlin%20Setia%20Ayuningtyas\\_Urgensi%20Pembentukan%20Lembaga%20Perlindungan%20Data%20Pribadi%20Dalam%20Uu%20No.%2027%20Tahun%202022%20Tentang%20Perlindungan%20Data%20Pribadi%20Perspektif%20Hukum%20Positif%20Dan%20Hukum%20Islam.pdf](https://eprints.uinsaizu.ac.id/19637/1/Erlin%20Setia%20Ayuningtyas_Urgensi%20Pembentukan%20Lembaga%20Perlindungan%20Data%20Pribadi%20Dalam%20Uu%20No.%2027%20Tahun%202022%20Tentang%20Perlindungan%20Data%20Pribadi%20Perspektif%20Hukum%20Positif%20Dan%20Hukum%20Islam.pdf).
- 10 Lidya Suryani Widayati et al., *Politik Hukum Perlindungan Data Pribadi* (Yayasan Pustaka Obor Indonesia, 2020), 147.k

breaches regarding privacy and maintain public trust in judicial institutions. In this regard, the Personal Data Protection Law application needs to be expanded to include guidelines on accessing court decisions.

This data breach case related to court decisions is not the first to occur; similar cases also happened in 2021 and 2022, involving court rulings that could be accessed without redaction through the case tracking information system. The public was able to access these decisions without censorship or editing. Specifically, on May 31, 2021, Indonesia was shocked by the news of a personal data leak involving 279 million Indonesian citizens, which was being sold on the Raidforums website. Currently, more than 221,563,479 people, or 79.5% of Indonesia's population, are connected to the Internet, according to data from the Indonesian Internet Service Providers Association (APJII).<sup>11</sup>

A country is said to protect its citizens when it involves several aspects, including government oversight of its people, legal certainty guarantees, the protection of citizens' rights, and the enforcement of sanctions. This concept is based on the principles of the "rechstaat" and the rule of law.<sup>12</sup>

This research aims to inform the public about the importance of maintaining confidentiality in accessing copies of court

decisions and to help them understand the importance of legal certainty regarding sanctions for the dissemination of personal data of the parties in court decisions.

## II. Research Method

This research is a type of normative legal research, namely research using literature studies carried out on a case; in this case, the research focuses on the urgency of protecting personal data in decisions, which can be accessed on the decision directory page by referring to existing regulations and according to Al's perspective Qur'an. The approaches used in this research are the case approach and conceptual approach. This approach is carried out to analyze and examine court products using existing legislative approaches and legal principles.<sup>13</sup>

## III. The Urgency of Protecting the Parties' Personal Data in the Directory of Copies of Divorce Decisions'

One part of human rights is obtaining public information, which our constitution explains.<sup>14</sup> This has been implemented in Law Number 14 of 2008 on Openness of Public Information. Before this rule existed, you had to go through bureaucracy to obtain a copy of a court decision, which took a lot of work, and a fee was charged to access the decision.<sup>15</sup> It is explained that public information disclosure is information produced, stored, managed, sent, and/or

11 APJII, "APJII Jumlah Pengguna Internet Indonesia Tembus 221 Juta Orang," *APJII* (blog), 2024, <https://apjii.or.id/berita/d/apjii-jumlah-pengguna-internet-indonesia-tembus-221-juta-orang>.

12 Dhoni Martien, *Perlindungan Hukum Data Pribadi* (Makassar: Mitra Ilmu, 2023), 23.

13 Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada, 2005).

14 Pasal 28F Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

15 Ferdy Arya Nulhakim, "Aspek Keterbukaan Informasi Publik dalam Kaitannya dengan Perlindungan Data Pribadi yang Terpublikasi pada Direktori Salinan Putusan Mahkamah Agung dalam Perkara yang Diatur dalam Kma Nomor 1-144/KMA/SK/I/2011," 308.

received by a public body related to the public interest.<sup>16</sup>

The judiciary is one of the most important judicial powers in a country. There are two types of cases in the Religious Courts: lawsuits and petitions. The divorce case filed by the wife is included in the lawsuit. The Religious Court has the duty and authority to examine, decide, and settle cases at the first level between Muslim parties in the civil sector based on Islamic law; this is contained in Law Number 3 of 2006 on Amendments to Law No. 7 of 1989 on Religious Courts.<sup>17</sup> Openness in the decisions of judicial institutions in this digital era does not rule out the possibility that anyone has the right to access these decisions. However, a decision should not contain things that the public should not consume. The aim of providing openness in information access services in the judiciary is so that all parties can know about the decisions made in a case. This is necessary to show the quality of a decision, which, of course, is hoped that the decision will fulfill a sense of justice.<sup>18</sup>

Even though the public is given the freedom to access decisions, it should be noted that there are obligations of public bodies regarding access to this information, including those stated in Article 7 of the KIP Law in paragraph 4, which explains

written considerations for public bodies on every policy taken to fulfill everyone's right to public information. Furthermore, in paragraph 5, it is explained that these considerations include, among other things, political, economic, social, cultural, and/or national defense and security considerations.<sup>19</sup> Before the regulations regarding public information disclosure were passed, Law Number 11 of 2008 on Electronic Information and Transactions was passed, which was announced in a State Gazette and an Addendum to the State Gazette on the same date as its ratification.<sup>20</sup>

In Chief Justice Decree No. 1-144/KMA/SK/2011 on Guidelines for Information Services in Courts, it is explained that this decree is a guideline for courts to provide information services. With the enactment of this decree, Decree of the Chief Justice of the Supreme Court Number 1-144/KMA/SK/I/2011 on Guidelines for Information Services in Courts and Decree of the Deputy Chief Justice of the Supreme Court for Non-Judicial Affairs Number 01/WKMANY/SK/I/2009 on Guidelines for Information Services in the Supreme Court of the Republic of Indonesia are revoked and declared invalid.<sup>21</sup> This decree covers all types of courts in Indonesia, including general courts, religious courts, state administrative courts, and military courts.

16 Pasal 1 ayat (2) Undang-Undang keterbukaan Informasi Publik.

17 Agil Fatkhurohmah, Muhammad Yunus, and Amrullah Hayatudin, "Perlindungan Hukum Bagi Perempuan Korban KDRT Pada Perkara Cerai Gugat" 3, no. 1 (2023), <https://doi.org/10.29313/jrhki.vi.2154>.

18 Muhammad Insa Ansari, "Akses Terhadap Putusan Lembaga Peradilan di Era Keterbukaan Informasi," *Kanun Jurnal Ilmu Hukum*, no. 53 (2011), <https://docs.google.com/viewer?url=https://jurnal.usk.ac.id/kanun/article/viewFile/6236/5141>.

19 Muhammad Insa Ansari, 120.

20 Lembaran Negara Republik Indonesia Tahun 2008 Nomor 58, Tambahan Lembaran Negara Republik Indonesia Nomor 4843

21 <https://putusan3.mahkamahagung.go.id/peraturan/detail/11ed5ea5f3cce5c0acb5323131303337.html>

In providing information services, justice seekers are required to provide information that can be accessed quickly and accurately but must also pay attention to the privacy rights of the litigants. As written in the Decree of the Chief Justice of the Supreme Court Number 2-144/KMA/SK/VIII/2022, it is explained that personal data is certain individual data stored, maintained, and maintained as true and protected as confidential. Apart from that, there are rights and obligations of the court, one of which is related to refusing to provide public information that does not comply with the provisions of the Regulations. Furthermore, the court's obligations in monitoring, evaluating, and guiding the implementation of public information services include protecting personal data as determined by regulations and the obfuscation of information as intended in this regulation.<sup>22</sup>

In the view of the Supreme Court, this openness of public information is deemed to be by existing provisions. However, some things should be kept confidential, including history, condition, and other private matters.<sup>23</sup> The lawsuit, registered with the South Jakarta Religious Court on Tuesday, 30 January 2024, via court, is registered with case number 547/Pdt.G/2024/PAJS. The household, built on November 12, 2021, must end in court. As the procedural law applies to online trials, the examination is conducted online.

This is in line with the presence of Supreme Court Regulation Number 7 of 2022 on Amendments to Supreme Court Regulation Number 1 of 2019 on Electronic Case Administration and Court Proceedings, which is the legal basis for the e-court application. In this article, it is explained that trials conducted electronically apply to processes such as lawsuits, rebuttals, interventions, replicas, and duplicates, as well as evidence, conclusions, and decisions. The Chief Judge determines the hearing and reads the decision in an electronic hearing. In principle, a decision has legal force if it is pronounced in a trial open to the public, as stated in the provisions of Article 13, paragraph 2 of Law Number 48 of 2009 on Judicial Power.<sup>24</sup>

According to the law, public information disclosure is also important to pay attention to in terms of the transparency of legal institutions. If we return to the issue of the spread of a decision from a litigant in a divorce case, it is also necessary to protect each party's privacy. When disclosing sensitive reasons for divorce, the public should not know. Problems related to disclosing personal information are quite known to the public in a general aspect, where they are not related to someone's privacy. On the one hand, openness in public administration is also important to achieve accountability in a law enforcement agency, including in decision-making. Laws related to public information disclosure should

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22 Keputusan Ketua Mahkamah Agung Republik Indonesia Nomor 2-144/KMA/SK/VIII/2022

23 Meteri Gugatan Cerai Ria Ricis dan Teuku Ryan Bocor, Ini Kata Hotman Paris dan KIP, *Menit.Co.Id*, 2024, <https://www.menit.co.id/hiburan/meteri-gugatan-cerai-ria-ricis-dan-teuku-ryan-bocor-ini-kata-hotman-paris-dan-kip.html>.

24 Ahmaturrahman, Zulhidayat, and Taroman Pasyah, "Pengaturan E-Court dalam Peraturan Perundang-Undangan untuk Penyelesaian Perkara Perdata di Pengadilan," *Simbur Cahaya Fakultas Hukum Universitas Sriwijaya* 28, no. 2 (2021), <https://doi.org/10.28946/sc.v28i2.1478>.

be designed to balance the community's need to access public information and the individual's right to privacy.

The independence of the judiciary must be balanced to have an ideal judicial institution. This aims to build public trust in the Institution. Transparency in the judicial realm is part of the principles of good justice. In principle, the judiciary is open to the public; this principle is necessary. Good principles of justice will be realized if their implementation is clear, not vague, and measurable. This principle requires that trials be conducted openly, even though several cases are found during the examination, which must be examined privately and read out openly for the decision.

Protection of personal data is not only given to public figures, but it is also important that there are regulations that provide privacy security for the wider community. The role of social media currently greatly influences legal dynamics in our country. In the case of information leakage of litigants' data, legal and ethical challenges often arise in managing the information that should be obtained. Policymakers also need to understand the importance of protecting the mental and emotional health of each party, especially in divorce cases, which require handling with tact and privacy. Issues related to privacy security have also given rise to legal polemics among academics. There needs to be an in-depth analysis of institutions tasked

with disseminating information regarding the privacy rights of their parties.<sup>25</sup>

Transparency in the judiciary should be implemented to provide convenience for the public in obtaining information. However, whatever can be accessed by the wider public also needs to be of concern to the public institutions tasked with disseminating these decisions. If there is a dispute regarding information, it needs to be resolved with a state institution that specifically handles information disputes, namely the Public Information Commission. Article 1 of Chapter 1 of the general provisions of Law No. 27 of 2022 on the Protection of Personal Data explains that personal data is individual data stored, maintained, and kept true and protected confidentiality. Article 3 explains that the implementers of public information services are legislative, executive, and judicial institutions. This article explains that the judicial institution, in this case, the court, has the function of implementing public information services. Furthermore, Article 5 explains that public bodies are obliged to provide, disclose, and provide public information quickly and promptly, at low cost and in a simple manner, except for exempted information.<sup>26</sup>

Regulations regarding public information service standards aim to provide legal certainty for the community and public bodies in public information services and create an informed society. However, there is a need for evaluation

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25 Jason Griffey, Sarah Houghton Jan, and Eli Neiburger, *Privacy and Freedom of Information in 21st-Century Libraries* (American Library Association, 2010).

26 Peraturan Komisi Informasi Republik Indonesia Nomor 1 Tahun 2021 tentang Standar Layanan Informasi Publik.



regarding the dissemination of individuals' personal data in litigation. Personal data needs to be protected by the parties.<sup>27</sup> Furthermore, article 51, paragraph (8) explains that public information can be disclosed if the party whose secrets are disclosed gives written consent.

Furthermore, Law Number 27 of 2022 on Personal Data Protection explains that what is classified as personal data consists of a. specific personal data, including Health data and information, biometric data, genetic data, Health records, children's data, personal financial data, and/or other data by regulatory provisions, b. general personal data, including full name, gender, nationality, religion, marital status, and/ or personal data combined to identify a person. Based on this provision, personal data in a decision may not necessarily be shown to the wider community. Returning to the regulations regarding the protection of personal data, there must be consent from the personal data subject when processing personal data, the obligation to maintain the confidentiality of personal data, and the obligation to prevent personal data from being accessed unlawfully.<sup>28</sup>

In the same context regarding the principles of simplicity, speed, and low cost, it can be ascertained that the disclosure of information provided by the court is appropriate, where when the decision has been handed down, the public can automatically access the results

even though the parties' data has been disguised. However, it needs to be a joint record if there are still some similarities in the decision that other parties can access. If indeed the court decision is open. So, there needs to be restrictions in terms of the privacy of the parties. If the decision is accessed for the benefit of the litigants, then this is appropriate. However, if access to the decision is misused, the authorities need to note this. However, what if personal data is spread widely, then violations of that data can be subject to sanctions in the provisions of article 46 paragraph (1) and article 47 in the Law relating to personal data protection, namely in the form of administrative sanctions in the form of written warnings, temporary suspension of data processing activities. personal data, deletion or destruction of personal data, and an administrative fine of a maximum of 2% of annual income or annual receipts for the violation variable. In this case, the court temporarily suspended personal data processing activities by deleting files included in the judicial decision directory. At this time, the Supreme Court has unpublished this decision.<sup>29</sup>

The rights of personal data subjects are excluded, one of which is for the law enforcement process, as stated in articles 8 to 13 in the 2022 PDP Law. Returning to the trial case where the legal product is in the form of a decision whether it can be categorized as the rights of personal

27 Penjelasan atas Peraturan Komisi Informasi Republik Indonesia Nomor 1 Tahun 2021 tentang Standar Layanan Informasi Publik.

28 Pasal 20, Pasal 24, dan Pasal 36 Undang-Undang Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi.

29 David Christian, S.H., "UU PDP: Landasan Hukum Perlindungan Data Pribadi," *Hukum Onlin.Com* (blog), 2022, <https://www.hukumonline.com/klitik/a/uu-pdp-landasan-hukum-pelindungan-data-pribadi-lt5d588c1cc649e/>.

subjects which excluded. Bearing in mind that if the decision data is spread, it is feared that it will impact the subsequent law enforcement process. In this case, a copy of the decision has been accessed 600,000 times, to be precise, 623,766. This shows the enthusiasm of the wider community for the openness of our information system.

In information access, the main principle that applies is maximum access limited exemption, which explains that all information is open, and only information is excluded. In this case, the excluded information cannot be ignored. The issuance of Law No. 14 of 2008 on the Openness of Public Information provides limitations regarding information exemptions for government agencies. However, no special agency exists to resolve conflicts arising from information disputes. Until the birth of the Central Information Commission, which has the authority to resolve information disputes. As stated in the public information disclosure law, in resolving public information, the government has provided an institution with the authority to resolve this dispute, namely the Information Commission. The duties of this commission include, among others, as stated in Article 26 paragraph (2) of Law Number 14 of 2008 on Openness of Public Information, first, establishing procedures for implementing dispute resolution through mediation and/or non-litigation adjudication, secondly receives, examines and decides on public information disputes in districts/cities as

long as district/city commissions have not been formed, thirdly provides reports regarding the implementation of their duties based on this law to the governor and regional legislative assembly once a year or when requested.<sup>30</sup>

According to Roy Gregory and Philip Gidding, human rights are divided into two aspects: substantive rights and procedural rights. Substantive rights are the first human rights, which include human rights in the civil and political fields. Apart from that, these substantive rights are also related to educational, economic, and social rights. Meanwhile, the second right relates to procedural rights consisting of two things, namely administrative rights and the right to submit complaints or objections to losses experienced due to government action.<sup>31</sup>

The public can litigate issues regarding open access to public information services based on court decisions through authorized institutions. Next, the information commission will conduct a trial according to applicable regulations. If, in resolving this conflict, the disputing parties are not satisfied with the resolution, then that party can object to court. In this case, this authority becomes the absolute authority of the State Administrative Court.

The strength of a non-litigation adjudication decision completed by the information commission is the same as that of a court decision. This resolution is carried out if the applicant objects to the rejection of an information request by a

30 Annisa Fianni Sisma, "Mengenal Apa Itu Komisi Informasi: Penjelasan, Tugas dan Wewenang," *Suara.Com* (blog), 2023, <https://www.suara.com/news/2023/04/11/175918/mengenal-apa-itu-komisi-informasi-penjelasan-tugas-dan-wewenang>.

31 Muhaimin, "Penguatan Penyelenggaraan Pelayanan Publik Melalui Penyelesaian Sengketa Informasi Publik," *Jurnal Ilmiah Kebijakan Hukum* 12, no. 2 (n.d.).

public body because the information is excluded. The KIP Law also explains that this settlement can be filed in court if the reasons include anatomy, consideration of facts, and law following the provisions of decisions in the judicial environment. The information commission's decision can also be appealed or objected to by the parties to the court, which has the authority to decide this dispute. This is by the applicable provisions in PERMA number 2 of 2011 on procedures for resolving public information disputes in court.<sup>32</sup>

The problem of personal data protection is not just about what efforts are made to protect the data, either because of data leakage or the use of personal data. There needs to be a legal instrument at the level of law to oversee the mechanism of public information disclosure. The importance of authorized institutions in protecting and misusing personal data should provide independent supervisory authority over these institutions. Although court decisions are open access, it is also necessary to consider the confidentiality of each party in this case. Especially if the matter is private, such as a divorce judgment, the confidentiality of each individual should be the state's responsibility, in this case, the authorized institution. Open access to control decisions can be excluded on certain issues. There needs to be strict sanctions in the policy rules for disseminating a person's

data in a decision without the permission of the party concerned.<sup>33</sup> Legal certainty in this matter is one of the solutions that can be offered to maintain the security of citizens in terms of personal data protection. There needs to be consistency in limiting access to decisions regarding data protection, which will reduce the level of public trust in existing judicial institutions.<sup>34</sup>

#### **IV. Protection of Personal Data in the Directory Copies of Divorce Judgement from a Quranic Perspective'**

The rapid changes in information technology are currently driving major changes in aspects of the social order of society. One of them is in terms of access to public information regarding court decisions. Reflecting on recent cases involving public figures has triggered various reactions in our society. Access to court decisions on the Supreme Court directory page creates polemics when these decisions are misused. If access to public information services is used according to the parties' needs, this should not negatively impact its implementation. Today's rapidly developing technology is also a double-edged sword for its users.<sup>35</sup> Besides making a positive contribution, this development also hurts several aspects, one of which is the problem in this research. Transparency and accountability should be kept confidential if the decision is private.

32 Komisi Informasi Pusat Republik Indonesia, "Kompilasi Putusan Sengketa Informasi Publik 2018-2019" (Komisi Informasi Pusat Republik Indonesia, 2020).

33 Denico Doly, "Pembentukan Lembaga Pengawas Pelindungan Data Pribadi dalam Perspektif Pembentukan Lembaga Negara Baru," *Jurnal Negara Hukum* 12, no. 2 (2021), <https://jurnal.dpr.go.id/index.php/hukum>.

34 Hezkiel Bram Setiawan and Fatma Ulfatun Najicha, "Perlindungan Data Pribadi Warga Negara Indonesia Terkait dengan Kebocoran Data," *Jurnal Kewarganegaraan* 6, no. 1 (2022): 978.

35 Dwika Putra Bagiastra, "Dampak Undang-Undang Informasi dan Transaksi Elektronik (UU ITE) Terhadap Perubahan Hukum dan Sosial dalam Masyarakat," *Yusthima: Jurnal Prodi Magister FH Unmas Denpasar* 03, no. 01 (2023), <https://doi.org/10.36733/yusthima.v3i1>.

Abuse of court decisions accessed by the public for certain purposes will cause several impacts on the judicial institution, including reducing the level of public trust in the judicial institution. Another thing that can arise from disseminating information from a court decision is causing injustice to certain individuals or groups. Certain cases are due to discrimination or other acts of injustice, increasing public dissatisfaction with the judiciary, and can be exploited by someone for political interests. In this case, the dissemination of the court decision caused both parties to experience injustice from the public, who responded that the public figure was divorced. This private realm should only be for consumption by interested parties, but because of the freedom to access public services, it also hurts other public. There needs to be a risk mitigation strategy to prevent the same thing from happening, including public education regarding access to the information obtained; in this case, the public must begin to understand the importance of the judiciary's decisions and respect them. This must be accompanied by media monitoring, which aims to monitor and correct court decisions. Which will and has circulated in society; the next steps that can be taken to mitigate the risks of this case should be a collaboration between institutions (in this case, between the judiciary and the Public Information Commission) to respond to the issues

related to abuse and dissemination of decisions without permission.

Divorce is still a problem in society. The divorce must be carried out in court, and ironically, the examination, which is carried out behind closed doors, can be accessed by the general public when it has been decided. Through the decision directory page, the public can access these decisions. As we all know, divorce issues impact the parties, in this case, the husband and wife, and the relationship between parents and children in the marriage. Divorce cases in Indonesia increase every year. In this case, the state has made various efforts to reduce the high divorce rate. Even the implementation of mediation procedures in PERMA number 1 of 2016 on Mediation aims to reconcile the two parties so that they do not decide on divorce.<sup>36</sup> The purpose of a marriage is to form a Sakinah family. Various methods have been taken to realize this goal. When someone gets married, the couple will have peace, bringing love and mercy from their partner and family.<sup>37</sup>

In Islam, divorce is prohibited because this is contrary to the purpose of marriage. This goal is stated in the Compilation of Islamic Law, article 3, which explains the purpose of marriage to create a Sakinah household life. This is no exception to the marriage between a public figure and his partner, which also aims to form a Sakinah family. However, conflicts in the household between couples cause conflicts

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36 Ahmad Izzuddin, Ahmad Rofiq, and Abu Hapsin, "Revitalisasi Nilai Etika Perceraian dalam Putusan Verstek di Pengadilan Agama," *De Jure: Jurnal Hukum dan Syariah* 13, no. 1 (2021), <https://ejournal.uin-malang.ac.id/index.php/syariah/article/view/12191/8795>.

37 Miftahus Sholehudin, "Kontekstualisasi Konsep Keluarga Sakinah: Pergulatan Pemikiran Hukum Keluarga dalam Tafsir Salaf," *De Jure: Jurnal Hukum dan Syariah* 12, no. 2 (2020), <http://ejournal.uin-malang.ac.id/index.php/syariah>.

that lead to divorce. In this case, a wife who files for divorce in Islam is called khulu'. Khulu' grants women the right to free themselves from marriage bonds deemed no longer useful in exchange for the right of talak given to men. This aims to prevent husbands from abusing their right to divorce and to make husbands aware that wives also have the same right to end a marriage bond.<sup>38</sup> This case has become very popular among the public, not only because this divorce involves a public figure but also because the public regrets the circulation of a decision that contains the basic reasons for the divorce between both parties, some of which are considered to be too private for a person. There are pros and cons to the spread of this decision.

The Qur'an really respects and protects a person's privacy. Starting from things that happen in the house in general and specifically in terms of problems between husband and wife. The anticipation explained in the Qur'an to maintain privacy in the home is etiquette when entering someone else's house. This is explained in Q.S. An-Nur 27-28.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَ تَدْخُلُوا بُيُوتَ غَيْرِ بُيُوتِكُمْ حَتَّى تَسْتَأْذِنُوا وَتُسَلِّمُوا عَلَيْهِمْ ذَٰلِكَ حُرْمَةٌ لَّكُمْ لَعَلَّكُمْ تَتَّقُونَ

فَإِذَا دَخَلْتُمْ بُيُوتًا فَسَلِّمُوا عَلَىٰ أَهْلِهَا ذَٰلِكُمْ حُرْمَةٌ لَّكُمْ لَعَلَّكُمْ تَتَّقُونَ  
 وَإِذَا سَأَلْتُمُ النَّاسَ عَن شَيْءٍ فَسَأَلُوا عَنَّا فَسَلِّمُوا عَلَيْنَا ذَٰلِكُمْ حُرْمَةٌ لَّكُمْ لَعَلَّكُمْ تَتَّقُونَ  
 عَلِيمٌ

Meaning: O you who believe, do not enter a house that is not yours before asking permission and greeting the occupants. That is better for you so that you (always) remember. If you don't find anyone inside, don't enter until you get permission. And if it is said to you: "Go back, then you should go back. It is clean for you, and Allah is All-Knowing of what you do."

In the tafsir al-Wajiz by Wahbah az-Zuhaili, it is stated that because of the revelation of this verse, there was an Ansar woman who complained to the prophet that a brother had entered the woman's house in a condition that the woman was uncomfortable with for other people to see. Then, this verse teaches that someone who wants to enter someone else's house should ask permission by saying hello first. If he is allowed to enter, then he will enter. If there is no answer, then go back. From this verse, we can learn that privacy within the home is generally highly protected and respected. Other people outside a particular house cannot freely know about the privacy in that house.

More specifically, if there is a domestic problem that befalls a couple. The Qur'an has discussed this through the story of the prophet Muhammad and his wife. This is in Q.S. at-Tahrim verse 3

يَا أَيُّهَا النَّبِيُّ إِذَا جِئْتَ امْرَأَتَكَ فَاسَلِّمْ عَلَيْهَا ذَٰلِكُمْ حُرْمَةٌ لَّكُمْ لَعَلَّكُمْ تَتَّقُونَ  
 وَإِذَا سَأَلْتُمُ النَّاسَ عَن شَيْءٍ فَسَأَلُوا عَنَّا فَسَلِّمُوا عَلَيْنَا ذَٰلِكُمْ حُرْمَةٌ لَّكُمْ لَعَلَّكُمْ تَتَّقُونَ  
 عَلِيمٌ

- 38 Nurhadi, "Fasakh Nikah is Talak Khulu ' in the Perceptive of Muqaranah Mazahib Fil Al-Fiqh and Maqashid Syari'ah," *El Mashlahah* 10, no. 1 (2020).
- 39 "TafsirWeb," n.d., <https://tafsirweb.com/11007-surat-at-tahrim-ayat-3.html>.

Meaning: Remember when the Prophet secretly discussed an event with one of his wives (Hafsah). So when (Hafsah) told the incident (to Aisyah) and Allah told it (Hafsah and Aisyah's conversation) to Muhammad then Muhammad told some of it (which Allah told him) and hid the other part (to Hafsah). So when (Muhammad) told about the conversation (between Hafsah and Aisyah), then (Hafsah) asked: "Who told you this?" The Prophet answered: "It has been told to me by Allah, the All-Knowing, the All-Knowing."

This incident happened to the Prophet Muhammad. The tafsir wajiz explains that the Prophet told Hafshah a secret. The secret was related to the prophet drinking honey with one of his wives, Zainab, which the Prophet prohibited. Hafshah then conveyed this secret to Aisyah. The Prophet then discovered this and asked Hafshah about the secret leak. Hafshah was surprised how the Prophet knew about it. This verse contains lessons taken from the Prophet Muhammad himself and his wives. The secret between him and one of his wives is very sensitive and will have bad consequences if spread. This will bring down the dignity of the prophet and Hafshah, who was given secret news but leaked the news instead. This shows that the Koran protects privacy in household matters so that existing problems do not become more complicated.

In connection with maintaining privacy in the family, as taught in Islam, there are

family functions that support the value of maintaining privacy. The function of the family is protective. This function is that the family is a safe and comfortable place for its members from disturbances that come from both internal and external parties. Outsiders do not easily recognize internal disturbances because they are in the family's private area. This private area is guarded by the family so that internal disturbances and problems are not easily discovered and spread by others outside the family.<sup>40</sup>

Islam is a religion that prioritizes justice, transparency, and honesty as fundamental values. In the context of public information disclosure, Islam is very appreciative, in this case concerning the principles of openness in Islamic law, including:

- a. The principle of justice is found in Surah Annisa 58 and the book *Al Muwafaqat fi usul al-Ahkam* by Ash Syatibi.<sup>41</sup>
- b. In this case, in Islam, the honesty principle strongly emphasizes honesty's value in delivering Amanah / information. It is necessary for the role of the government as the holder of power to provide correct information to the public.<sup>42</sup>
- c. Deliberation. Regarding access to public information, Islam provides solutions to deliberate properly to make a decision, and

40 Amatul Jadidah, "Konsep Ketahanan Keluarga dalam Islam," *Jurnal Hukum Islam* 4, no. 3 (2021), <https://doi.org/10.35897/maqashid.v4i2.723>.

41 Imam Abu Ishaq Ibrahim bin Musa bin Muhammad al-Lakhmi al-Gharnati al-Maliki (Ash shatibi), *Al-Muwafaqat Fi Usul al-Ahkam*, 4th ed. (Dar al-Kutub al-Ilmiyah, n.d.).

42 Abu al-Hasan Ali bin Muhammad bin Habib al-Basri al-Mawardi, *Al-Ahkam al-Sulthaniyah Wa al-Wilayat al-Diniyah*, 1st ed. (Beirut, Lebanon: Dar al-Kutub al-Ilmiyah, n.d.).

in this case, provides easy access to information for open information services.<sup>43</sup> However, the security and confidentiality of access to public information should always be maintained, as stated in this book and the prophet's hadith about the need to keep secrets.<sup>44</sup>

In family life, if we consider it one building, the buildings must strengthen each other from shocks and storms. The foundation of family life is religious teachings. The shared rights and obligations between partners are what holds the building together. Every effort that leads to something that destroys marital relations is the thing most hated by the Islamic religion, causing damage to the relationship between husband and wife. According to researchers, some things can be learned from the verse above in connection with household cases that have spread to many people accessing decision data. Decisions containing domestic matters can indeed be accessed even though they do not mention the names of the individuals involved. People who know about this case, either by uploading directly from the decision or reading from other people's posts, have a big role in maintaining this news. Don't let information that has already been spread be added to information from a personal perspective with no relationship or interest with the parties involved in the case. The additional invalid information will add to the chaotic atmosphere, especially for the two people and families involved in the

lawsuit. This ethics can be carried out by people who need help understanding the case's background and have no interest in this household matter.

## V. Closing

### A. Conclusion

Personal data protection issues often include data leakage, misuse of data by third parties, and use of data without consent. Many high-profile cases, both locally and internationally, serve as important lessons for stakeholders to be more careful in protecting individuals' personal data and comply with applicable laws related to data privacy and security. Until now, several regulations related to personal data protection have been regulated separately and only contain personal data protection in general. Some existing regulations do not provide sanctions for the criminal offense of intentionally disseminating one's data. This causes similar cases of personal data dissemination to continue to occur. Criminal law policy is hoped to solve this problem, and the state can increase public awareness of the importance of protecting the personal data of each party litigating in the judiciary. Transparency in judicial institutions that should be implemented aims to provide an easy way for the public to obtain information; however, anything that the wider community can access also needs to be a concern for public institutions tasked with disseminating these decisions. If there is a dispute over information, it needs to be resolved by a state institution that

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43 Abu Hamid Muhammad ibn Muhammad al-Ghazali, *Ihya' 'Ulum al-Din* (Dar al-Kutub al-Ilmiyah, 5 Hijriyah/11 Masehi).

44 Abu Dawud., *Sunan Abi Dawud*, no 4868.



specifically handles information disputes, namely the Public Information Commission. If we return to the principles of simplicity, speed, and low cost, then it is certain that the disclosure of information provided by the court is appropriate. When a case has been decided, the public can automatically access the decision results. The current fact is that although the parties' data has been disguised, in some decisions, there is still information on the parties' personal data that still needs to be disguised.

It should be noted together if there are still some similarities in personal data in the decision that other parties can access. If the court decision is indeed open, the personal data of the parties should be protected. If the decision is accessed for the benefit of the litigants, then this is appropriate. However, if access to the decision is misused, then this is something that needs to be considered by the authorities.

The Qur'an respects and protects a person's privacy. It starts from things that happen in the house, specifically problems between husband and wife. The anticipation explained in the Qur'an to maintain privacy in the house is etiquette when entering someone else's house. This is explained in Q.S. An-Nur 27-28. This verse teaches that someone who wants to enter someone else's house should ask permission by saying hello first. If he is allowed to enter, then he will enter. If there is no answer, then go back. From this verse, we can learn that privacy within the home is generally highly protected and respected.

## **B. Recommendation**

Suggestions for policy makers: the

government should make regulations related to restrictions on access to copies of court decisions for the public and regulations related to sanctions for misuse of personal data in copies of court decisions to provide legal understanding for the wider community so as not to disseminate a person's data without the permission of the party concerned. Dissemination of a person's data for personal interests can be given strict sanctions to create legal certainty for the community as an effort to protect the personal data of each party litigating in court. The existence of strict sanctions can be a guideline for law enforcers in carrying out their duties furthermore, for the wider community to be more careful in accessing data copies of judicial decisions so that they are not misused by being widely disseminated without the consent of the relevant parties. If the community, in this case, becomes a victim of personal data leakage, they can immediately make efforts to protect their data and process it according to applicable regulations.

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